

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7340

BILL NUMBER: SB 235

NOTE PREPARED: Jan 4, 2009

BILL AMENDED:

SUBJECT: Stay Away Orders.

FIRST AUTHOR: Sen. Merritt

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that a person who violates a stay away order as a condition of pretrial release or as a condition of probation commits invasion of privacy. The bill provides that a protective order includes a stay away order for purposes of the protective order depository. It imposes duties on the clerk of a court and for law enforcement agencies concerning stay away orders. The bill also requires the Division of State Court Administration to develop and adopt stay away orders. The bill provides that a court may issue a stay away order as a condition of bail or probation. It also provides that a court may consider the violation of a stay away order as an aggravating circumstance.

Effective Date: July 1, 2009.

Explanation of State Expenditures: This bill will increase the workload of the Division of State Court Administration to develop and adopt stay away orders for local courts to use as conditions of probation and pretrial release. The funds and resources required could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions. [The Indiana Supreme Court reverted \$514,000 to the General Fund at the end of FY 2008.]

Under the legislation, the Indiana State Police (ISP) may receive notification of and be required to perform the same duties described in the legislation. ISP would be notified if the case presents an issue of a firearm use. To the extent that ISP receives notice of stay away orders, workload for ISP will increase. Increases in workload are indeterminable but expected to be small.

Penalty Provision: This bill adds that a person that knowingly or intentionally violates a stay away order as a provision of pretrial release or probation commits an invasion of privacy. The offense is a Class A misdemeanor but can be a Class D felony if the person has a prior unrelated conviction. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000, and the maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenues would likely be small.

Explanation of Local Expenditures: This bill adds stay away orders to the definition of protective orders as well as adds stay away orders to procedures for pretrial release and probation, which could increase the workload of local court clerks, local law enforcement, and sheriffs in order to fulfill the requirements of the bill. Workload increases are expected to be minimal and should be able to be completed within the scope of normal duties.

Penalty Provision: A Class A misdemeanor is punishable by up to one year in jail. If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Background and Additional Details:

Clerk of Courts: The bill requires the court clerk that issues a stay away order to send copies to each party involved as well as local law enforcement within specified jurisdictions. The clerk is also required to maintain confidential copies of the orders.

Local Law Enforcement: The legislation specifies that law enforcement, upon receiving notice of a stay away order from a court clerk, is required to maintain a copy of the protective order, enter specific information on the stay away order, and enter this information into the Indiana Data and Communication System (IDACS). Additionally, if a stay away order is removed, law enforcement is required to delete the information from IDACS. Local law enforcement is also required to maintain stay away orders as confidential information.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

State Agencies Affected: DOC.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Jim Diller, Division of State Court Administration, Captain Beck, ISP.

Fiscal Analyst: Bill Brumbach, 232-9559.