



March 20, 2009

**ENGROSSED
HOUSE BILL No. 1578**

DIGEST OF HB 1578 (Updated March 17, 2009 1:59 pm - DI 106)

Citations Affected: IC 5-2; IC 34-6; IC 34-26; IC 35-44; noncode.

Synopsis: GPS monitoring and restraining orders. Permits a court to require a person who is subject to an order of protection to wear a GPS tracking device if the court finds that the person violated an order for protection. Provides that if a court orders GPS tracking, the court shall require the use of a GPS tracking device with certain notification capabilities. Requires the division of state court administration to provide reports to the general assembly concerning GPS tracking. Requires the division of state court administration to create, manage and maintain an Internet based registry of protective orders. Makes conforming amendments.

Effective: July 1, 2009.

Dembowski, Lawson L, Koch, Pond

(SENATE SPONSORS — CHARBONNEAU, ERRINGTON, LANANE,
ARNOLD)

January 16, 2009, read first time and referred to Committee on Judiciary.
February 12, 2009, amended, reported — Do Pass.
February 20, 2009, read second time, amended, ordered engrossed. Engrossed.
February 25, 2009, read third time, passed. Yeas 98, nays 0.

SENATE ACTION

March 3, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
March 19, 2009, amended, reported favorably — Do Pass.

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March 20, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1578



A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-2-9-1.2 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2009]: **Sec. 1.2. As used in this chapter, "IDACS coordinator"**
- 4 **means an individual who holds an administrative position within**
- 5 **a law enforcement agency that has operational Indiana data and**
- 6 **communication system (IDACS) terminals and who is appointed by**
- 7 **the director of the law enforcement agency.**
- 8 SECTION 2. IC 5-2-9-1.4 IS ADDED TO THE INDIANA CODE
- 9 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 10 1, 2009]: **Sec. 1.4. As used in this chapter, "registry" means the**
- 11 **Indiana protective order registry established under section 5.5 of**
- 12 **this chapter.**
- 13 SECTION 3. IC 5-2-9-1.7 IS AMENDED TO READ AS
- 14 FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.7. As used in this**
- 15 **chapter, "protected person" means a person or an employer (as defined**
- 16 **in IC 34-26-6-4) protected under a protective order, ~~a no contact order,~~**
- 17 **~~or a workplace violence restraining order.~~ as defined in section 2.1 of**

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EH 1578—LS 7381/DI 106+



1 **this chapter.**

2 SECTION 4. IC 5-2-9-2.1, AS AMENDED BY P.L.52-2007,
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2009]: Sec. 2.1. (a) As used in this chapter, "protective order"
5 means:

6 (1) a protective order issued under IC 34-26-5 (or, if the order
7 involved a family or household member, IC 34-26-2-12(1)(A),
8 IC 34-26-2-12(1)(B), IC 34-26-2-12(1)(C),
9 IC 34-4-5.1-5(a)(1)(A), IC 34-4-5.1-5(a)(1)(B), or
10 IC 34-4-5.1-5(a)(1)(C) before their repeal);

11 (2) an ex parte protective order issued under IC 34-26-5 (or, if the
12 order involved a family or household member, an emergency
13 protective order issued under IC 34-26-2-6(1), IC 34-26-2-6(2),
14 or IC 34-26-2-6(3) or IC 34-4-5.1-2.3(a)(1)(A),
15 IC 34-4-5.1-2.3(a)(1)(B), or IC 34-4-5.1-2.3(a)(1)(C) before their
16 repeal);

17 (3) a protective order issued under IC 31-15-4-1 (or
18 IC 31-1-11.5-7(b)(2), IC 31-1-11.5-7(b)(3), IC 31-16-4-2(a)(2),
19 or IC 31-16-4-2(a)(3) before their repeal);

20 (4) a dispositional decree containing a no contact order issued
21 under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-19-6 (or
22 IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order
23 containing a no contact order issued under IC 31-32-13 (or
24 IC 31-6-7-14 before its repeal);

25 (5) a no contact order issued as a condition of pretrial release,
26 including release on bail or personal recognizance, or pretrial
27 diversion;

28 (6) a no contact order issued as a condition of probation;

29 (7) a protective order issued under IC 31-15-5-1 (or
30 IC 31-1-11.5-8.2 or IC 31-16-5 before their repeal);

31 (8) a protective order issued under IC 31-14-16-1 in a paternity
32 action;

33 (9) a no contact order issued under IC 31-34-25 in a child in need
34 of services proceeding or under IC 31-37-25 in a juvenile
35 delinquency proceeding;

36 (10) a workplace violence restraining order issued under
37 IC 34-26-6; or

38 (11) a child protective order issued under IC 31-34-2.3; or

39 (12) a foreign protective order registered under
40 IC 34-26-5-17.

41 (b) Whenever a protective order ~~no contact order, workplace~~
42 ~~violence restraining order, or child protective order~~ is issued by an

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1 Indiana court, the Indiana court must caption the order in a manner that
 2 indicates the type of order issued and the section of the Indiana Code
 3 that authorizes the protective order. ~~no contact order, or workplace~~
 4 ~~violence restraining order~~. The Indiana court shall also place on the
 5 order the court's hours of operation and telephone number with area
 6 code.

7 SECTION 5. IC 5-2-9-5.5 IS ADDED TO THE INDIANA CODE
 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 9 1, 2009]: **Sec. 5.5. (a) The Indiana protective order registry is**
 10 **established.**

11 **(b) The registry is an Internet based, electronic depository for**
 12 **protective orders. Copies of all protective orders shall be retained**
 13 **in the registry.**

14 **(c) The registry must contain confidential information about**
 15 **protected persons.**

16 **(d) The division of state court administration shall create,**
 17 **manage, and maintain the registry.**

18 **(e) A protective order retained under section 5 of this chapter**
 19 **may be entered in the registry.**

20 SECTION 6. IC 5-2-9-6, AS AMENDED BY P.L.52-2007,
 21 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2009]: **Sec. 6. (a) The clerk of a court that issues a protective**
 23 **order ~~no contact order, workplace violence restraining order, or child~~**
 24 **protective order shall:**

25 **(1) provide a copy of the order to the following: ~~petitioner; and~~**

26 **(1) Each party:**

27 **(2) A law enforcement agency of the municipality in which the**
 28 **protected person resides. If a person and an employer are:**

29 **(A) both protected by an order under this section; and**

30 **(B) domiciled in different municipalities;**

31 **the clerk shall send a copy of the order to the law enforcement**
 32 **agency of the municipality in which the person resides and the**
 33 **employer is located:**

34 **(3) If the protected person, including an employer, is not**
 35 **domiciled in a municipality, the sheriff of the county in which the**
 36 **protected person resides:**

37 **(2) provide a copy of the order and service of process to the**
 38 **respondent or defendant in accordance with the rules of trial**
 39 **procedure.**

40 **(b) The clerk of a court that issues a protective order ~~no contact~~**
 41 **order, ~~workplace violence restraining order, or child protective order~~**
 42 **or the clerk of a court in which a petition is filed shall**

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(1) maintain a confidential file to secure any confidential information about a protected person designated on a uniform statewide form prescribed by the division of state court administration.

(2) provide a copy of the confidential form that accompanies the protective order no contact order, workplace violence restraining order, or child protective order to the following:

(A) The sheriff of the county in which the protective order no contact order, workplace violence restraining order, or child protective order was issued.

(B) The law enforcement agency of the municipality, if any, in which the protected person, including an employer, is domiciled.

(C) Any other sheriff or law enforcement agency designated in the protective order no contact order, workplace violence restraining order, or child protective order that has jurisdiction over the area in which a protected person, including an employer, may be located or protected; and

(3) after receiving the return of service information, transmit all return of service information to each sheriff and law enforcement agency required under subdivision (2).

(c) **A sheriff or law enforcement agency that receives This subsection applies to a protective order no contact order, workplace violence restraining order, or child protective order that a sheriff or law enforcement agency receives under subsection (a) before July 1, 2009, and a confidential form under subsection (b) that is not retained in the registry. The sheriff or law enforcement agency shall:**

(1) maintain a copy of the protective order no contact order, workplace violence restraining order, or child protective order in the depository established under this chapter;

(2) enter:

(A) the date and time the sheriff or law enforcement agency receives the protective order; no contact order, workplace violence restraining order, or child protective order;

(B) the location of the person who is subject to the protective order, no contact order, workplace violence restraining order, or child protective order, if reasonably ascertainable from the information received;

(C) the name and identification number of the officer who serves the protective order; no contact order, workplace violence restraining order, or child protective order;

(D) the manner in which the protective order no contact order;

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1 ~~workplace violence restraining order, or child protective order~~
2 is served;
3 (E) the name of the petitioner and any other protected parties;
4 (F) the name, Social Security number, date of birth, and
5 physical description of the person who is the subject of the
6 protective order, ~~no contact order, workplace violence~~
7 ~~restraining order, or child protective order~~, if reasonably
8 ascertainable from the information received;
9 (G) the date the protective order ~~no contact order, workplace~~
10 ~~violence restraining order, or child protective order~~ expires;
11 (H) a caution indicator stating whether a person who is the
12 subject of the protective order ~~no contact order, r workplace~~
13 ~~violence restraining order, or child protective order~~ is believed
14 to be armed and dangerous, if reasonably ascertainable from
15 the information received; and
16 (I) if furnished, a Brady record indicator stating whether a
17 person who is the subject of the protective order ~~no contact~~
18 ~~order, workplace violence restraining order, or child protective~~
19 ~~order~~ is prohibited from purchasing or possessing a firearm or
20 ammunition under federal law, if reasonably ascertainable
21 from the information received;
22 on the copy of the protective order ~~no contact order, workplace~~
23 ~~violence restraining order, or child protective order~~ or the
24 confidential form; and
25 (3) **except for a protective order that is retained in the**
26 **registry**, establish a confidential file in which a confidential form
27 that contains information concerning a protected person is kept.
28 (d) **Except for a protective order that is retained in the registry**,
29 a protective order ~~no contact order, workplace violence restraining~~
30 ~~order, or child protective order~~ may be removed from the depository
31 established under this chapter only if the sheriff or law enforcement
32 agency that administers the depository receives:
33 (1) a notice of termination on a form prescribed or approved by
34 the division of state court administration;
35 (2) an order of the court; or
36 (3) a notice of termination and an order of the court.
37 (e) If a protective order ~~no contact order, workplace violence~~
38 ~~restraining order, or child protective order~~ in a depository established
39 under this chapter is terminated, the person who obtained the order
40 must file a notice of termination on a form prescribed or approved by
41 the division of state court administration with the clerk of the court.
42 The clerk of the court shall:

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- 1 **(1) enter the notice of termination into; or**
- 2 **(2) provide a copy of the notice of termination of a protective**
- 3 **order; no contact order; workplace violence restraining order; or**
- 4 **child protective order to;**

5 **the registry and provide a copy of the notice of termination to each**
 6 **of the depositories to which the protective order no contact order;**
 7 **workplace violence restraining order; or child protective order and a**
 8 **confidential form were was sent. The clerk of the court shall maintain**
 9 **the notice of termination in the court’s file.**

10 (f) If a protective order ~~no contact order; workplace violence~~
 11 ~~restraining order; or child protective order~~ or form in a depository
 12 **established under this chapter** is extended or modified, the person who
 13 obtained the extension or modification must file a notice of extension
 14 or modification on a form prescribed or approved by the division of
 15 state court administration with the clerk of the court. **Except for a**
 16 **protective order retained in the registry,** the clerk of the court shall
 17 provide a copy of the notice of extension or modification of a protective
 18 order ~~no contact order; workplace violence restraining order; or child~~
 19 ~~protective order~~ to each of the depositories to which the order and a
 20 confidential form were sent. The clerk of the court shall maintain the
 21 notice of extension or modification of a protective order ~~no contact~~
 22 ~~order; workplace violence restraining order; or child protective order~~
 23 in the court’s file.

24 (g) The clerk of a court that issued an order terminating a protective
 25 order ~~no contact order; workplace violence restraining order; or child~~
 26 ~~protective order~~ that is an ex parte order shall provide a copy of the
 27 order to the following:

- 28 (1) Each party.
- 29 (2) **Except for a protective order retained in the registry,** the
- 30 law enforcement agency provided with a copy of a protective
- 31 order ~~no contact order; workplace violence restraining order; or~~
 32 ~~child protective order~~ under subsection (a).

33 SECTION 7. IC 5-2-9-6.5 IS ADDED TO THE INDIANA CODE
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 35 1, 2009]: **Sec. 6.5. (a) After a court issues a protective order and**
 36 **issues the order to the registry, an IDACS coordinator may provide**
 37 **additional information about the parties in the order, including:**

- 38 (1) dates of birth;
- 39 (2) Social Security numbers;
- 40 (3) driver license numbers; and
- 41 (4) physical descriptions of the parties;
- 42 **to ensure the accuracy of the orders in the registry and information**

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in IDACS.

(b) A law enforcement agency that perfects service of a protective order issued to the registry shall enter into the registry:

- (1) the date and time the law enforcement agency received the protective order;
- (2) the location of the person who is the subject of the protective order, if this information is available;
- (3) the name and identification number of the law enforcement officer who served the protective order; and
- (4) the manner in which the protective order was served.

SECTION 8. IC 5-2-9-7, AS AMENDED BY P.L.52-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Any information:

- (1) in a uniform statewide confidential form or any part of a confidential form prescribed by the division of state court administration that must be filed with a protective order; ~~no contact order; workplace violence restraining order; or child protective order;~~ or
- (2) otherwise acquired concerning a protected person;

is confidential and may not be divulged to any respondent or defendant.

(b) Information described in subsection (a) may only be used by:

- (1) a court;
- (2) a sheriff;
- (3) another law enforcement agency;
- (4) a prosecuting attorney; or
- (5) a court clerk;

to comply with a law concerning the distribution of the information.

SECTION 9. IC 5-2-9-8, AS AMENDED BY P.L.52-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. **Except for a protective order that is retained in the registry**, a law enforcement agency that receives a copy of a protective order ~~no contact order; workplace violence restraining order; or child protective order~~ shall enter the information received into the Indiana data and communication system (IDACS) computer under IC 10-13-3-35 upon receiving a copy of the order.

SECTION 10. IC 34-6-2-148.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2009]: **Sec. 148.5. "Victim notification capabilities" means, with respect to a GPS tracking device, the ability of the device to do the following:**

- (1) **Immediately notify law enforcement or other supervisory personnel if the device enters a forbidden area.**

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- 1 **(2) Notify the victim in real time or near real time if the device**
- 2 **enters a forbidden area.**
- 3 **(3) Allow a law enforcement officer or other supervisory**
- 4 **officer to contact the offender immediately if the device enters**
- 5 **a forbidden area.**
- 6 **(4) Activate an alarm to warn others of the device's presence**
- 7 **in a forbidden area.**

8 SECTION 11. IC 34-26-5-3, AS AMENDED BY P.L.3-2008,
 9 SECTION 243, IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The division of state court
 11 administration shall:

- 12 (1) develop and adopt:
 - 13 (A) a petition for an order for protection;
 - 14 (B) an order for protection, including:
 - 15 (i) orders issued under this chapter;
 - 16 (ii) ex parte orders;
 - 17 (iii) no contact orders under IC 31 and IC 35;
 - 18 (iv) forms relating to workplace violence restraining orders
 - 19 under IC 34-26-6; and
 - 20 (v) forms relating to a child protective order under
 - 21 IC 31-34-2.3;
 - 22 (C) a confidential form;
 - 23 (D) a notice of modification or extension for an order for
 - 24 protection, a no contact order, a workplace violence restraining
 - 25 order, or a child protective order;
 - 26 (E) a notice of termination for an order for protection, a no
 - 27 contact order, a workplace violence restraining order, or a
 - 28 child protective order; and
 - 29 (F) any other uniform statewide forms necessary to maintain
 - 30 an accurate registry of orders; and
 - 31 (2) provide the forms under subdivision (1) to the clerk of each
 - 32 court authorized to issue the orders.

33 (b) In addition to any other required information, a petition for an
 34 order for protection must contain a statement listing each civil or
 35 criminal action involving:

- 36 (1) either party; or
- 37 (2) a child of either party.

38 (c) The following statements must be printed in boldface type or in
 39 capital letters on an order for protection, a no contact order, a
 40 workplace violence restraining order, or a child protective order:

41 **VIOLATION OF THIS ORDER IS PUNISHABLE BY**
 42 **CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.**

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1 IF SO ORDERED BY THE COURT, THE RESPONDENT IS
2 FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S
3 RESIDENCE OR RESIDENCE OF ANY CHILD WHO IS THE
4 SUBJECT OF THE ORDER, EVEN IF INVITED TO DO SO BY
5 THE PETITIONER OR ANY OTHER PERSON. IN NO EVENT
6 IS THE ORDER FOR PROTECTION VOIDED.

7 PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR
8 PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT
9 IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE
10 ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT
11 STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g),
12 ONCE A RESPONDENT HAS RECEIVED NOTICE OF THIS
13 ORDER AND AN OPPORTUNITY TO BE HEARD, IT IS A
14 FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR
15 POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER IF
16 THE PROTECTED PERSON IS:

- 17 (A) THE RESPONDENT'S CURRENT OR FORMER
- 18 SPOUSE;
- 19 (B) A CURRENT OR FORMER PERSON WITH WHOM
- 20 THE RESPONDENT RESIDED WHILE IN AN INTIMATE
- 21 RELATIONSHIP; OR
- 22 (C) A PERSON WITH WHOM THE RESPONDENT HAS A
- 23 CHILD.

24 INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT
25 THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES
26 UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

27 (d) The clerk of the circuit court, or a person or entity designated by
28 the clerk of the circuit court, shall provide to a person requesting an
29 order for protection:

- 30 (1) the forms adopted under subsection (a);
- 31 (2) all other forms required to petition for an order for protection,
- 32 including forms:
 - 33 (A) necessary for service; and
 - 34 (B) required under IC 31-21 (or IC 31-17-3 before its repeal);
 - 35 and
- 36 (3) clerical assistance in reading or completing the forms and
- 37 filing the petition.

38 Clerical assistance provided by the clerk or court personnel under this
39 section does not constitute the practice of law. The clerk of the circuit
40 court may enter into a contract with a person or another entity to
41 provide this assistance. A person, other than a person or other entity
42 with whom the clerk has entered into a contract to provide assistance,

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1 who in good faith performs the duties the person is required to perform
2 under this subsection is not liable for civil damages that might
3 otherwise be imposed on the person as a result of the performance of
4 those duties unless the person commits an act or omission that amounts
5 to gross negligence or willful and wanton misconduct.

6 (e) A petition for an order for protection must be:

- 7 (1) verified or under oath under Trial Rule 11; and
- 8 (2) issued on the forms adopted under subsection (a).

9 (f) If an order for protection is issued under this chapter, the clerk
10 shall comply with IC 5-2-9.

11 **(g) After receiving a petition for an order for protection, the**
12 **clerk of the circuit court shall immediately enter the case in the**
13 **Indiana protective order registry established by IC 5-2-9-5.5.**

14 SECTION 12. IC 34-26-5-8 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. If a petitioner seeks:

- 16 (1) an order for protection;
- 17 (2) an extension of an order for protection;
- 18 (3) a modification of an order for protection; ~~or~~
- 19 (4) the termination of an order for protection; ~~or~~
- 20 **(5) the registration of a foreign protective order;**

21 the petitioner is responsible for completing the forms prescribed by the
22 division of state court administration and for transmitting those forms
23 to the clerk of the court.

24 SECTION 13. IC 34-26-5-9, AS AMENDED BY P.L.68-2005,
25 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2009]: Sec. 9. (a) If it appears from a petition for an order for
27 protection or from a petition to modify an order for protection that
28 domestic or family violence has occurred or that a modification of an
29 order for protection is required, a court may:

- 30 (1) without notice or hearing, immediately issue an order for
31 protection ex parte or modify an order for protection ex parte; or
- 32 (2) upon notice and after a hearing, whether or not a respondent
33 appears, issue or modify an order for protection.

34 (b) A court may grant the following relief without notice and
35 hearing in an ex parte order for protection or in an ex parte order for
36 protection modification:

- 37 (1) Enjoin a respondent from threatening to commit or
38 committing acts of domestic or family violence against a
39 petitioner and each designated family or household member.
- 40 (2) Prohibit a respondent from harassing, annoying, telephoning,
41 contacting, or directly or indirectly communicating with a
42 petitioner.

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- 1 (3) Remove and exclude a respondent from the residence of a
- 2 petitioner, regardless of ownership of the residence.
- 3 (4) Order a respondent to stay away from the residence, school, or
- 4 place of employment of a petitioner or a specified place
- 5 frequented by a petitioner and each designated family or
- 6 household member.
- 7 (5) Order possession and use of the residence, an automobile, and
- 8 other essential personal effects, regardless of the ownership of the
- 9 residence, automobile, and essential personal effects. If
- 10 possession is ordered under this subdivision, the court may direct
- 11 a law enforcement officer to accompany a petitioner to the
- 12 residence of the parties to:
 - 13 (A) ensure that a petitioner is safely restored to possession of
 - 14 the residence, automobile, and other essential personal effects;
 - 15 or
 - 16 (B) supervise a petitioner's or respondent's removal of personal
 - 17 belongings.
- 18 (6) Order other relief necessary to provide for the safety and
- 19 welfare of a petitioner and each designated family or household
- 20 member.
- 21 (c) A court may grant the following relief after notice and a hearing,
- 22 whether or not a respondent appears, in an order for protection or in a
- 23 modification of an order for protection:
 - 24 (1) Grant the relief under subsection (b).
 - 25 (2) Specify arrangements for parenting time of a minor child by
 - 26 a respondent and:
 - 27 (A) require supervision by a third party; or
 - 28 (B) deny parenting time;
 - 29 if necessary to protect the safety of a petitioner or child.
 - 30 (3) Order a respondent to:
 - 31 (A) pay attorney's fees;
 - 32 (B) pay rent or make payment on a mortgage on a petitioner's
 - 33 residence;
 - 34 (C) if the respondent is found to have a duty of support, pay
 - 35 for the support of a petitioner and each minor child;
 - 36 (D) reimburse a petitioner or other person for expenses related
 - 37 to the domestic or family violence, including:
 - 38 (i) medical expenses;
 - 39 (ii) counseling;
 - 40 (iii) shelter; and
 - 41 (iv) repair or replacement of damaged property; or
 - 42 **(E) pay the costs and expenses incurred in connection with**

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the use of a GPS tracking device under subsection (i); or
~~(E)~~ **(F)** pay the costs and fees incurred by a petitioner in bringing the action.

(4) Prohibit a respondent from using or possessing a firearm, ammunition, or a deadly weapon specified by the court, and direct the respondent to surrender to a specified law enforcement agency the firearm, ammunition, or deadly weapon for the duration of the order for protection unless another date is ordered by the court.

An order issued under subdivision (4) does not apply to a person who is exempt under 18 U.S.C. 925.

(d) The court shall:

- (1) cause the order for protection to be delivered to the county sheriff for service;
- (2) make reasonable efforts to ensure that the order for protection is understood by a petitioner and a respondent if present;
- ~~(3) transmit, by the end of the same business day on which the order for protection is issued; a copy of the order for protection to each local law enforcement agency designated by a petitioner;~~
- (3) electronically notify each law enforcement agency:**
 - (A) required to receive notification under IC 5-2-9-6; or**
 - (B) designated by the petitioner;**
- (4) transmit a copy of the order to the clerk for processing under IC 5-2-9; ~~and~~
- ~~(5) notify the state police department of indicate in the order if the order and the parties meet the criteria under 18 U.S.C. 922(g)(8); and~~
- (6) require the clerk to enter or provide a copy of the order to the Indiana protective order registry established by IC 5-2-9-5.5.**

(e) An order for protection issued ex parte or upon notice and a hearing, or a modification of an order for protection issued ex parte or upon notice and a hearing, is effective for two (2) years after the date of issuance unless another date is ordered by the court. The sheriff of each county shall provide expedited service for an order for protection.

(f) A finding that domestic or family violence has occurred sufficient to justify the issuance of an order under this section means that a respondent represents a credible threat to the safety of a petitioner or a member of a petitioner's household. Upon a showing of domestic or family violence by a preponderance of the evidence, the court shall grant relief necessary to bring about a cessation of the violence or the threat of violence. The relief may include an order directing a respondent to surrender to a law enforcement officer or

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1 agency all firearms, ammunition, and deadly weapons:
 2 (1) in the control, ownership, or possession of a respondent; or
 3 (2) in the control or possession of another person on behalf of a
 4 respondent;
 5 for the duration of the order for protection unless another date is
 6 ordered by the court.

7 (g) An order for custody, parenting time, or possession or control of
 8 property issued under this chapter is superseded by an order issued
 9 from a court exercising dissolution, legal separation, paternity, or
 10 guardianship jurisdiction over the parties.

11 (h) The fact that an order for protection is issued under this chapter
 12 does not raise an inference or presumption in a subsequent case or
 13 hearings between the parties.

14 **(i) Upon a finding of a violation of an order for protection, the**
 15 **court may:**

- 16 (1) **require a respondent to wear a GPS tracking device; and**
- 17 (2) **prohibit the respondent from approaching or entering**
 18 **certain locations where the petitioner may be found.**

19 **If the court requires a respondent to wear a GPS tracking device**
 20 **under subdivision (1), the court shall, if available, require the**
 21 **respondent to wear a GPS tracking device with victim notification**
 22 **capabilities.**

23 **(j) The court may permit a victim, a petitioner, another person,**
 24 **an organization, or an agency to pay the costs and expenses**
 25 **incurred in connection with the use of a GPS tracking device under**
 26 **subsection (i).**

27 SECTION 14. IC 34-26-5-17 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) A foreign
 29 protection order is facially valid if it:

- 30 (1) identifies the protected person and the respondent;
- 31 (2) is currently in effect;
- 32 (3) was issued by a state or tribal court with jurisdiction over the:
 33 (A) parties; and
 34 (B) subject matter;
 35 under the law of the issuing state or Indian tribe; and
- 36 (4) was issued after a respondent was given reasonable notice and
 37 an opportunity to be heard sufficient to protect the respondent's
 38 right to due process. In the case of an ex parte order, notice and
 39 opportunity to be heard must be provided within the time required
 40 by state or tribal law and within a reasonable time after the order
 41 is issued sufficient to protect the respondent's due process rights.
- 42 (b) A facially valid foreign protection order is prima facie evidence

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1 of its validity. The protection order may be inscribed on a tangible
2 medium or stored in an electronic or other medium if it is retrievable
3 in perceivable form. Presentation of a certified copy of an order for
4 protection is not required for enforcement.

5 (c) Except as provided in subsection (d), a protection order that is
6 facially valid and issued by a court of a state (issuing state) or Indian
7 tribe shall be accorded full faith and credit by Indiana courts.

8 (d) A mutual foreign protection order is not entitled to full faith and
9 credit if the order is issued by a state or tribal court against a person
10 who has petitioned, filed a complaint, or otherwise filed a written
11 pleading for protection against a family or household member, unless:

- 12 (1) a separate petition or motion was filed by a respondent;
- 13 (2) the issuing court has reviewed each motion separately and
- 14 granted or denied each on its individual merits; and
- 15 (3) separate orders were issued and the issuing court made
- 16 specific findings that each party was entitled to an order.

17 (e) Registration or filing of a foreign protection order is not a
18 prerequisite to enforcement of the order in Indiana, and a protection
19 order that is consistent with this section shall be accorded full faith and
20 credit notwithstanding a failure to register or file the order in Indiana.
21 However, if a petitioner wishes to register a foreign protection order in
22 Indiana, all Indiana courts of record shall accommodate the request.
23 The division of state court administration shall develop a form to be
24 used by courts, clerks, and law enforcement agencies when a petitioner
25 makes a request to register a foreign protection order. **Except for a**
26 **protective order issued to the Indiana protective order registry**
27 **established by IC 5-2-9-5.5,** the courts, clerks of the courts, and
28 sheriffs or law enforcement agencies maintaining depositories shall
29 employ the same procedures required under IC 5-2-9-6 for entering,
30 modifying, extending, or terminating a foreign protection order as those
31 used for a protection order and a no contact order originating in
32 Indiana.

33 (f) A facially valid foreign protection order shall be enforced by a
34 law enforcement officer and a state court as if it were an order
35 originating in Indiana. The order must be enforced if the foreign
36 protection order contains relief that the state courts lack the power to
37 provide in an order for protection issued in Indiana.

- 38 (g) An Indiana law enforcement officer:
- 39 (1) may not require notification, registration, or filing of a facially
- 40 valid foreign order for protection as a prerequisite to enforcement
- 41 of an order;
- 42 (2) if a foreign protection order is not presented, may consider

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- 1 other information to determine under a totality of the
- 2 circumstances whether there is probable cause to believe that a
- 3 valid foreign order for protection exists; and
- 4 (3) who determines that an otherwise valid foreign protection
- 5 order cannot be enforced because a respondent has not been
- 6 notified or served with the order, shall:
 - 7 (A) inform the respondent of the order;
 - 8 (B) serve the order on the respondent;
 - 9 (C) ensure that the order and service of the order are entered
 - 10 into the state depository;
 - 11 (D) allow the respondent a reasonable opportunity to comply
 - 12 with the order before enforcing the order; and
 - 13 (E) ensure the safety of the protected person while giving the
 - 14 respondent the opportunity to comply with the order.

15 **(h) After a foreign protective order is registered, the clerk shall**
 16 **enter the order in the Indiana protective order registry established**
 17 **by IC 5-2-9-5.5.**

18 SECTION 15. IC 34-26-5-18, AS AMENDED BY P.L.52-2007,
 19 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2009]: Sec. 18. The following orders are required to be
 21 entered into the Indiana data and communication system (IDACS) by
 22 a county sheriff or local law enforcement agency:

- 23 (1) A no contact order issued under IC 31-32-13 in a juvenile
- 24 case.
- 25 (2) A no contact order issued under IC 31-34-20 in a child in need
- 26 of services (CHINS) case.
- 27 (3) A no contact order issued under IC 31-34-25 in a CHINS case.
- 28 (4) A no contact order issued under IC 31-37-19 in a delinquency
- 29 case.
- 30 (5) A no contact order issued under IC 31-37-25 in a delinquency
- 31 case.
- 32 (6) A no contact order issued under IC 33-39-1-8 in a criminal
- 33 case.
- 34 (7) An order for protection issued under this chapter.
- 35 (8) A workplace violence restraining order issued under
- 36 IC 34-26-6.
- 37 (9) A no contact order issued under IC 35-33-8-3.2 in a criminal
- 38 case.
- 39 (10) A no contact order issued under IC 35-38-2-2.3 in a criminal
- 40 case.
- 41 (11) A child protective order issued under IC 31-34-2.3.
- 42 **(12) A foreign protective order registered under section 17 of**

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this chapter.

SECTION 16. IC 35-44-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) A person, except as provided in subsection (b), who intentionally flees from lawful detention commits escape, a Class C felony. However, the offense is a Class B felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person.

(b) A person who knowingly or intentionally violates a home detention order or intentionally removes an electronic monitoring device **or GPS tracking device** commits escape, a Class D felony.

(c) A person who knowingly or intentionally fails to return to lawful detention following temporary leave granted for a specified purpose or limited period commits failure to return to lawful detention, a Class D felony. However, the offense is a Class C felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person.

SECTION 17. [EFFECTIVE JULY 1, 2009] (a) **The division of state court administration shall submit to the general assembly before January 15, 2011, and before January 15 of each subsequent year, a report in an electronic format under IC 5-14-6 concerning:**

- (1) the frequency with which GPS tracking was ordered by a court as part of an order for protection;**
- (2) the costs associated with GPS tracking;**
- (3) the circumstances under which GPS tracking was ordered;**
- (4) whether GPS tracking with victim notification capabilities was:**
 - (A) available; and**
 - (B) ordered by a court; and**
- (5) any other relevant information relating to electronic monitoring.**

The division of state court administration may include the information as a part of its annual report under IC 33-24-6-3 or as a separate report.

(b) This SECTION expires January 30, 2013.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1578, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 3.

Page 4, delete lines 1 through 26, begin a new paragraph and insert:

"SECTION 1. IC 34-6-2-148.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 148.5. "Victim notification capabilities" means, with respect to a GPS tracking device, the ability of the device to do the following:**

- (1) Immediately notify law enforcement or other supervisory personnel if the device enters a forbidden area.**
- (2) Notify the victim in real time or near real time if the device enters a forbidden area.**
- (3) Allow a law enforcement officer or other supervisory officer to contact the offender through a cellular telephone implanted in the GPS tracking device.**
- (4) Activate a loud alarm to warn others of the device's presence in a forbidden zone."**

Page 5, line 3, delete "require the respondent to wear a GPS tracking".

Page 5, delete lines 4 through 10.

Page 6, line 11, delete "(b)(2);" and insert "(i)".

Page 7, between lines 17 and 18, begin a new paragraph and insert:

"(i) Upon a finding of a violation of an order for protection, the court may:

- (1) require a respondent to wear a GPS tracking device; and**
- (2) prohibit the respondent from approaching or entering certain locations where the petitioner may be found.**

If the court requires a respondent to wear a GPS tracking device under subdivision (1), the court shall, if available, require the respondent to wear a GPS tracking device with victim notification capabilities (as defined in IC 35-41-1-28.5).

(j) The court may permit a victim, a petitioner, another person, an organization, or an agency to pay the costs and expenses incurred in connection with the use of a GPS tracking device under subsection (i)."

Page 7, delete lines 18 through 42.

Delete pages 8 through 12.

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Page 13, delete lines 1 through 41.

Page 14, line 20, delete "as:" and insert "**as part of an order for protection;**".

Page 14, delete lines 21 through 23.

Page 14, delete lines 34 through 42.

Page 15, delete lines 1 through 4.

Page 15, delete "(c)" and insert "**(b)**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1578 as introduced.)

PRYOR, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1578 be amended to read as follows:

Page 4, line 31, delete "(as defined in 35-41-1-28.5)".

Page 5, line 9, delete "judicial" and insert "**division of state court administration**".

Page 5, line 10, delete "conference of Indiana".

Page 5, line 11, delete "15 of each year" and insert "**15, 2011, and before January 15 of each subsequent year,**".

Page 5, line 23, delete "judicial conference" and insert "**division of state court administration**".

Page 5, line 24, delete "11-13-1-9" and insert "**33-24-6-3**".

(Reference is to HB 1578 as printed February 13, 2009.)

DEMBOWSKI



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1578, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-2-9-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.2. As used in this chapter, "IDACS coordinator" means an individual who holds an administrative position within a law enforcement agency that has operational Indiana data and communication system (IDACS) terminals and who is appointed by the director of the law enforcement agency.**

SECTION 2. IC 5-2-9-1.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.4. As used in this chapter, "registry" means the Indiana protective order registry established under section 5.5 of this chapter.**

SECTION 3. IC 5-2-9-1.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.7. As used in this chapter, "protected person" means a person or an employer (as defined in IC 34-26-6-4) protected under a protective order, a ~~no contact order,~~ or a workplace violence restraining order: as defined in section 2.1 of this chapter.**

SECTION 4. IC 5-2-9-2.1, AS AMENDED BY P.L.52-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.1. (a) As used in this chapter, "protective order" means:**

- (1) a protective order issued under IC 34-26-5 (or, if the order involved a family or household member, IC 34-26-2-12(1)(A), IC 34-26-2-12(1)(B), IC 34-26-2-12(1)(C), IC 34-4-5.1-5(a)(1)(A), IC 34-4-5.1-5(a)(1)(B), or IC 34-4-5.1-5(a)(1)(C) before their repeal);
- (2) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency protective order issued under IC 34-26-2-6(1), IC 34-26-2-6(2), or IC 34-26-2-6(3) or IC 34-4-5.1-2.3(a)(1)(A), IC 34-4-5.1-2.3(a)(1)(B), or IC 34-4-5.1-2.3(a)(1)(C) before their repeal);
- (3) a protective order issued under IC 31-15-4-1 (or

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- IC 31-1-11.5-7(b)(2), IC 31-1-11.5-7(b)(3), IC 31-16-4-2(a)(2), or IC 31-16-4-2(a)(3) before their repeal);
- (4) a dispositional decree containing a no contact order issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-19-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order containing a no contact order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal);
- (5) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion;
- (6) a no contact order issued as a condition of probation;
- (7) a protective order issued under IC 31-15-5-1 (or IC 31-1-11.5-8.2 or IC 31-16-5 before their repeal);
- (8) a protective order issued under IC 31-14-16-1 in a paternity action;
- (9) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;
- (10) a workplace violence restraining order issued under IC 34-26-6; or
- (11) a child protective order issued under IC 31-34-2.3; or
- (12) a foreign protective order registered under IC 34-26-5-17.**

(b) Whenever a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ is issued by an Indiana court, the Indiana court must caption the order in a manner that indicates the type of order issued and the section of the Indiana Code that authorizes the protective order. ~~no contact order, or workplace violence restraining order.~~ The Indiana court shall also place on the order the court's hours of operation and telephone number with area code.

SECTION 5. IC 5-2-9-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.5. (a) The Indiana protective order registry is established.**

(b) The registry is an Internet based, electronic depository for protective orders. Copies of all protective orders shall be retained in the registry.

(c) The registry must contain confidential information about protected persons.

(d) The division of state court administration shall create, manage, and maintain the registry.



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(e) A protective order retained under section 5 of this chapter may be entered in the registry.

SECTION 6. IC 5-2-9-6, AS AMENDED BY P.L.52-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The clerk of a court that issues a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ shall:

(1) provide a copy of the order to the ~~following: petitioner; and~~

~~(1) Each party.~~

~~(2) A law enforcement agency of the municipality in which the protected person resides. If a person and an employer are:~~

~~(A) both protected by an order under this section; and~~

~~(B) domiciled in different municipalities;~~

~~the clerk shall send a copy of the order to the law enforcement agency of the municipality in which the person resides and the employer is located.~~

~~(3) If the protected person, including an employer, is not domiciled in a municipality, the sheriff of the county in which the protected person resides.~~

(2) provide a copy of the order and service of process to the respondent or defendant in accordance with the rules of trial procedure.

(b) The clerk of a court that issues a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ or the clerk of a court in which a petition is filed shall

~~(1) maintain a confidential file to secure any confidential information about a protected person designated on a uniform statewide form prescribed by the division of state court administration.~~

~~(2) provide a copy of the confidential form that accompanies the protective order ~~no contact order, workplace violence restraining order, or child protective order~~ to the following:~~

~~(A) The sheriff of the county in which the protective order ~~no contact order, workplace violence restraining order, or child protective order~~ was issued.~~

~~(B) The law enforcement agency of the municipality, if any, in which the protected person, including an employer, is domiciled.~~

~~(C) Any other sheriff or law enforcement agency designated in the protective order ~~no contact order, workplace violence restraining order, or child protective order~~ that has jurisdiction over the area in which a protected person, including an~~

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employer, may be located or protected; and
(3) after receiving the return of service information; transmit all
return of service information to each sheriff and law enforcement
agency required under subdivision (2).

(c) A sheriff or law enforcement agency that receives **This subsection applies to** a protective order ~~no contact order~~; workplace violence restraining order; or child protective order **that a sheriff or law enforcement agency receives** under subsection (a) **before July 1, 2009**, and a confidential form under subsection (b) **that is not retained in the registry. The sheriff or law enforcement agency shall:**

(1) maintain a copy of the protective order ~~no contact order~~; workplace violence restraining order; or child protective order in the depository established under this chapter;

(2) enter:

(A) the date and time the sheriff or law enforcement agency receives the protective order; ~~no contact order~~; workplace violence restraining order; or child protective order;

(B) the location of the person who is subject to the protective order, ~~no contact order~~; workplace violence restraining order; or child protective order; if reasonably ascertainable from the information received;

(C) the name and identification number of the officer who serves the protective order; ~~no contact order~~; workplace violence restraining order; or child protective order;

(D) the manner in which the protective order ~~no contact order~~; workplace violence restraining order; or child protective order is served;

(E) the name of the petitioner and any other protected parties;

(F) the name, Social Security number, date of birth, and physical description of the person who is the subject of the protective order, ~~no contact order~~; workplace violence restraining order; or child protective order; if reasonably ascertainable from the information received;

(G) the date the protective order ~~no contact order~~; workplace violence restraining order; or child protective order expires;

(H) a caution indicator stating whether a person who is the subject of the protective order ~~no contact order~~; workplace violence restraining order; or child protective order is believed to be armed and dangerous, if reasonably ascertainable from the information received; and

(I) if furnished, a Brady record indicator stating whether a person who is the subject of the protective order ~~no contact~~

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~~order, workplace violence restraining order, or child protective order~~ is prohibited from purchasing or possessing a firearm or ammunition under federal law, if reasonably ascertainable from the information received;

~~on the copy of the protective order no contact order, workplace violence restraining order, or child protective order or the confidential form; and~~

(3) except for a protective order that is retained in the registry, establish a confidential file in which a confidential form that contains information concerning a protected person is kept.

(d) Except for a protective order that is retained in the registry, a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ may be removed from the depository established under this chapter only if the sheriff or law enforcement agency that administers the depository receives:

- (1) a notice of termination on a form prescribed or approved by the division of state court administration;
- (2) an order of the court; or
- (3) a notice of termination and an order of the court.

(e) If a protective order no contact order, workplace violence restraining order, or child protective order in a depository established under this chapter is terminated, the person who obtained the order must file a notice of termination on a form prescribed or approved by the division of state court administration with the clerk of the court. The clerk of the court shall:

- (1) enter the notice of termination into; or**
- (2) provide a copy of the notice of termination of a protective order, no contact order, workplace violence restraining order, or child protective order to;**

the registry and provide a copy of the notice of termination to each of the depositories to which the protective order ~~no contact order, workplace violence restraining order, or child protective order~~ and a confidential form were sent. The clerk of the court shall maintain the notice of termination in the court's file.

(f) If a protective order no contact order, workplace violence restraining order, or child protective order or form in a depository established under this chapter is extended or modified, the person who obtained the extension or modification must file a notice of extension or modification on a form prescribed or approved by the division of state court administration with the clerk of the court. **Except for a protective order retained in the registry,** the clerk of the court shall provide a copy of the notice of extension or modification of a protective

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order ~~no contact order, workplace violence restraining order, or child protective order~~ to each of the depositories to which the order and a confidential form were sent. The clerk of the court shall maintain the notice of extension or modification of a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ in the court's file.

(g) The clerk of a court that issued an order terminating a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ that is an ex parte order shall provide a copy of the order to the following:

- (1) Each party.
- (2) **Except for a protective order retained in the registry**, the law enforcement agency provided with a copy of a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ under subsection (a).

SECTION 7. IC 5-2-9-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.5. (a) After a court issues a protective order and issues the order to the registry, an IDACS coordinator may provide additional information about the parties in the order, including:**

- (1) dates of birth;
- (2) Social Security numbers;
- (3) driver license numbers; and
- (4) physical descriptions of the parties;

to ensure the accuracy of the orders in the registry and information in IDACS.

(b) A law enforcement agency that perfects service of a protective order issued to the registry shall enter into the registry:

- (1) the date and time the law enforcement agency received the protective order;
- (2) the location of the person who is the subject of the protective order, if this information is available;
- (3) the name and identification number of the law enforcement officer who served the protective order; and
- (4) the manner in which the protective order was served.

SECTION 8. IC 5-2-9-7, AS AMENDED BY P.L.52-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 7. (a) Any information:**

- (1) in a uniform statewide confidential form or any part of a confidential form prescribed by the division of state court administration that must be filed with a protective order; ~~no contact order, workplace violence restraining order, or child~~

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~~protective order~~; or
(2) otherwise acquired concerning a protected person;
is confidential and may not be divulged to any respondent or defendant.

- (b) Information described in subsection (a) may only be used by:
- (1) a court;
 - (2) a sheriff;
 - (3) another law enforcement agency;
 - (4) a prosecuting attorney; or
 - (5) a court clerk;

to comply with a law concerning the distribution of the information.

SECTION 9. IC 5-2-9-8, AS AMENDED BY P.L.52-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. **Except for a protective order that is retained in the registry**, a law enforcement agency that receives a copy of a protective order ~~no contact order; workplace violence restraining order; or child protective order~~ shall enter the information received into the Indiana data and communication system (IDACS) computer under IC 10-13-3-35 upon receiving a copy of the order."

Page 1, line 11, delete "through a cellular telephone" and insert **"immediately if the device enters a forbidden area."**

Page 1, delete line 12.

Page 1, line 13, delete "a loud" and insert **"an"**.

Page 1, line 14, delete "zone." and insert **"area."**

Page 1, between lines 14 and 15, begin a new paragraph and insert:
"SECTION 11. IC 34-26-5-3, AS AMENDED BY P.L.3-2008, SECTION 243, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The division of state court administration shall:

- (1) develop and adopt:
 - (A) a petition for an order for protection;
 - (B) an order for protection, including:
 - (i) orders issued under this chapter;
 - (ii) ex parte orders;
 - (iii) no contact orders under IC 31 and IC 35;
 - (iv) forms relating to workplace violence restraining orders under IC 34-26-6; and
 - (v) forms relating to a child protective order under IC 31-34-2.3;
 - (C) a confidential form;
 - (D) a notice of modification or extension for an order for protection, a no contact order, a workplace violence restraining order, or a child protective order;

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(E) a notice of termination for an order for protection, a no contact order, a workplace violence restraining order, or a child protective order; and

(F) any other uniform statewide forms necessary to maintain an accurate registry of orders; and

(2) provide the forms under subdivision (1) to the clerk of each court authorized to issue the orders.

(b) In addition to any other required information, a petition for an order for protection must contain a statement listing each civil or criminal action involving:

(1) either party; or

(2) a child of either party.

(c) The following statements must be printed in boldface type or in capital letters on an order for protection, a no contact order, a workplace violence restraining order, or a child protective order:

VIOLATION OF THIS ORDER IS PUNISHABLE BY CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.

IF SO ORDERED BY THE COURT, THE RESPONDENT IS FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S RESIDENCE OR RESIDENCE OF ANY CHILD WHO IS THE SUBJECT OF THE ORDER, EVEN IF INVITED TO DO SO BY THE PETITIONER OR ANY OTHER PERSON. IN NO EVENT IS THE ORDER FOR PROTECTION VOIDED.

PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g), ONCE A RESPONDENT HAS RECEIVED NOTICE OF THIS ORDER AND AN OPPORTUNITY TO BE HEARD, IT IS A FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER IF THE PROTECTED PERSON IS:

(A) THE RESPONDENT'S CURRENT OR FORMER SPOUSE;

(B) A CURRENT OR FORMER PERSON WITH WHOM THE RESPONDENT RESIDED WHILE IN AN INTIMATE RELATIONSHIP; OR

(C) A PERSON WITH WHOM THE RESPONDENT HAS A CHILD.

INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES

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UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

(d) The clerk of the circuit court, or a person or entity designated by the clerk of the circuit court, shall provide to a person requesting an order for protection:

- (1) the forms adopted under subsection (a);
- (2) all other forms required to petition for an order for protection, including forms:
 - (A) necessary for service; and
 - (B) required under IC 31-21 (or IC 31-17-3 before its repeal); and
- (3) clerical assistance in reading or completing the forms and filing the petition.

Clerical assistance provided by the clerk or court personnel under this section does not constitute the practice of law. The clerk of the circuit court may enter into a contract with a person or another entity to provide this assistance. A person, other than a person or other entity with whom the clerk has entered into a contract to provide assistance, who in good faith performs the duties the person is required to perform under this subsection is not liable for civil damages that might otherwise be imposed on the person as a result of the performance of those duties unless the person commits an act or omission that amounts to gross negligence or willful and wanton misconduct.

- (e) A petition for an order for protection must be:
 - (1) verified or under oath under Trial Rule 11; and
 - (2) issued on the forms adopted under subsection (a).

(f) If an order for protection is issued under this chapter, the clerk shall comply with IC 5-2-9.

(g) After receiving a petition for an order for protection, the clerk of the circuit court shall immediately enter the case in the Indiana protective order registry established by IC 5-2-9-5.5.

SECTION 12. IC 34-26-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. If a petitioner seeks:

- (1) an order for protection;
- (2) an extension of an order for protection;
- (3) a modification of an order for protection; **or**
- (4) the termination of an order for protection; **or**
- (5) the registration of a foreign protective order;**

the petitioner is responsible for completing the forms prescribed by the division of state court administration and for transmitting those forms to the clerk of the court."

Page 3, delete lines 32 through 38, begin a new line block indented and insert:

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"(3) transmit, by the end of the same business day on which the order for protection is issued; a copy of the order for protection to each local law enforcement agency designated by a petitioner;

(3) electronically notify each law enforcement agency:

(A) required to receive notification under IC 5-2-9-6; or

(B) designated by the petitioner;

(4) transmit a copy of the order to the clerk for processing under IC 5-2-9; and

(5) notify the state police department of **indicate in** the order if the order and the parties meet the criteria under 18 U.S.C. 922(g)(8); and

(6) require the clerk to enter or provide a copy of the order to the Indiana protective order registry established by IC 5-2-9-5.5."

Page 4, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 13. IC 34-26-5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) A foreign protection order is facially valid if it:

(1) identifies the protected person and the respondent;

(2) is currently in effect;

(3) was issued by a state or tribal court with jurisdiction over the:

(A) parties; and

(B) subject matter;

under the law of the issuing state or Indian tribe; and

(4) was issued after a respondent was given reasonable notice and an opportunity to be heard sufficient to protect the respondent's right to due process. In the case of an ex parte order, notice and opportunity to be heard must be provided within the time required by state or tribal law and within a reasonable time after the order is issued sufficient to protect the respondent's due process rights.

(b) A facially valid foreign protection order is prima facie evidence of its validity. The protection order may be inscribed on a tangible medium or stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of an order for protection is not required for enforcement.

(c) Except as provided in subsection (d), a protection order that is facially valid and issued by a court of a state (issuing state) or Indian tribe shall be accorded full faith and credit by Indiana courts.

(d) A mutual foreign protection order is not entitled to full faith and credit if the order is issued by a state or tribal court against a person who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against a family or household member, unless:

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- (1) a separate petition or motion was filed by a respondent;
- (2) the issuing court has reviewed each motion separately and granted or denied each on its individual merits; and
- (3) separate orders were issued and the issuing court made specific findings that each party was entitled to an order.

(e) Registration or filing of a foreign protection order is not a prerequisite to enforcement of the order in Indiana, and a protection order that is consistent with this section shall be accorded full faith and credit notwithstanding a failure to register or file the order in Indiana. However, if a petitioner wishes to register a foreign protection order in Indiana, all Indiana courts of record shall accommodate the request. The division of state court administration shall develop a form to be used by courts, clerks, and law enforcement agencies when a petitioner makes a request to register a foreign protection order. **Except for a protective order issued to the Indiana protective order registry established by IC 5-2-9-5.5**, the courts, clerks of the courts, and sheriffs or law enforcement agencies maintaining depositories shall employ the same procedures required under IC 5-2-9-6 for entering, modifying, extending, or terminating a foreign protection order as those used for a protection order and a no contact order originating in Indiana.

(f) A facially valid foreign protection order shall be enforced by a law enforcement officer and a state court as if it were an order originating in Indiana. The order must be enforced if the foreign protection order contains relief that the state courts lack the power to provide in an order for protection issued in Indiana.

(g) An Indiana law enforcement officer:

- (1) may not require notification, registration, or filing of a facially valid foreign order for protection as a prerequisite to enforcement of an order;
- (2) if a foreign protection order is not presented, may consider other information to determine under a totality of the circumstances whether there is probable cause to believe that a valid foreign order for protection exists; and
- (3) who determines that an otherwise valid foreign protection order cannot be enforced because a respondent has not been notified or served with the order, shall:
 - (A) inform the respondent of the order;
 - (B) serve the order on the respondent;
 - (C) ensure that the order and service of the order are entered into the state depository;
 - (D) allow the respondent a reasonable opportunity to comply

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with the order before enforcing the order; and
(E) ensure the safety of the protected person while giving the respondent the opportunity to comply with the order.

(h) After a foreign protective order is registered, the clerk shall enter the order in the Indiana protective order registry established by IC 5-2-9-5.5.

SECTION 14. IC 34-26-5-18, AS AMENDED BY P.L.52-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. The following orders are required to be entered into the Indiana data and communication system (IDACS) by a county sheriff or local law enforcement agency:

- (1) A no contact order issued under IC 31-32-13 in a juvenile case.
- (2) A no contact order issued under IC 31-34-20 in a child in need of services (CHINS) case.
- (3) A no contact order issued under IC 31-34-25 in a CHINS case.
- (4) A no contact order issued under IC 31-37-19 in a delinquency case.
- (5) A no contact order issued under IC 31-37-25 in a delinquency case.
- (6) A no contact order issued under IC 33-39-1-8 in a criminal case.
- (7) An order for protection issued under this chapter.
- (8) A workplace violence restraining order issued under IC 34-26-6.
- (9) A no contact order issued under IC 35-33-8-3.2 in a criminal case.
- (10) A no contact order issued under IC 35-38-2-2.3 in a criminal case.
- (11) A child protective order issued under IC 31-34-2.3.
- (12) A foreign protective order registered under section 17 of this chapter."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1578 as reprinted February 21, 2009.)

STEELE, Chairperson

Committee Vote: Yeas 8, Nays 0.

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