

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 345 be amended to read as follows:

- 1 Page 7, between lines 39 and 40, begin a new paragraph and insert:
- 2 "SECTION 6. IC 5-2-9-1.2 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2009]: **Sec. 1.2. As used in this chapter, "IDACS coordinator"**
- 5 **means an administrative position within a law enforcement agency**
- 6 **that has operational Indiana data and communication system**
- 7 **(IDACS) terminals appointed by the director of the law**
- 8 **enforcement agency.**
- 9 SECTION 7. IC 5-2-9-1.4 IS ADDED TO THE INDIANA CODE
- 10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 11 1, 2009]: **Sec. 1.4. As used in this chapter, "Indiana protective**
- 12 **order registry" or "registry" means an Internet based registry of**
- 13 **protective orders established under section 5.5 of this chapter and**
- 14 **developed and maintained by the division of state court**
- 15 **administration.**
- 16 SECTION 8. IC 5-2-9-1.7 IS AMENDED TO READ AS
- 17 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.7. As used in this
- 18 chapter, "protected person" means a person or an employer (as defined
- 19 in IC 34-26-6-4) protected under a protective order. ~~a no contact order;~~
- 20 ~~or a workplace violence restraining order.~~
- 21 SECTION 9. IC 5-2-9-2.1, AS AMENDED BY P.L.52-2007,
- 22 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 23 JULY 1, 2009]: Sec. 2.1. (a) As used in this chapter, "protective order"
- 24 means:

- 1 (1) a protective order issued under IC 34-26-5 (or, if the order
 2 involved a family or household member, IC 34-26-2-12(1)(A),
 3 IC 34-26-2-12(1)(B), IC 34-26-2-12(1)(C),
 4 IC 34-4-5.1-5(a)(1)(A), IC 34-4-5.1-5(a)(1)(B), or
 5 IC 34-4-5.1-5(a)(1)(C) before their repeal);
 6 (2) an ex parte protective order issued under IC 34-26-5 (or, if the
 7 order involved a family or household member, an emergency
 8 protective order issued under IC 34-26-2-6(1), IC 34-26-2-6(2),
 9 or IC 34-26-2-6(3) or IC 34-4-5.1-2.3(a)(1)(A),
 10 IC 34-4-5.1-2.3(a)(1)(B), or IC 34-4-5.1-2.3(a)(1)(C) before their
 11 repeal);
 12 (3) a protective order issued under IC 31-15-4-1 (or
 13 IC 31-1-11.5-7(b)(2), IC 31-1-11.5-7(b)(3), IC 31-16-4-2(a)(2),
 14 or IC 31-16-4-2(a)(3) before their repeal);
 15 (4) a dispositional decree containing a no contact order issued
 16 under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-19-6 (or
 17 IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order
 18 containing a no contact order issued under IC 31-32-13 (or
 19 IC 31-6-7-14 before its repeal);
 20 (5) a no contact order issued as a condition of pretrial release,
 21 including release on bail or personal recognizance, or pretrial
 22 diversion;
 23 (6) a no contact order issued as a condition of probation;
 24 (7) a protective order issued under IC 31-15-5-1 (or
 25 IC 31-1-11.5-8.2 or IC 31-16-5 before their repeal);
 26 (8) a protective order issued under IC 31-14-16-1 in a paternity
 27 action;
 28 (9) a no contact order issued under IC 31-34-25 in a child in need
 29 of services proceeding or under IC 31-37-25 in a juvenile
 30 delinquency proceeding;
 31 (10) a workplace violence restraining order issued under
 32 IC 34-26-6; or
 33 (11) a child protective order issued under IC 31-34-2.3; or
 34 **(12) a foreign protective order registered under**
 35 **IC 34-26-5-17.**

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

44 SECTION 10. IC 5-2-9-5.5 IS ADDED TO THE INDIANA CODE
 45 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 46 1, 2009]: **Sec. 5.5. (a) The Indiana protective order registry is**

1 established.

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

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

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

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

10 SECTION 11. IC 5-2-9-6, AS AMENDED BY P.L.52-2007,
11 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2009]: Sec. 6. (a) The clerk of a court that issues a protective
13 order ~~no contact order, workplace violence restraining order, or child~~
14 ~~protective order shall:~~

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

16 ~~(1) Each party:~~

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

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

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

21 the clerk shall send a copy of the order to the law enforcement
22 agency of the municipality in which the person resides and the
23 employer is located:

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

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

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

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

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

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

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

46 ~~(C) Any other sheriff or law enforcement agency designated in~~

- 1 the protective order ~~no contact order~~, workplace violence
 2 restraining order, or child protective order that has jurisdiction
 3 over the area in which a protected person, including an
 4 employer, may be located or protected; and
 5 (3) after receiving the return of service information, transmit all
 6 return of service information to each sheriff and law enforcement
 7 agency required under subdivision (2);
- 8 (c) ~~A sheriff or law enforcement agency that receives~~ **This**
 9 **subsection applies to** a protective order ~~no contact order~~, workplace
 10 **violence restraining order**, or child protective order **that a sheriff or**
 11 **law enforcement agency received** under subsection (a) **before July**
 12 **1, 2009**, and a confidential form under subsection (b) **that was not**
 13 **created in the registry. The sheriff or law enforcement agency**
 14 **shall:**
- 15 (1) maintain a copy of the protective order ~~no contact order~~;
 16 workplace violence restraining order, or child protective order in
 17 the depository established under this chapter;
 18 (2) enter:
- 19 (A) the date and time the sheriff or law enforcement agency
 20 receives the protective order; ~~no contact order~~, workplace
 21 violence restraining order, or child protective order;
 22 (B) the location of the person who is subject to the protective
 23 order, ~~no contact order~~, workplace violence restraining order,
 24 or child protective order, if reasonably ascertainable from the
 25 information received;
 26 (C) the name and identification number of the officer who
 27 serves the protective order; ~~no contact order~~, workplace
 28 violence restraining order, or child protective order;
 29 (D) the manner in which the protective order ~~no contact order~~;
 30 workplace violence restraining order, or child protective order
 31 is served;
 32 (E) the name of the petitioner and any other protected parties;
 33 (F) the name, Social Security number, date of birth, and
 34 physical description of the person who is the subject of the
 35 protective order, ~~no contact order~~, workplace violence
 36 restraining order, or child protective order, if reasonably
 37 ascertainable from the information received;
 38 (G) the date the protective order ~~no contact order~~, workplace
 39 violence restraining order, or child protective order expires;
 40 (H) a caution indicator stating whether a person who is the
 41 subject of the protective order ~~no contact order~~, r workplace
 42 violence restraining order, or child protective order is believed
 43 to be armed and dangerous, if reasonably ascertainable from
 44 the information received; and
 45 (I) if furnished, a Brady record indicator stating whether a
 46 person who is the subject of the protective order ~~no contact~~

- 1 order, workplace violence restraining order, or child protective
 2 order is prohibited from purchasing or possessing a firearm or
 3 ammunition under federal law, if reasonably ascertainable
 4 from the information received;
- 5 on the copy of the protective order ~~no contact order, workplace~~
 6 violence restraining order, or child protective order or the
 7 confidential form; and
- 8 **(3) except for a protective order that is created in the registry,**
 9 establish a confidential file in which a confidential form that
 10 contains information concerning a protected person is kept.
- 11 **(d) Except for a protective order that is created in the registry,**
 12 a protective order ~~no contact order, workplace violence restraining~~
 13 order, or child protective order may be removed from the depository
 14 established under this chapter only if the sheriff or law enforcement
 15 agency that administers the depository receives:
- 16 (1) a notice of termination on a form prescribed or approved by
 17 the division of state court administration;
- 18 (2) an order of the court; or
- 19 (3) a notice of termination and an order of the court.
- 20 **(e)** If a protective order ~~no contact order, workplace violence~~
 21 restraining order, or child protective order in a depository established
 22 under this chapter is terminated, the person who obtained the order
 23 must file a notice of termination on a form prescribed or approved by
 24 the division of state court administration with the clerk of the court.
 25 The clerk of the court shall:
- 26 **(1) enter the notice of termination into the registry; or**
- 27 **(2) provide a copy of the notice of termination of a protective**
 28 order; ~~no contact order, workplace violence restraining order, or~~
 29 child protective order
- 30 to **the registry and to** each of the depositories to which the protective
 31 order ~~no contact order, workplace violence restraining order, or child~~
 32 protective order and a confidential form were **was** sent. The clerk of the
 33 court shall maintain the notice of termination in the court's file.
- 34 **(f)** If a protective order ~~no contact order, workplace violence~~
 35 restraining order, or child protective order or form in a depository
 36 established under this chapter is extended or modified, the person who
 37 obtained the extension or modification must file a notice of extension
 38 or modification on a form prescribed or approved by the division of
 39 state court administration with the clerk of the court. **Except for a**
 40 protective order **created in the registry,** the clerk of the court shall
 41 provide a copy of the notice of extension or modification of a protective
 42 order ~~no contact order, workplace violence restraining order, or child~~
 43 protective order to each of the depositories to which the order and a
 44 confidential form were sent. The clerk of the court shall maintain the
 45 notice of extension or modification of a protective order ~~no contact~~
 46 order; ~~workplace violence restraining order, or child protective order~~

1 in the court's file.

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

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

11 SECTION 12. IC 5-2-9-6.5 IS ADDED TO THE INDIANA CODE
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 2009]: **Sec. 6.5. (a) After a court issues a protective order and**
14 **issues the order to the registry, an IDACS coordinator may provide**
15 **additional information about the parties in an order, including:**

- 16 (1) **dates of birth;**
17 (2) **Social Security numbers;**
18 (3) **driver license numbers; and**
19 (4) **physical descriptions of the parties;**
20 **to ensure the accuracy of the orders in the registry and**
21 **information in IDACS.**

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

- 24 (1) **the date and time the law enforcement agency received the**
25 **protective order;**
26 (2) **the location of the person who is the subject of the**
27 **protective order, if this information is available;**
28 (3) **the name and identification number of the law**
29 **enforcement officer who serves the protective order; and**
30 (4) **the manner that the protective order is served.**

31 SECTION 13. IC 5-2-9-7, AS AMENDED BY P.L.52-2007,
32 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2009]: **Sec. 7. (a) Any information:**

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

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

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

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

1 to comply with a law concerning the distribution of the information.
 2 SECTION 14. IC 5-2-9-8, AS AMENDED BY P.L.52-2007,
 3 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2009]: Sec. 8. **Except for a protective order that is created**
 5 **in the registry**, a law enforcement agency that receives a copy of a
 6 protective order ~~no contact order; workplace violence restraining order;~~
 7 ~~or child protective order~~ shall enter the information received into the
 8 Indiana data and communication system (IDACS) computer under
 9 IC 10-13-3-35 upon receiving a copy of the order."

10 Page 11, between line 32 and 33, begin a new paragraph and insert:
 11 "SECTION 21. IC 34-26-5-3, AS AMENDED BY P.L.3-2008,
 12 SECTION 243, IS AMENDED TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The division of state court
 14 administration shall:

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

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

- 39 (1) either party; or
 40 (2) a child of either party.

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

44 VIOLATION OF THIS ORDER IS PUNISHABLE BY
 45 CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.
 46 IF SO ORDERED BY THE COURT, THE RESPONDENT IS

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

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

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

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

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

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

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

29 (1) the forms adopted under subsection (a);

30 (2) all other forms required to petition for an order for protection,
 31 including forms:

32 (A) necessary for service; and

33 (B) required under IC 31-21 (or IC 31-17-3 before its repeal);

34 and

35 (3) clerical assistance in reading or completing the forms and
 36 filing the petition.

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

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

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

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

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

9 SECTION 22. IC 34-26-5-8 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. If a petitioner seeks:

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

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

19 SECTION 23. IC 34-26-5-9, AS AMENDED BY P.L.68-2005,
 20 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2009]: Sec. 9. (a) If it appears from a petition for an order for
 22 protection or from a petition to modify an order for protection that
 23 domestic or family violence has occurred or that a modification of an
 24 order for protection is required, a court may:

- 25 (1) without notice or hearing, immediately issue an order for
 26 protection ex parte or modify an order for protection ex parte; or
 27 (2) upon notice and after a hearing, whether or not a respondent
 28 appears, issue or modify an order for protection.

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

- 32 (1) Enjoin a respondent from threatening to commit or
 33 committing acts of domestic or family violence against a
 34 petitioner and each designated family or household member.
 35 (2) Prohibit a respondent from harassing, annoying, telephoning,
 36 contacting, or directly or indirectly communicating with a
 37 petitioner.
 38 (3) Remove and exclude a respondent from the residence of a
 39 petitioner, regardless of ownership of the residence.
 40 (4) Order a respondent to stay away from the residence, school, or
 41 place of employment of a petitioner or a specified place
 42 frequented by a petitioner and each designated family or
 43 household member.
 44 (5) Order possession and use of the residence, an automobile, and
 45 other essential personal effects, regardless of the ownership of the
 46 residence, automobile, and essential personal effects. If

1 possession is ordered under this subdivision, the court may direct
 2 a law enforcement officer to accompany a petitioner to the
 3 residence of the parties to:

4 (A) ensure that a petitioner is safely restored to possession of
 5 the residence, automobile, and other essential personal effects;

6 or

7 (B) supervise a petitioner's or respondent's removal of personal
 8 belongings.

9 (6) Order other relief necessary to provide for the safety and
 10 welfare of a petitioner and each designated family or household
 11 member.

12 (c) A court may grant the following relief after notice and a hearing,
 13 whether or not a respondent appears, in an order for protection or in a
 14 modification of an order for protection:

15 (1) Grant the relief under subsection (b).

16 (2) Specify arrangements for parenting time of a minor child by
 17 a respondent and:

18 (A) require supervision by a third party; or

19 (B) deny parenting time;

20 if necessary to protect the safety of a petitioner or child.

21 (3) Order a respondent to:

22 (A) pay attorney's fees;

23 (B) pay rent or make payment on a mortgage on a petitioner's
 24 residence;

25 (C) if the respondent is found to have a duty of support, pay
 26 for the support of a petitioner and each minor child;

27 (D) reimburse a petitioner or other person for expenses related
 28 to the domestic or family violence, including:

29 (i) medical expenses;

30 (ii) counseling;

31 (iii) shelter; and

32 (iv) repair or replacement of damaged property; or

33 (E) pay the costs and fees incurred by a petitioner in bringing
 34 the action.

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

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

42 (d) The court shall:

43 (1) cause the order for protection to be delivered to the county
 44 sheriff for service;

45 (2) make reasonable efforts to ensure that the order for protection
 46 is understood by a petitioner and a respondent if present;

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

4 **(3) electronically notify each law enforcement agency:**

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

6 **(B) designated by the petitioner;**

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

9 (5) ~~notify the state police department of~~ **indicate in** the order if
10 the order and the parties meet the criteria under 18 U.S.C.
11 922(g)(8); ~~and~~

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

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

20 (f) A finding that domestic or family violence has occurred
21 sufficient to justify the issuance of an order under this section means
22 that a respondent represents a credible threat to the safety of a
23 petitioner or a member of a petitioner's household. Upon a showing of
24 domestic or family violence by a preponderance of the evidence, the
25 court shall grant relief necessary to bring about a cessation of the
26 violence or the threat of violence. The relief may include an order
27 directing a respondent to surrender to a law enforcement officer or
28 agency all firearms, ammunition, and deadly weapons:

29 (1) in the control, ownership, or possession of a respondent; or

30 (2) in the control or possession of another person on behalf of a
31 respondent;

32 for the duration of the order for protection unless another date is
33 ordered by the court.

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

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

41 SECTION 24. IC 34-26-5-17 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) A foreign
43 protection order is facially valid if it:

44 (1) identifies the protected person and the respondent;

45 (2) is currently in effect;

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

- 1 (A) parties; and
 2 (B) subject matter;
 3 under the law of the issuing state or Indian tribe; and
 4 (4) was issued after a respondent was given reasonable notice and
 5 an opportunity to be heard sufficient to protect the respondent's
 6 right to due process. In the case of an ex parte order, notice and
 7 opportunity to be heard must be provided within the time required
 8 by state or tribal law and within a reasonable time after the order
 9 is issued sufficient to protect the respondent's due process rights.
- 10 (b) A facially valid foreign protection order is prima facie evidence
 11 of its validity. The protection order may be inscribed on a tangible
 12 medium or stored in an electronic or other medium if it is retrievable
 13 in perceivable form. Presentation of a certified copy of an order for
 14 protection is not required for enforcement.
- 15 (c) Except as provided in subsection (d), a protection order that is
 16 facially valid and issued by a court of a state (issuing state) or Indian
 17 tribe shall be accorded full faith and credit by Indiana courts.
- 18 (d) A mutual foreign protection order is not entitled to full faith and
 19 credit if the order is issued by a state or tribal court against a person
 20 who has petitioned, filed a complaint, or otherwise filed a written
 21 pleading for protection against a family or household member, unless:
 22 (1) a separate petition or motion was filed by a respondent;
 23 (2) the issuing court has reviewed each motion separately and
 24 granted or denied each on its individual merits; and
 25 (3) separate orders were issued and the issuing court made
 26 specific findings that each party was entitled to an order.
- 27 (e) Registration or filing of a foreign protection order is not a
 28 prerequisite to enforcement of the order in Indiana, and a protection
 29 order that is consistent with this section shall be accorded full faith and
 30 credit notwithstanding a failure to register or file the order in Indiana.
 31 However, if a petitioner wishes to register a foreign protection order in
 32 Indiana, all Indiana courts of record shall accommodate the request.
 33 The division of state court administration shall develop a form to be
 34 used by courts, clerks, and law enforcement agencies when a petitioner
 35 makes a request to register a foreign protection order. **Except for a**
 36 **protective order issued to the Indiana protective order registry**
 37 **established by IC 5-2-9-5.5**, the courts, clerks of the courts, and
 38 sheriffs or law enforcement agencies maintaining depositories shall
 39 employ the same procedures required under IC 5-2-9-6 for entering,
 40 modifying, extending, or terminating a foreign protection order as those
 41 used for a protection order and a no contact order originating in
 42 Indiana.
- 43 (f) A facially valid foreign protection order shall be enforced by a
 44 law enforcement officer and a state court as if it were an order
 45 originating in Indiana. The order must be enforced if the foreign
 46 protection order contains relief that the state courts lack the power to

1 provide in an order for protection issued in Indiana.

2 (g) An Indiana law enforcement officer:

3 (1) may not require notification, registration, or filing of a facially
4 valid foreign order for protection as a prerequisite to enforcement
5 of an order;

6 (2) if a foreign protection order is not presented, may consider
7 other information to determine under a totality of the
8 circumstances whether there is probable cause to believe that a
9 valid foreign order for protection exists; and

10 (3) who determines that an otherwise valid foreign protection
11 order cannot be enforced because a respondent has not been
12 notified or served with the order, shall:

13 (A) inform the respondent of the order;

14 (B) serve the order on the respondent;

15 (C) ensure that the order and service of the order are entered
16 into the state depository;

17 (D) allow the respondent a reasonable opportunity to comply
18 with the order before enforcing the order; and

19 (E) ensure the safety of the protected person while giving the
20 respondent the opportunity to comply with the order.

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

24 SECTION 25. IC 34-26-5-18, AS AMENDED BY P.L.52-2007,
25 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2009]: Sec. 18. The following orders are required to be
27 entered into the Indiana data and communication system (IDACS) by
28 a county sheriff or local law enforcement agency:

29 (1) A no contact order issued under IC 31-32-13 in a juvenile
30 case.

31 (2) A no contact order issued under IC 31-34-20 in a child in need
32 of services (CHINS) case.

33 (3) A no contact order issued under IC 31-34-25 in a CHINS case.

34 (4) A no contact order issued under IC 31-37-19 in a delinquency
35 case.

36 (5) A no contact order issued under IC 31-37-25 in a delinquency
37 case.

38 (6) A no contact order issued under IC 33-39-1-8 in a criminal
39 case.

40 (7) An order for protection issued under this chapter.

41 (8) A workplace violence restraining order issued under
42 IC 34-26-6.

43 (9) A no contact order issued under IC 35-33-8-3.2 in a criminal
44 case.

45 (10) A no contact order issued under IC 35-38-2-2.3 in a criminal
46 case.

- 1 (11) A child protective order issued under IC 31-34-2.3.
- 2 (12) **A foreign protective order registered under**
- 3 **IC 34-26-5-17."**
- 4 Renumber all SECTIONS consecutively.
(Reference is to ESB 345 as printed March 24, 2009.)

Representative Truitt