

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1049 be amended to read as follows:

- 1           Page 11, after line 39, begin a new paragraph and insert:
- 2           "SECTION 11. IC 34-26-5-3, AS AMENDED BY P.L.130-2009,
- 3           SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4           JULY 1, 2012]: Sec. 3. (a) The division of state court administration
- 5           shall:
- 6           (1) develop and adopt:
- 7           (A) a petition for an order for protection;
- 8           (B) an order for protection, including:
- 9           (i) orders issued under this chapter;
- 10           (ii) ex parte orders;
- 11           (iii) no contact orders under IC 31 and IC 35;
- 12           (iv) forms relating to workplace violence restraining orders
- 13           under IC 34-26-6; ~~and~~
- 14           (v) forms relating to a child protective order under
- 15           IC 31-34-2.3; **and**
- 16           **(vi) forms relating to victims of serious crimes protection**
- 17           **orders under IC 34-26-7;**
- 18           (C) a confidential form;
- 19           (D) a notice of modification or extension for an order for
- 20           protection, a no contact order, a workplace violence restraining
- 21           order, ~~or~~ a child protective order, **or a victims of serious**
- 22           **crimes protection orders;**
- 23           (E) a notice of termination for an order for protection, a no
- 24           contact order, a workplace violence restraining order, ~~or~~ a
- 25           child protective order, **or a victims of serious crimes**
- 26           **protection orders;** and
- 27           (F) any other uniform statewide forms necessary to maintain
- 28           an accurate registry of orders; and
- 29           (2) provide the forms under subdivision (1) to the clerk of each
- 30           court authorized to issue the orders.

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

- 4 (1) either party; or
- 5 (2) a child of either party.

6 (c) The following statements must be printed in boldface type or in  
7 capital letters on an order for protection, a no contact order, a  
8 workplace violence restraining order, ~~or~~ a child protective order, **or a**  
9 **victims of serious crimes protection orders:**

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

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

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

- 28 (A) THE RESPONDENT'S CURRENT OR FORMER  
29 SPOUSE;
- 30 (B) A CURRENT OR FORMER PERSON WITH WHOM  
31 THE RESPONDENT RESIDED WHILE IN AN INTIMATE  
32 RELATIONSHIP; OR
- 33 (C) A PERSON WITH WHOM THE RESPONDENT HAS A  
34 CHILD.

35 INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT  
36 THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES  
37 UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

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

- 41 (1) the forms adopted under subsection (a);
- 42 (2) all other forms required to petition for an order for protection,  
43 including forms:
  - 44 (A) necessary for service; and
  - 45 (B) required under IC 31-21 (or IC 31-17-3 before its repeal);
- 46 and

- 1           (3) clerical assistance in reading or completing the forms and  
2           filing the petition.
- 3           Clerical assistance provided by the clerk or court personnel under this  
4           section does not constitute the practice of law. The clerk of the circuit  
5           court may enter into a contract with a person or another entity to  
6           provide this assistance. A person, other than a person or other entity  
7           with whom the clerk has entered into a contract to provide assistance,  
8           who in good faith performs the duties the person is required to perform  
9           under this subsection is not liable for civil damages that might  
10          otherwise be imposed on the person as a result of the performance of  
11          those duties unless the person commits an act or omission that amounts  
12          to gross negligence or willful and wanton misconduct.
- 13          (e) A petition for an order for protection must be:  
14              (1) verified or under oath under Trial Rule 11; and  
15              (2) issued on the forms adopted under subsection (a).
- 16          (f) If an order for protection is issued under this chapter, the clerk  
17          shall comply with IC 5-2-9.
- 18          (g) After receiving a petition for an order for protection, the clerk of  
19          the circuit court shall immediately enter the case in the Indiana  
20          protective order registry established by IC 5-2-9-5.5.
- 21          SECTION 12. IC 34-26-5-18, AS AMENDED BY P.L.1-2010,  
22          SECTION 136, IS AMENDED TO READ AS FOLLOWS  
23          [EFFECTIVE JULY 1, 2012]: Sec. 18. The following orders are  
24          required to be entered into the Indiana data and communication system  
25          (IDACS) by a county sheriff or local law enforcement agency:
- 26              (1) A no contact order issued under IC 31-32-13 in a juvenile  
27              case.
- 28              (2) A no contact order issued under IC 31-34-20 in a child in need  
29              of services (CHINS) case.
- 30              (3) A no contact order issued under IC 31-34-25 in a CHINS case.
- 31              (4) A no contact order issued under IC 31-37-19 in a delinquency  
32              case.
- 33              (5) A no contact order issued under IC 31-37-25 in a delinquency  
34              case.
- 35              (6) A no contact order issued under IC 33-39-1-8 in a criminal  
36              case.
- 37              (7) An order for protection issued under this chapter.
- 38              (8) A workplace violence restraining order issued under  
39              IC 34-26-6.
- 40              (9) A no contact order issued under IC 35-33-8-3.2 in a criminal  
41              case.
- 42              (10) A no contact order issued under IC 35-38-2-2.3 in a criminal  
43              case.
- 44              (11) A child protective order issued under IC 31-34-2.3.
- 45              (12) A foreign protective order registered under section 17 of this  
46              chapter.

1           **(13) A victims of serious crimes protection order issued under**  
 2           **IC 34-26-7.**

3           SECTION 13. IC 34-26-7 IS ADDED TO THE INDIANA CODE  
 4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2012]:

6           **Chapter 7. Victims of Serious Crimes Protection Order**

7           **Sec. 1. As used in this chapter, "family member" means the**  
 8 **spouse, child, sibling, parent, grandparent, or grandchild of the**  
 9 **victim of a serious crime. The term includes stepparents,**  
 10 **stepchildren, stepsiblings, and adoptive relationships.**

11           **Sec. 2. As used in this chapter, "serious offender" means a**  
 12 **person who has been convicted of one (1) or more of the following**  
 13 **crimes:**

- 14           **(1) Murder (IC 35-42-1-1).**  
 15           **(2) Rape (IC 35-42-4-1).**  
 16           **(3) Criminal deviate conduct (IC 35-42-4-2).**  
 17           **(4) Child molesting (IC 35-42-4-3).**  
 18           **(5) An attempt or conspiracy to commit a crime described in**  
 19 **this section.**  
 20           **(6) A crime committed in another jurisdiction that is**  
 21 **substantially similar to a crime described in this section.**

22           **Sec. 3. As used in this chapter, "victim" or "victim of a serious**  
 23 **crime" means a person who is the victim of a crime described in**  
 24 **section 2 of this chapter.**

25           **Sec. 4. (a) A victim or family member may obtain a permanent**  
 26 **order for protection against the serious offender who committed a**  
 27 **crime described in section 2 of this chapter against the victim by**  
 28 **filing a verified petition that demonstrates:**

- 29           **(1) that the petitioner is a family member or victim of a**  
 30 **serious crime; and**  
 31           **(2) that the respondent has been convicted of committing the**  
 32 **offense against the victim.**

33           **(b) A petition may be filed under this chapter not earlier than**  
 34 **six (6) months before the earliest possible release date of the**  
 35 **serious offender, as determined by the department of correction.**

36           **(c) The petition shall include:**  
 37           **(1) the name of the victim and every family member who**  
 38 **desires to be named in the order for protection;**  
 39           **(2) the name of the serious offender; and**  
 40           **(3) a cause number or other identifying information that**  
 41 **relates to the crime of which the serious offender has been**  
 42 **convicted.**

43           **(d) A copy of the petition shall be served on:**  
 44           **(1) the serious offender; and**  
 45           **(2) every family member named in the petition who has not**  
 46 **joined the petition.**

47           **Sec. 5. (a) A court shall hold a hearing not more than fifteen (15)**

1 days after a petition for an order for protection is filed under this  
2 chapter. The respondent may file a response denying that:

3 (1) the respondent is a serious offender who has been  
4 convicted of an offense described in section 2 of this chapter  
5 against the victim; or

6 (2) a person named as a family member in the petition is a  
7 family member.

8 (b) The court shall receive testimony and may make  
9 independent inquiry. If the court finds by clear and convincing  
10 evidence that the respondent is a serious offender who has been  
11 convicted of an offense described in section 2 of this chapter  
12 against the victim, the judge shall issue an order for protection  
13 prohibiting the serious offender from having contact with the  
14 victim or a family member.

15 (c) If the victim or a family member requests to be excluded  
16 from coverage of the order for protection, the court shall exclude  
17 that person from the order for protection.

18 **Sec. 6.** An order for protection issued under this chapter is  
19 permanent. However, upon petition by the victim or a family  
20 member, the court may modify the order for protection to:

21 (1) include an additional family member or victim; or

22 (2) remove a family member who does not wish to be included  
23 in the order for protection.

24 **Sec. 7.** The court shall order a petitioner or the attorney for a  
25 petitioner to deliver a copy of each:

26 (1) order for protection;

27 (2) modification of an order for protection; and

28 (3) termination of an order for protection, if applicable;

29 to a law enforcement agency that is requested by a petitioner and  
30 approved by the court. The copies under subdivisions (1) through  
31 (3) must be delivered by the close of the business day on which the  
32 order is granted. Each law enforcement agency shall make  
33 information on the existence and status of an order available to  
34 appropriate law enforcement officers.

35 **Sec. 8.** An intentional violation of an order for protection issued  
36 under this chapter is punishable as set forth under IC 35-46-1-15.1.

37 **Sec. 9. (a)** The division of state court administration shall  
38 develop forms, instructions, and rules for the scheduling of  
39 hearings and other procedures under this chapter. A party to an  
40 action under this chapter must use the forms developed by the  
41 division of state court administration.

42 (b) An order for protection issued under this chapter must be  
43 issued on forms adopted and approved by the division of state  
44 court administration and must be consistent with IC 34-26-5-3.  
45 However, an order for protection issued under this section is not  
46 rendered unenforceable solely because it is not issued on forms  
47 adopted and approved by the division of state court administration.

1           **(c) Information in an order for protection under this chapter**  
2           **must be transmitted to the Indiana data and communication**  
3           **system (IDACS) as required under IC 34-26-5-18.**

4           **Sec. 10. A filing fee may not be charged for a petition or a**  
5           **responsive pleading filed under this chapter."**

(Reference is to EHB 1049 as printed February 17, 2012.)

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Senator STEELE