

Protection Order Update: E-Filing and Recent Changes

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Protection Order Update

LEGISLATIVE CHANGES AND E-FILING

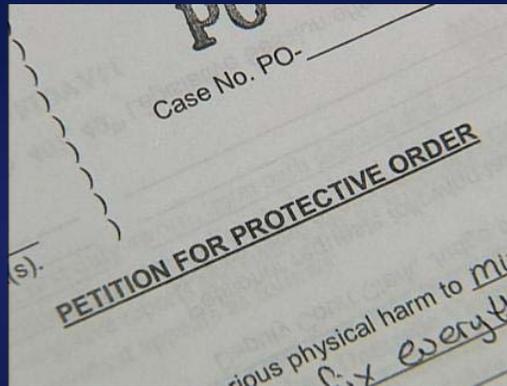
By the end of this session you will be able to:

- ▶ Recognize the recent statutory changes to protection order law
- ▶ Describe how e-filing will affect your daily protection order practice
- ▶ Identify ways to improve your current protection order practice

STATUTORY CHANGES

EFFECTIVE JULY 1, 2019

Additional Petitioners



REVIEW

Petitioners



Victim of:

- Domestic or family violence
- Stalking; or
- A sex offense

STATUTORY CHANGE

Petitioners

Victim of:

- Domestic or family violence
- Stalking; or
- A sex offense
- **A person who is or has been subjected to harassment...against a person who has committed repeated acts of harassment**

STATUTORY CHANGE

Harassment

Conduct directed toward a victim that includes, but is not limited to, repeated or continuing impermissible contact:

- (1) That would cause a reasonable person to suffer emotional distress; and
- (2) That actually causes the victim to suffer emotional distress.

STATUTORY CHANGE

"Impermissible Contact" includes:

- Following or pursuing the victim
- Communicating with the victim in person, writing, telephone, other electronic means
- Posting on social media if the post is directed to the victim or refers to the victim

Harassment Protection Orders

- No ex parte orders
- The court **must** hold a hearing on every harassment protection order within thirty (30) days of filing

Harassment Protection Orders

If a court has jurisdiction over an action that relates to the subject matter of the requested harassment protection order, either because of an action pending in that court or in the exercise of the court's continuing jurisdiction, the petitioner must file the petition for an order for protection in that court.

I.C. 34-26-5-4(d)

What does this mean for you?

Harassment Protection Orders Only:

- If the Petitioner and Respondent have a pending case that relates to the protection order allegations, a protection order based only on harassment **must** be filed in that court.

What does this mean for you?

Harassment Protection Orders Only:

- If the Petitioner and Respondent have a disposed case with continuing jurisdiction (DC and JP), a protection order based only on harassment **must** be filed in that court.

Who determines a "related case"?

Check with your judges!



What does this mean for you?

Harassment Protection Orders Only:

Alert the Judge there is an urgent protection order in his or her queue.

What does this mean for you?

What if the petition alleges both domestic and family violence/stalking/sex offense **AND** harassment and there is a related case?

Harassment and additional allegation

Check with your judges!



What does this mean for you?

MY RECOMMENDATION:

If the petition alleges harassment and any additional grounds for protection, and there is a related case, file in the protection order court for immediate review.

BEST PRACTICES – PO REGISTRY

For harassment protection orders, enter the most appropriate relationship between the parties.

2. The Respondent's relationship to me is:

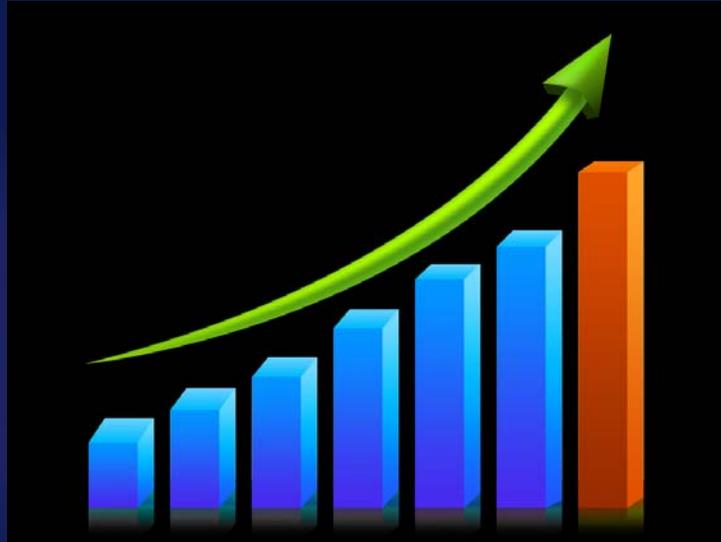
- a. the Respondent is my family or household member (*check only the line which best applies*):
- the Respondent is my spouse;
 - the Respondent used to be my spouse;
 - the Respondent and I resided together in an intimate relationship;
 - the Respondent and I have a child in common;
 - the Respondent and I are dating, or have dated, each other;
 - the Respondent and I are, or have been, engaged in a sexual relationship;
 - the Respondent and I are related by blood or adoption. The Respondent is my _____;
 - the Respondent and I are, or used to be, related by marriage. The Respondent is my _____;
 - the Respondent is, or used to be, my guardian;
 - the Respondent is, or used to be, my ward;
 - the Respondent is, or used to be, my custodian;
 - the Respondent is, or used to be, my foster parent; or,
 - I am a minor child of a person in one of the types of relationships described above.
 - I have adopted the child of the respondent.

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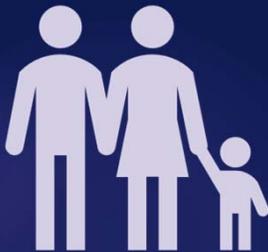
- b. the Respondent has committed stalking against me.
c. the Respondent has committed a sex offense against me.

What is the Effect?



REVIEW

Petitioners



Parent, guardian, or other representative may file on behalf of a child against:

- A family or household member that commits domestic violence
- A person who has committed stalking
- Or a person who has committed a sex offense

STATUTORY CHANGE

Petitioners

Parent, guardian, or other representative may file on behalf of a child against:

- A family or household member that commits domestic violence
- A person who has committed stalking
- Or a sex offense
- **Person who engaged in a course of conduct involving repeated or continuing contact with a child that is intended to prepare or condition a child for sexual activity**

STATUTORY CHANGE

Petitioners

Parent, guardian, or other representative may file on behalf of a child against:

- A family or household member that commits domestic violence
- A person who has committed stalking
- Or a sex offense
- Person who engaged in a course of conduct involving repeated or continuing contact with a child that is intended to prepare or condition a child for sexual activity
- **Person who has committed repeated acts of harassment against the child.**

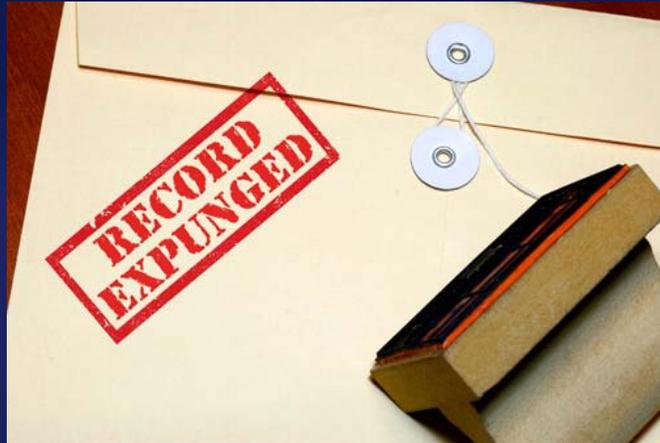
What does this mean for you?

- Protection Order Forms will change
- Instructions will change

What does this mean for you?

You **will** get questions about the difference between harassment and stalking

Expungement



Protection orders that can be expunged:

- Petition was dismissed before a court hearing
- Order denied after hearing
- Failure of the Petitioner to appear for a court hearing
- Reversed or vacated on appeal

What does this mean for you?

- Applies primarily to ex parte orders entered
- Expungements will be filed in the original PO cause number
- Form orders will be provided

STATUTORY CHANGE

- Unlike criminal expungement statutes, there is no waiting period
- Petition may be filed "any time after a court dismisses or denies an order for protection ex parte..."

STATUTORY CHANGE

Duties of the court:

- Redact the expungement petition
- Failing to comply with A.R. (9) is not grounds to reject the filing

STATUTORY CHANGE

Duties of the court:

- Set the matter for hearing unless the victims waives in writing

STATUTORY CHANGE

Duties of the court:

- Serve the redacted petition on the plaintiff who originally sought the protection order
- Service may be by mail

What does this mean for you?

SERVICE:

- May not release the confidential information to the Respondent
- Prepare for imperfect service

What does this mean for you?

Protection order files are public.

Effect of PO Expungements



No Contact Orders



STATUTORY CHANGE

I.C. 35-40-5-12:

The following shall be identified by means of a designation omitting the victim's name, such as "Victim 1", in documents open to the public:

- (1) A victim of a sex crime under I.C. 35-42-4
- (2) A child victim of a crime of violence (as defined in I.C. 35-50-1-2)

The State shall provide to the court a confidential document identifying the victims named in the court document.

STATUTORY CHANGE

- Prosecutor will identify victims that qualify for this confidentiality in PCMS
- Registry will generate no contact orders with initials only
- Prosecutor is required to file a confidential form and AR (9) notice of exclusion in every case

EVEN MORE IMPORTANT!

Check for no contact orders on disposed cases!!



Why separate Electronic Filing Service Provider (EFSP)?

The Violence Against Women Act (VAWA), 18 U.S.C.S § 2265, prohibits publicly available information on the Internet that would likely reveal "the identity or location" of the protected party.

Benefits of E-Filing

1. Instant access to online and telephonic resources, including referral services.
2. Petitioners can file immediately and from a safe location.
3. Petitions will be complete due to required fields and it will minimize data entry for you.
4. PO EFSP will automatically interface with OFS and the POR.

Protection Order EFSP

- ❑ Only attorneys are mandated to use the PO EFSP.
 - ❑ Optional for Pro se filers.
- ❑ Trained Advocates and support staff can assist filers using the PO EFSP.

Preparing for PO E-Filing

- ❑ All initial and subsequent filing with take place in the PO EFSP.
- ❑ TR 86- All service will be complete as it is done now by Sheriff/Court and Clerks.
 - ❑ No matter if the party has an attorney or not.

Preparing for PO E-Filing

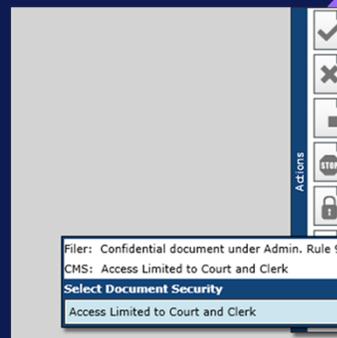
- ❑ PO/JQ petitions will appear in the Civil New filings Queue in Odyssey File and Serve.
 - ✓ Must create a plan on who/how to identify those cases so that they can be processed timely.
 - ✓ Designated person should filter by case type and make sure the auto-refresh box is checked in OFS.

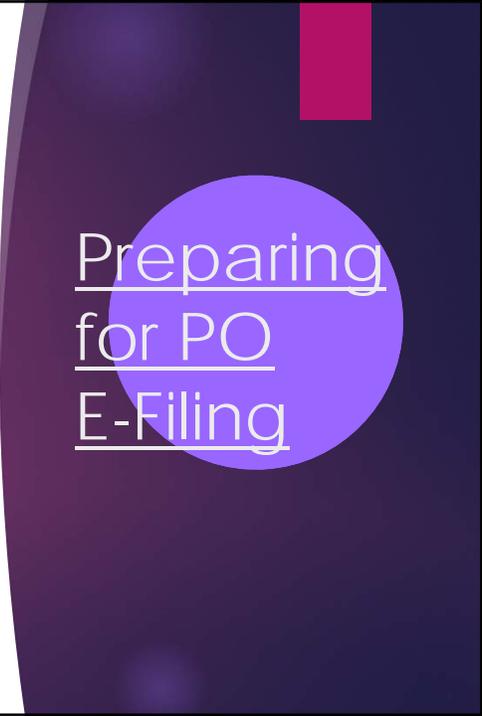
Preparing for PO E-Filing

- When Processing the Envelope
 - ✓ Make sure you are selecting the right filing codes for each document filed. (PPO, CFF, APP and NECI).
 - ✓ After the case has been accepted, a task will go into the court's Daily Queue in Task Manager.
 - ✓ Court staff will filter by case type to identify cases and move the task to the Judge Urgent Queue.
 - ✓ Process things as normal.

Preparing for PO E-Filing

Document Security -





- PPO - Petition for Protection Order Filed
 - Lead Document (Lead)
 - Public document
- NECI - Notice of Exclusion of Confidential Information
 - Lead Document (Lead)
 - Public document
- CFF - Confidential Form Filed (PO and NCO Process Only)
 - Lead Document (Lead)
 - Access Limited to Court and Clerk
- APP - Appearance Filed
 - Lead Document (Lead)
 - Public document

Preparing for PO E-Filing



Recommendation- If you are not doing so now, start processing your PO cases through Task Manager now.

Plan Ahead

Re-evaluate your case management plan:

- ❑ Petitioner may select a court for filing, but the Clerk will send petition to the appropriate judge to review.
 - Do you have local rule that addresses this?
- ❑ Set goal to review each new PO within 24 hours.
- ❑ Who handles POs during vacation?

Plan Ahead

Provide notice that e-filing is available:

- ❑ Posters (near courtroom and Clerk's Office)
- ❑ Link to website
- ❑ Inform local advocates and law enforcement
- ❑ Letter to bar association

Plan Ahead

Consider safe workstation:

- ❑ Is your workstation safe (near cameras, bailiffs, support staff)?
- ❑ Do your workstation a scanner or the ability to upload documents?

Protection Order Registry



Electronic creation and
management of Protection
Orders

Protection
Order
Registry
Updates

New POR Relationship?

- ▶ "Committed Sex Grooming against Protected Person."
- ▶ "Committed Harassment against Protected Person."

Notice of Hearing for Expungement

- ❖ A New Form - PO-0134
 - NOTICE AND ORDER SETTING HEARING ON PETITIONER'S /ORIGINAL RESPONDENT'S PETITION TO EXPUNGE ORDER FOR PROTECTION
 - Enter the required fields.
 - ▶ Select Print

Granting Expungement

- ❖ New Order Task– Expunge this Order
 - Enter the required fields.
 - Select Print or Print and Expunge
 - Confirm Expunge- Case no long accessible.
- ❖ New Form– PO-0135
 - ORDER ON EXPUNGEMENT OF PROTECTION ORDER

Granting Expungement

- ❖ You must update your CMS with expungement event/action.
- ❖ You must update your CMS with signed expungement order.

Denying Expungement

- ❖ A New Form PO-0136
 - ORDER DENYING PETITION FOR EXPUNGEMENT
 - ▶ Enter the required fields.
 - ▶ Select Print

Petitioner/Protected 17C01-1905-PO-00020
Initiate a Case (PO)

Petitioner/Protected Party Change Petitioner/Protected

Last Name	Suffix	First Name	Middle Name	Date of Birth
<input type="text" value="Test"/>	<input checked="" type="checkbox"/>	<input type="text" value="Plaintiff"/>	<input type="text"/>	<input type="text" value="01/01/2019"/>
<small>NO INITIALS</small>		<small>NO INITIALS</small>		
Gender	Race	Ethnicity	SSN	
<input type="text" value="Female"/>	<input type="text" value="Asian or Pacific Islander"/>	<input type="text" value="Non-Hispanic"/>	<input type="text"/>	
Home Number	Work Number	Cell Number	Fax Number	
<input type="text" value="() - -"/>	<input type="text" value="() - -"/>	<input type="text" value="() - -"/>	<input type="text" value="() - -"/>	
Email	Minor Victim of Violent Crime	Victim of Sexual Assault		
<input type="text"/>	<input type="text" value="Yes"/>	<input type="text" value="No"/>		

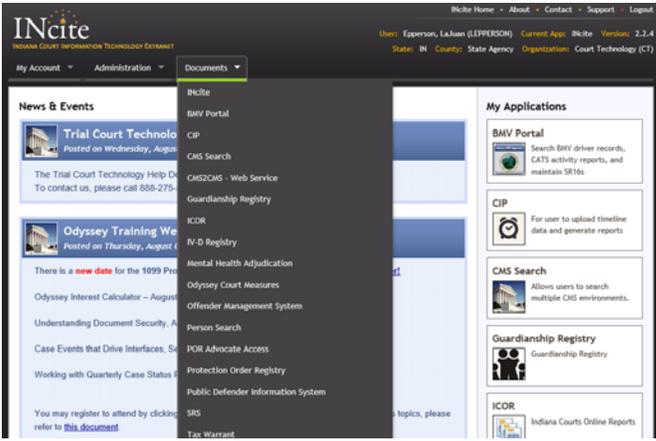
How to
Flag the
use of
Initials
Only

<u>Case Number</u>	<u>Defendant</u>	<u>Last POR User</u>
Total Number of Orders	1012	
No action required	617	60.97%
Issues	# of Issues	% of Orders Affected
Need to Vacate	37	3.66%
Probably Vacate	221	21.84%
In Pending Status	8	0.79%
Wrong Case Number	6	0.59%
Wrong Order Type	9	0.89%
Confidential in Odyssey	0	0.00%
Can't find in Odyssey	1	0.10%
Post Conviction Cases	0	0.00%
Protecting Business/Place	0	0.00%
Name Change	0	0.00%
No DOB on Defendant	1	0.10%
No DOB on Protected	13	1.28%
Initials box checked	145	14.33%
Skipped Conditions	7	0.69%
Total # of Issues	448	
Avg. # of Issues Per Order	0.44	

Annual Audit

POR Advocate Access Updates

- ▶ Instructions have been updated with new language that coincide with statutory changes.
- ▶ Petitions update to include new relationships/reasons to file for a civil protection order.
- ▶ Initial only questions added to the party screens to generate the petition and Notice of Exclusion forms appropriately.



The screenshot displays the INcite web application interface. At the top, there is a navigation bar with the INcite logo and the text "INDIANA COURT INFORMATION TECHNOLOGY ENVIRONMENT". The user is identified as "Egerson, Lashan (LEPPERSON)" with the current application being "INcite" version 2.2.4. The user is logged in as "Court Technology (CT)". A dropdown menu is open under "Documents", listing various services such as "INcite", "BMV Portal", "CIP", "CMS Search", "CMS2CMG - Web Service", "Guardianship Registry", "ICOR", "IV-D Registry", "Mental Health Adjudication", "Odyssey Court Measures", "Offender Management System", "Person Search", "POR Advocate Access", "Protection Order Registry", "Public Defender Information System", "SRS", and "Tax Warrant". The main content area is divided into "News & Events" and "My Applications". The "News & Events" section includes articles like "Trial Court Technology Help D" and "Odyssey Training We". The "My Applications" section features tiles for "BMV Portal", "CIP", "CMS Search", "Guardianship Registry", and "ICOR".

INcite
Self-Help
Resources

Need Help

▶ helpdesk@courts.in.gov
Or
1-888-275-5822

CONTACT INFORMATION



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Questions???

