

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1137

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 34-26-5-6, AS AMENDED BY P.L.266-2019, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 6. The following rules apply to an order for protection issued under this chapter:

- (1) An order for protection is in addition to, and not instead of, another available civil or criminal proceeding.
- (2) A petitioner is not barred from seeking an order because of another pending proceeding.
- (3) A court may not delay granting relief because of the existence of a pending action between the petitioner and respondent.
- (4) If a person who petitions for an ex parte order for protection also has a pending case involving:
 - (A) the respondent; or
 - (B) a child of the petitioner and respondent;the court that has been petitioned for relief shall immediately consider the ex parte petition and then transfer that matter to the court in which the other case is pending.
- (5) If a person files a petition for an order of protection requesting relief that:
 - (A) does not require a hearing under sections 9(c) and 10(a) **through 10(b)** of this chapter; and

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(B) requires a hearing under sections 9(d) and ~~10(b)~~ 10(c) of this chapter;

the court may issue an ex parte order for protection providing relief under clause (A) at any time before the required hearing under clause (B).

SECTION 2. IC 34-26-5-9, AS AMENDED BY P.L.266-2019, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 9. (a) If it appears from a petition for an order for protection or from a petition to modify an order for protection that domestic or family violence has occurred or that a modification of an order for protection is required, a court may:

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

(b) If it appears from a petition for an order for protection or from a petition to modify an order for protection that harassment has occurred, a court:

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

A court must hold a hearing under this subsection not later than thirty (30) days after the petition for an order for protection or the petition to modify an order for protection is filed.

(c) A court may grant the following relief without notice and hearing in an ex parte order for protection or in an ex parte order for protection modification under subsection (a):

- (1) Enjoin a respondent from threatening to commit or committing acts of domestic or family violence against a petitioner and each designated family or household member.
- (2) Prohibit a respondent from harassing, annoying, telephoning, contacting, or directly or indirectly communicating with a petitioner.
- (3) Remove and exclude a respondent from the residence of a petitioner, regardless of ownership of the residence.
- (4) Order a respondent to stay away from the residence, school, or place of employment of a petitioner or a specified place frequented by a petitioner and each designated family or household member.
- (5) Order that a petitioner has the exclusive possession, care, custody, or control of any animal owned, possessed, kept, or cared



for by the petitioner, respondent, minor child of either the petitioner or respondent, or any other family or household member.

(6) Prohibit a respondent from removing, transferring, injuring, concealing, harming, attacking, mistreating, threatening to harm, or otherwise disposing of an animal described in subdivision (5).

(7) Order possession and use of the residence, an automobile, and other essential personal effects, regardless of the ownership of the residence, automobile, and essential personal effects. If possession is ordered under this subdivision or subdivision (5), the court may direct a law enforcement officer to accompany a petitioner to the residence of the parties to:

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

(B) supervise a petitioner's or respondent's removal of personal belongings and animal.

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

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

(1) Grant the relief under subsection (c).

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

(A) require supervision by a third party; or

(B) deny parenting time;

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

(3) Order a respondent to:

(A) pay attorney's fees;

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

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

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

(i) medical expenses;

(ii) counseling;

(iii) shelter; and

(iv) repair or replacement of damaged property;

(E) pay the costs and expenses incurred in connection with the



use of a GPS tracking device under ~~subsection (j)~~; **subsection (k)**; or

(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.

(5) Permit the respondent and petitioner to occupy the same location for any purpose that the court determines is legitimate or necessary. The court may impose terms and conditions upon a respondent when granting permission under this subdivision.

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

(e) 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) 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;

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

(f) **Except as provided in subsection (g)**, 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.

(g) This subsection applies to an order for protection issued ex parte or upon notice and a hearing, or to a modification of an order for protection issued ex parte or upon notice and a hearing, if:

(1) the respondent named in the order is a sex or violent offender (as defined in IC 11-8-8-5) and is required to register



as a lifetime sex or violent offender under IC 11-8-8-19; and
(2) the petitioner was the victim of the crime that resulted in the requirement that the respondent register as a lifetime sex or violent offender under IC 11-8-8-19.

An order for protection to which this subsection applies is effective indefinitely 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.

~~(g)~~ **(h)** A finding that domestic or family violence or harassment 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 or harassment 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 agency all firearms, ammunition, and deadly weapons:

- (1) in the control, ownership, or possession of a respondent; or
- (2) in the control or possession of another person on behalf of a respondent;

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

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

~~(i)~~ **(j)** The fact that an order for protection is issued under this chapter does not raise an inference or presumption in a subsequent case or hearings between the parties.

~~(j)~~ **(k)** 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.

~~(k)~~ **(l)** 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 (j)~~ **subsection (k)**.



SECTION 3. IC 34-26-5-10, AS AMENDED BY P.L.266-2019, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 10. (a) Except as provided in subsection (b), if a court issues:

- (1) an order for protection ex parte **effective for a period described under section 9(f) of this chapter;** or
- (2) a modification of an order for protection ex parte **effective for a period described under section 9(f) of this chapter;**

and provides relief under section 9(c) of this chapter, upon a request by either party ~~not more than thirty (30) days at any time~~ after service of the order or modification, the court shall set a date for a hearing on the petition. **Except as provided in subsection (c),** the hearing must be held not more than thirty (30) days after the request for a hearing is filed unless continued by the court for good cause shown. The court shall notify both parties by first class mail of the date and time of the hearing. **A party may only request one (1) hearing on a petition under this subsection.**

(b) If a court issues:

- (1) an order for protection ex parte effective for a period described under section 9(g) of this chapter; or
- (2) a modification of an order for protection ex parte effective for a period described under section 9(g) of this chapter;

and provides relief under section 9(c) of this chapter, upon a request by either party not more than thirty (30) days after service of the order or modification, the court shall set a date for a hearing on the petition. **Except as provided in subsection (c), the hearing must be held not more than thirty (30) days after the request for a hearing is filed unless continued by the court for good cause shown. The court shall notify both parties by first class mail of the date and time of the hearing. A party may only request one (1) hearing on a petition under this subsection.**

~~(b)~~ (c) A court shall set a date for a hearing on the petition not more than thirty (30) days after the filing of the petition if a court issues an order for protection ex parte or a modification of an order of protection ex parte and:

- (1) a petitioner requests or the court provides relief under section 9(c)(3), 9(c)(5), 9(c)(6), 9(c)(7), or 9(c)(8) of this chapter; or
- (2) a petitioner requests relief under section 9(d)(2), 9(d)(3), or 9(d)(4) of this chapter.

The hearing must be given precedence over all matters pending in the court except older matters of the same character.

~~(c)~~ (d) In a hearing under ~~subsection (a) or (b):~~ **this section:**



- (1) relief under section 9 of this chapter is available; and
- (2) if a respondent seeks relief concerning an issue not raised by a petitioner, the court may continue the hearing at the petitioner's request.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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