

HOUSE BILL No. 1366

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-26-5-3; IC 35-33-1-1.

Synopsis: Domestic violence reports. Removes language concerning an affidavit from provisions concerning probable cause for battery and domestic battery. Requires a law enforcement officer to provide a victim who requests a protection order with the required forms and appropriate assistance in completing and filing the forms.

Effective: July 1, 2022.

Hatcher, Campbell

January 11, 2022, read first time and referred to Committee on Courts and Criminal Code.



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 BILL No. 1366



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

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

1 SECTION 1. IC 34-26-5-3, AS AMENDED BY P.L.161-2018,
2 SECTION 107, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2022]: Sec. 3. (a) The office of judicial
4 administration shall:
5 (1) develop and adopt:
6 (A) a petition for an order for protection;
7 (B) an order for protection, including:
8 (i) orders issued under this chapter;
9 (ii) ex parte orders;
10 (iii) no contact orders under IC 31 and IC 35;
11 (iv) forms relating to workplace violence restraining orders
12 under IC 34-26-6; and
13 (v) forms relating to a child protective order under
14 IC 31-34-2.3;
15 (C) a confidential form;
16 (D) a notice of modification or extension for an order for
17 protection, a no contact order, a workplace violence restraining



- 1 order, or a child protective order;
 2 (E) a notice of termination for an order for protection, a no
 3 contact order, a workplace violence restraining order, or a
 4 child protective order; and
 5 (F) any other uniform statewide forms necessary to maintain
 6 an accurate registry of orders; and
 7 (2) provide the forms under subdivision (1):
 8 (A) to the clerk of each court authorized to issue the orders;
 9 **and**
 10 **(B) necessary to file for an order of protection to every law**
 11 **enforcement agency that has jurisdiction in the county.**
 12 (b) In addition to any other required information, a petition for an
 13 order for protection must contain a statement listing each civil or
 14 criminal action involving:
 15 (1) either party; or
 16 (2) a child of either party.
 17 (c) The following statements must be printed in boldface type or in
 18 capital letters on an order for protection, a no contact order, a
 19 workplace violence restraining order, or a child protective order:
 20 VIOLATION OF THIS ORDER IS PUNISHABLE BY
 21 CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.
 22 IF SO ORDERED BY THE COURT, THE RESPONDENT IS
 23 FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S
 24 RESIDENCE OR RESIDENCE OF ANY CHILD WHO IS THE
 25 SUBJECT OF THE ORDER, EVEN IF INVITED TO DO SO BY
 26 THE PETITIONER OR ANY OTHER PERSON. IN NO EVENT
 27 IS THE ORDER FOR PROTECTION VOIDED.
 28 PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR
 29 PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT
 30 IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE
 31 ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT
 32 STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g),
 33 ONCE A RESPONDENT HAS RECEIVED NOTICE OF THIS
 34 ORDER AND AN OPPORTUNITY TO BE HEARD, IT IS A
 35 FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR
 36 POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER IF
 37 THE PROTECTED PERSON IS:
 38 (A) THE RESPONDENT'S CURRENT OR FORMER
 39 SPOUSE;
 40 (B) A CURRENT OR FORMER PERSON WITH WHOM
 41 THE RESPONDENT RESIDED WHILE IN AN INTIMATE
 42 RELATIONSHIP; OR



1 (C) A PERSON WITH WHOM THE RESPONDENT HAS A
 2 CHILD.
 3 INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT
 4 THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES
 5 UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

6 (d) The clerk of the circuit court, ~~or~~ a person or entity designated by
 7 the clerk of the circuit court, **or a law enforcement officer** shall
 8 provide to a person requesting an order for protection:

- 9 (1) the forms adopted under subsection (a);
 10 (2) all other forms required to petition for an order for protection,
 11 including forms:
 12 (A) necessary for service; and
 13 (B) required under IC 31-21 (or IC 31-17-3 before its repeal);
 14 and
 15 (3) clerical assistance in reading or completing the forms and
 16 filing the petition. **A law enforcement officer who provides the**
 17 **forms to a victim of domestic battery or harassment shall,**
 18 **unless the victim refuses assistance:**
 19 (A) **remain with the victim while the victim completes the**
 20 **forms; and**
 21 (B) **as soon as practicable, file the forms with the**
 22 **appropriate court.**

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

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

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

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

42 SECTION 2. IC 35-33-1-1, AS AMENDED BY P.L.65-2016,



1 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2022]: Sec. 1. (a) A law enforcement officer may arrest a
3 person when the officer has:

- 4 (1) a warrant commanding that the person be arrested;
5 (2) probable cause to believe the person has committed or
6 attempted to commit, or is committing or attempting to commit,
7 a felony;
8 (3) probable cause to believe the person has violated the
9 provisions of IC 9-26-1-1.1 or IC 9-30-5;
10 (4) probable cause to believe the person is committing or
11 attempting to commit a misdemeanor in the officer's presence;
12 (5) probable cause to believe the person has committed a:
13 (A) battery resulting in bodily injury under IC 35-42-2-1; or
14 (B) domestic battery under IC 35-42-2-1.3;
15 ~~The officer may use an affidavit executed by an individual alleged~~
16 ~~to have direct knowledge of the incident alleging the elements of~~
17 ~~the offense of battery to establish probable cause;~~
18 (6) probable cause to believe that the person violated
19 IC 35-46-1-15.1 (invasion of privacy) or IC 35-46-1-15.3;
20 (7) probable cause to believe that the person violated
21 IC 35-47-2-1 (carrying a handgun without a license) or
22 IC 35-47-2-22 (counterfeit handgun license);
23 (8) probable cause to believe that the person is violating or has
24 violated an order issued under IC 35-50-7;
25 (9) probable cause to believe that the person is violating or has
26 violated IC 35-47-6-1.1 (undisclosed transport of a dangerous
27 device);
28 (10) probable cause to believe that the person is:
29 (A) violating or has violated IC 35-45-2-5 (interference with
30 the reporting of a crime); and
31 (B) interfering with or preventing the reporting of a crime
32 involving domestic or family violence (as defined in
33 IC 34-6-2-34.5);
34 (11) probable cause to believe that the person has committed theft
35 (IC 35-43-4-2);
36 (12) a removal order issued for the person by an immigration
37 court;
38 (13) a detainer or notice of action for the person issued by the
39 United States Department of Homeland Security; or
40 (14) probable cause to believe that the person has been indicted
41 for or convicted of one (1) or more aggravated felonies (as
42 defined in 8 U.S.C. 1101(a)(43)).



- 1 (b) A person who:
- 2 (1) is employed full time as a federal enforcement officer;
- 3 (2) is empowered to effect an arrest with or without warrant for a
- 4 violation of the United States Code; and
- 5 (3) is authorized to carry firearms in the performance of the
- 6 person's duties;
- 7 may act as an officer for the arrest of offenders against the laws of this
- 8 state where the person reasonably believes that a felony has been or is
- 9 about to be committed or attempted in the person's presence.

