



February 18, 2019

HOUSE BILL No. 1607

DIGEST OF HB 1607 (Updated February 18, 2019 1:15 pm - DI 123)

Citations Affected: IC 33-23; IC 34-26; IC 35-31.5; IC 35-42; IC 35-46; IC 35-49.

Synopsis: Bullying and orders of protection. Defines "bullying". Provides that a person who is a victim of bullying may file a petition for an order of protection against a person who commits harassment or an act of bullying. Provides that a person seeking an order of protection due to bullying may petition a court for an order of protection in the county where: (1) the petitioner currently or temporarily resides; (2) the respondent resides; or (3) any act that comprised the bullying occurred. Provides that a court may allow a petitioner and respondent to occupy the same location for any purpose that the court determines is legitimate or necessary. Provides that a court may impose certain terms and conditions upon a respondent when allowing a petitioner and respondent to occupy the same location. Makes the knowing or intentional violation of an order of protection against bullying a Class A misdemeanor. Makes conforming changes.

Effective: July 1, 2019.

**Hatfield, Candelaria Reardon, Beck,
Burton**

January 22, 2019, read first time and referred to Committee on Judiciary.
February 18, 2019, amended, reported — Do Pass.

HB 1607—LS 6695/DI 128



February 18, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1607

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

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

- 1 SECTION 1. IC 33-23-5-5, AS AMENDED BY P.L.173-2015,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 5. A magistrate may do any of the following:
4 (1) Administer an oath or affirmation required by law.
5 (2) Solemnize a marriage.
6 (3) Take and certify an affidavit or deposition.
7 (4) Order that a subpoena be issued in a matter pending before the
8 court.
9 (5) Compel the attendance of a witness.
10 (6) Punish contempt.
11 (7) Issue a warrant.
12 (8) Set bail.
13 (9) Enforce court rules.
14 (10) Conduct a preliminary, an initial, an omnibus, or other
15 pretrial hearing.
16 (11) Conduct an evidentiary hearing or trial.
17 (12) Receive a jury's verdict.

HB 1607—LS 6695/DI 128



- 1 (13) Verify a certificate for the authentication of records of a
 2 proceeding conducted by the magistrate.
 3 (14) Enter a final order, conduct a sentencing hearing, and impose
 4 a sentence on a person convicted of a criminal offense as
 5 described in section 9 of this chapter.
 6 (15) Enter a final order or judgment in any proceeding involving
 7 matters specified in IC 33-29-2-4 (jurisdiction of small claims
 8 docket) or IC 34-26-5 (protective orders to prevent domestic or
 9 family violence **or bullying**).
 10 (16) Approve and accept criminal plea agreements.
 11 (17) Approve agreed settlements concerning civil matters.
 12 (18) Approve:
 13 (A) decrees of dissolution;
 14 (B) settlement agreements; and
 15 (C) any other agreements;
 16 of the parties in domestic relations actions or paternity actions.
 17 SECTION 2. IC 34-26-5-0.5 IS ADDED TO THE INDIANA CODE
 18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 19 1, 2019]: **Sec. 0.5. As used in this chapter, "bullying" means overt,
 20 unwanted, repeated acts or gestures, including:**
 21 **(1) verbal or written communication or images transmitted in
 22 any manner (including digital and electronic transmission); or**
 23 **(2) physical acts;**
 24 **that are committed by a person or group of persons against**
 25 **another person or group of persons with the intent to harass,**
 26 **intimidate, or harm the targeted person or persons. The term does**
 27 **not include lawful debt collection acts, practices, or behaviors.**
 28 SECTION 3. IC 34-26-5-1 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. This chapter shall be
 30 construed to promote the:
 31 (1) protection and safety of all victims of domestic or family
 32 violence or **bullying** in a fair, prompt, and effective manner; and
 33 (2) prevention of future:
 34 (A) domestic ~~and~~ **violence;**
 35 (B) family violence; **and**
 36 (C) **bullying.**
 37 SECTION 4. IC 34-26-5-2 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) A person who is
 39 or has been a victim of domestic or family violence **or bullying** may
 40 file a petition for an order for protection against a:
 41 (1) family or household member who commits an act of domestic
 42 or family violence; ~~or~~



- 1 (2) person who has committed stalking under IC 35-45-10-5,
 2 **harassment under IC 35-45-2-2**, or a sex offense under
 3 IC 35-42-4 against the petitioner; **or**
 4 **(3) person who commits bullying.**
- 5 (b) A parent, a guardian, or another representative may file a
 6 petition for an order for protection on behalf of a child against a:
 7 (1) family or household member who commits an act of domestic
 8 or family violence **against the child; or**
 9 (2) person who has committed stalking under IC 35-45-10-5,
 10 **harassment under IC 35-45-2-2**, or a sex offense under
 11 IC 35-42-4 against the child; **or**
 12 **(3) person who commits bullying against the child.**
- 13 (c) A court may issue only one (1) order for each respondent. If a
 14 petitioner files a petition against more than one (1) respondent, the
 15 court shall:
 16 (1) assign a new case number; and
 17 (2) maintain a separate court file;
 18 for each respondent.
- 19 (d) If a petitioner seeks relief against an unemancipated minor, the
 20 case may originate in any court of record and, if it is an emergency
 21 matter, be processed the same as an ex parte petition. When a hearing
 22 is set, the matter may be transferred to a court with juvenile
 23 jurisdiction.
- 24 SECTION 5. IC 34-26-5-4 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) Any court of
 26 record has jurisdiction to issue a civil order for protection.
 27 (b) A petition for an order for protection:
 28 (1) must be filed in the county in which the:
 29 ~~(A)~~ (A) petitioner currently or temporarily resides;
 30 ~~(B)~~ (B) respondent resides; or
 31 ~~(C)~~ (C) domestic or family violence occurred; **or**
 32 **(2) in instances of bullying may be filed in the county where:**
 33 **(A) the petitioner currently or temporarily resides;**
 34 **(B) the respondent resides; or**
 35 **(C) any act that comprised the bullying occurred.**
- 36 (c) There is no minimum residency requirement to petition for an
 37 order for protection.
- 38 SECTION 6. IC 34-26-5-9, AS AMENDED BY P.L.112-2017,
 39 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2019]: Sec. 9. (a) If it appears from a petition for an order for
 41 protection or from a petition to modify an order for protection that
 42 domestic or family violence **or bullying** has occurred or that a



- 1 modification of an order for protection is required, a court may:
- 2 (1) without notice or hearing, immediately issue an order for
- 3 protection ex parte or modify an order for protection ex parte; or
- 4 (2) upon notice and after a hearing, whether or not a respondent
- 5 appears, issue or modify an order for protection.
- 6 (b) A court may grant the following relief without notice and
- 7 hearing in an ex parte order for protection or in an ex parte order for
- 8 protection modification:
- 9 (1) Enjoin a respondent from threatening to commit or
- 10 committing acts of domestic or family violence **or bullying**
- 11 against a petitioner and each designated family or household
- 12 member.
- 13 (2) Prohibit a respondent from harassing, annoying, telephoning,
- 14 contacting, or directly or indirectly communicating with a
- 15 petitioner.
- 16 (3) Remove and exclude a respondent from the residence of a
- 17 petitioner, regardless of ownership of the residence.
- 18 (4) Order a respondent to stay away from the residence, school, or
- 19 place of employment of a petitioner or a specified place
- 20 frequented by a petitioner and each designated family or
- 21 household member.
- 22 (5) Order that a petitioner has the exclusive possession, care,
- 23 custody, or control of any animal owned, possessed, kept, or cared
- 24 for by the petitioner, respondent, minor child of either the
- 25 petitioner or respondent, or any other family or household
- 26 member.
- 27 (6) Prohibit a respondent from removing, transferring, injuring,
- 28 concealing, harming, attacking, mistreating, threatening to harm,
- 29 or otherwise disposing of an animal described in subdivision (5).
- 30 (7) Order possession and use of the residence, an automobile, and
- 31 other essential personal effects, regardless of the ownership of the
- 32 residence, automobile, and essential personal effects. If
- 33 possession is ordered under this subdivision or subdivision (5),
- 34 the court may direct a law enforcement officer to accompany a
- 35 petitioner to the residence of the parties to:
- 36 (A) ensure that a petitioner is safely restored to possession of
- 37 the residence, automobile, animal, and other essential personal
- 38 effects; or
- 39 (B) supervise a petitioner's or respondent's removal of personal
- 40 belongings and animal.
- 41 (8) Order other relief necessary to provide for the safety and
- 42 welfare of a petitioner and each designated family or household



- 1 member.
- 2 (c) A court may grant the following relief after notice and a hearing,
3 whether or not a respondent appears, in an order for protection or in a
4 modification of an order for protection:
- 5 (1) Grant the relief under subsection (b).
6 (2) Specify arrangements for parenting time of a minor child by
7 a respondent and:
8 (A) require supervision by a third party; or
9 (B) deny parenting time;
10 if necessary to protect the safety of a petitioner or child.
- 11 (3) Order a respondent to:
12 (A) pay attorney's fees;
13 (B) pay rent or make payment on a mortgage on a petitioner's
14 residence;
15 (C) if the respondent is found to have a duty of support, pay
16 for the support of a petitioner and each minor child;
17 (D) reimburse a petitioner or other person for expenses related
18 to the domestic or family violence **or bullying**, including:
19 (i) medical expenses;
20 (ii) counseling;
21 (iii) shelter; and
22 (iv) repair or replacement of damaged property;
23 (E) pay the costs and expenses incurred in connection with the
24 use of a GPS tracking device under subsection (i); or
25 (F) pay the costs and fees incurred by a petitioner in bringing
26 the action.
- 27 (4) Prohibit a respondent from using or possessing a firearm,
28 ammunition, or a deadly weapon specified by the court, and direct
29 the respondent to surrender to a specified law enforcement agency
30 the firearm, ammunition, or deadly weapon for the duration of the
31 order for protection unless another date is ordered by the court.
- 32 **(5) Permit the respondent and petitioner to occupy the same**
33 **location for any purpose that the court determines is**
34 **legitimate or necessary. The court may impose terms and**
35 **conditions upon a respondent when granting permission**
36 **under this subdivision.**
- 37 An order issued under subdivision (4) does not apply to a person who
38 is exempt under 18 U.S.C. 925.
- 39 (d) The court shall:
40 (1) cause the order for protection to be delivered to the county
41 sheriff for service;
42 (2) make reasonable efforts to ensure that the order for protection



1 is understood by a petitioner and a respondent if present;

2 (3) electronically notify each law enforcement agency:

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

4 (B) designated by the petitioner;

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

7 (5) indicate in the order if the order and the parties meet the
8 criteria under 18 U.S.C. 922(g)(8); and

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

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

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

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

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

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

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

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

39 (i) Upon a finding of a violation of an order for protection, the court
40 may:

41 (1) require a respondent to wear a GPS tracking device; and

42 (2) prohibit the respondent from approaching or entering certain



1 locations where the petitioner may be found.

2 If the court requires a respondent to wear a GPS tracking device under
3 subdivision (1), the court shall, if available, require the respondent to
4 wear a GPS tracking device with victim notification capabilities.

5 (j) The court may permit a victim, a petitioner, another person, an
6 organization, or an agency to pay the costs and expenses incurred in
7 connection with the use of a GPS tracking device under subsection (i).

8 SECTION 7. IC 34-26-5-13 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 13. A court may not
10 deny a petitioner relief under section 9 of this chapter solely because
11 of a lapse of time between an act of domestic or family violence **or**
12 **bullying** and the filing of a petition.

13 SECTION 8. IC 34-26-6-13, AS AMENDED BY P.L.161-2018,
14 SECTION 112, IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2019]: Sec. 13. (a) The office of judicial
16 administration shall develop forms, instructions, and rules for the
17 scheduling of hearings and other procedures under this chapter. A party
18 to an action under this chapter must use the forms developed by the
19 office of judicial administration.

20 (b) A temporary restraining order or an injunction issued for
21 harassment, **or** domestic or family violence, **or bullying** under this
22 chapter must be issued on forms adopted and approved by the office of
23 judicial administration and must be consistent with IC 34-26-5-3.
24 However, an order or injunction issued under this section is not
25 rendered unenforceable solely because it is not issued on forms adopted
26 and approved by the office of judicial administration.

27 (c) Information in a temporary restraining order or an injunction
28 relating to harassment, **or** domestic or family violence, **or bullying**
29 must be transmitted to the Indiana data and communication system
30 (IDACS) as required under IC 34-26-5-18.

31 SECTION 9. IC 35-31.5-2-32.3 IS ADDED TO THE INDIANA
32 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
33 [EFFECTIVE JULY 1, 2019]: **Sec. 32.3. "Bullying", for purposes of**
34 **IC 35-46-1-15.1, has the meaning set forth in IC 34-26-5-0.5.**

35 SECTION 10. IC 35-42-4-4, AS AMENDED BY P.L.132-2017,
36 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2019]: Sec. 4. (a) The following definitions apply throughout
38 this section:

39 (1) "Disseminate" means to transfer possession for free or for a
40 consideration.

41 (2) "Matter" has the same meaning as in IC 35-49-1-3.

42 (3) "Performance" has the same meaning as in IC 35-49-1-7.



- 1 (4) "Sexual conduct" means:
 2 (A) sexual intercourse;
 3 (B) other sexual conduct (as defined in IC 35-31.5-2-221.5);
 4 (C) exhibition of the:
 5 (i) uncovered genitals; or
 6 (ii) female breast with less than a fully opaque covering of
 7 any part of the nipple;
 8 intended to satisfy or arouse the sexual desires of any person;
 9 (D) sadomasochistic abuse;
 10 (E) sexual intercourse or other sexual conduct (as defined in
 11 IC 35-31.5-2-221.5) with an animal; or
 12 (F) any fondling or touching of a child by another person or of
 13 another person by a child intended to arouse or satisfy the
 14 sexual desires of either the child or the other person.
- 15 (b) A person who:
 16 (1) knowingly or intentionally manages, produces, sponsors,
 17 presents, exhibits, photographs, films, videotapes, or creates a
 18 digitized image of any performance or incident that includes
 19 sexual conduct by a child under eighteen (18) years of age;
 20 (2) knowingly or intentionally disseminates, exhibits to another
 21 person, offers to disseminate or exhibit to another person, or
 22 sends or brings into Indiana for dissemination or exhibition matter
 23 that depicts or describes sexual conduct by a child under eighteen
 24 (18) years of age;
 25 (3) knowingly or intentionally makes available to another person
 26 a computer, knowing that the computer's fixed drive or peripheral
 27 device contains matter that depicts or describes sexual conduct by
 28 a child less than eighteen (18) years of age; or
 29 (4) with the intent to satisfy or arouse the sexual desires of any
 30 person:
 31 (A) knowingly or intentionally:
 32 (i) manages;
 33 (ii) produces;
 34 (iii) sponsors;
 35 (iv) presents;
 36 (v) exhibits;
 37 (vi) photographs;
 38 (vii) films;
 39 (viii) videotapes; or
 40 (ix) creates a digitized image of;
 41 any performance or incident that includes the uncovered
 42 genitals of a child less than eighteen (18) years of age or the



- 1 exhibition of the female breast with less than a fully opaque
 2 covering of any part of the nipple by a child less than eighteen
 3 (18) years of age;
 4 (B) knowingly or intentionally:
 5 (i) disseminates to another person;
 6 (ii) exhibits to another person;
 7 (iii) offers to disseminate or exhibit to another person; or
 8 (iv) sends or brings into Indiana for dissemination or
 9 exhibition;
 10 matter that depicts the uncovered genitals of a child less than
 11 eighteen (18) years of age or the exhibition of the female
 12 breast with less than a fully opaque covering of any part of the
 13 nipple by a child less than eighteen (18) years of age; or
 14 (C) makes available to another person a computer, knowing
 15 that the computer's fixed drive or peripheral device contains
 16 matter that depicts the uncovered genitals of a child less than
 17 eighteen (18) years of age or the exhibition of the female
 18 breast with less than a fully opaque covering of any part of the
 19 nipple by a child less than eighteen (18) years of age;
 20 commits child exploitation, a Level 5 felony.
 21 (c) However, the offense of child exploitation described in
 22 subsection (b) is a Level 4 felony if:
 23 (1) the sexual conduct, matter, performance, or incident depicts
 24 or describes a child less than eighteen (18) years of age who:
 25 (A) engages in bestiality (as described in IC 35-46-3-14);
 26 (B) is mentally disabled or deficient;
 27 (C) participates in the sexual conduct, matter, performance, or
 28 incident by use of force or the threat of force;
 29 (D) physically or verbally resists participating in the sexual
 30 conduct, matter, performance, or incident;
 31 (E) receives a bodily injury while participating in the sexual
 32 conduct, matter, performance, or incident; or
 33 (F) is less than twelve (12) years of age; or
 34 (2) the child less than eighteen (18) years of age:
 35 (A) engages in bestiality (as described in IC 35-46-3-14);
 36 (B) is mentally disabled or deficient;
 37 (C) participates in the sexual conduct, matter, performance, or
 38 incident by use of force or the threat of force;
 39 (D) physically or verbally resists participating in the sexual
 40 conduct, matter, performance, or incident;
 41 (E) receives a bodily injury while participating in the sexual
 42 conduct, matter, performance, or incident; or



- 1 (F) is less than twelve (12) years of age.
- 2 (d) A person who knowingly or intentionally possesses or accesses
- 3 with intent to view:
- 4 (1) a picture;
- 5 (2) a drawing;
- 6 (3) a photograph;
- 7 (4) a negative image;
- 8 (5) undeveloped film;
- 9 (6) a motion picture;
- 10 (7) a videotape;
- 11 (8) a digitized image; or
- 12 (9) any pictorial representation;
- 13 that depicts or describes sexual conduct by a child who the person
- 14 knows is less than eighteen (18) years of age or who appears to be less
- 15 than eighteen (18) years of age, and that lacks serious literary, artistic,
- 16 political, or scientific value commits possession of child pornography,
- 17 a Level 6 felony.
- 18 (e) However, the offense of possession of child pornography
- 19 described in subsection (d) is a Level 5 felony if:
- 20 (1) the item described in subsection (d)(1) through (d)(9) depicts
- 21 or describes sexual conduct by a child who the person knows is
- 22 less than eighteen (18) years of age, or who appears to be less
- 23 than eighteen (18) years of age, who:
- 24 (A) engages in bestiality (as described in IC 35-46-3-14);
- 25 (B) is mentally disabled or deficient;
- 26 (C) participates in the sexual conduct, matter, performance, or
- 27 incident by use of force or the threat of force;
- 28 (D) physically or verbally resists participating in the sexual
- 29 conduct, matter, performance, or incident;
- 30 (E) receives a bodily injury while participating in the sexual
- 31 conduct, matter, performance, or incident; or
- 32 (F) is less than twelve (12) years of age; or
- 33 (2) the child whose sexual conduct is depicted or described in an
- 34 item described in subsection (d)(1) through (d)(9):
- 35 (A) engages in bestiality (as described in IC 35-46-3-14);
- 36 (B) is mentally disabled or deficient;
- 37 (C) participates in the sexual conduct, matter, performance, or
- 38 incident by use of force or the threat of force;
- 39 (D) physically or verbally resists participating in the sexual
- 40 conduct, matter, performance, or incident;
- 41 (E) receives a bodily injury while participating in the sexual
- 42 conduct, matter, performance, or incident; or



- 1 (F) is less than twelve (12) years of age.
- 2 (f) Subsections (b), (c), (d), and (e) do not apply to a bona fide
3 school, museum, or public library that qualifies for certain property tax
4 exemptions under IC 6-1.1-10, or to an employee of such a school,
5 museum, or public library acting within the scope of the employee's
6 employment when the possession of the listed materials is for
7 legitimate scientific or educational purposes.
- 8 (g) It is a defense to a prosecution under this section that:
9 (1) the person is a school employee; and
10 (2) the acts constituting the elements of the offense were
11 performed solely within the scope of the person's employment as
12 a school employee.
- 13 (h) Except as provided in subsection (i), it is a defense to a
14 prosecution under subsection (b), (c), (d), or (e) if all of the following
15 apply:
16 (1) A cellular telephone, another wireless or cellular
17 communications device, or a social networking web site was used
18 to possess, produce, or disseminate the image.
19 (2) The defendant is not more than four (4) years older or younger
20 than the person who is depicted in the image or who received the
21 image.
22 (3) The relationship between the defendant and the person who
23 received the image or who is depicted in the image was a dating
24 relationship or an ongoing personal relationship. For purposes of
25 this subdivision, the term "ongoing personal relationship" does
26 not include a family relationship.
27 (4) The crime was committed by a person less than twenty-two
28 (22) years of age.
29 (5) The person receiving the image or who is depicted in the
30 image acquiesced in the defendant's conduct.
- 31 (i) The defense to a prosecution described in subsection (h) does not
32 apply if:
33 (1) the person who receives the image disseminates it to a person
34 other than the person:
35 (A) who sent the image; or
36 (B) who is depicted in the image;
37 (2) the image is of a person other than the person who sent the
38 image or received the image; or
39 (3) the dissemination of the image violates:
40 (A) a protective order to prevent domestic or family violence
41 **or bullying** issued under IC 34-26-5 (or, if the order involved
42 a family or household member, under IC 34-26-2 or



- 1 IC 34-4-5.1-5 before their repeal);
- 2 (B) an ex parte protective order issued under IC 34-26-5 (or,
- 3 if the order involved a family or household member, an
- 4 emergency order issued under IC 34-26-2 or IC 34-4-5.1
- 5 before their repeal);
- 6 (C) a workplace violence restraining order issued under
- 7 IC 34-26-6;
- 8 (D) a no contact order in a dispositional decree issued under
- 9 IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or
- 10 IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an
- 11 order issued under IC 31-32-13 (or IC 31-6-7-14 before its
- 12 repeal) that orders the person to refrain from direct or indirect
- 13 contact with a child in need of services or a delinquent child;
- 14 (E) a no contact order issued as a condition of pretrial release,
- 15 including release on bail or personal recognizance, or pretrial
- 16 diversion, and including a no contact order issued under
- 17 IC 35-33-8-3.6;
- 18 (F) a no contact order issued as a condition of probation;
- 19 (G) a protective order to prevent domestic or family violence
- 20 issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2
- 21 before their repeal);
- 22 (H) a protective order to prevent domestic or family violence
- 23 issued under IC 31-14-16-1 in a paternity action;
- 24 (I) a no contact order issued under IC 31-34-25 in a child in
- 25 need of services proceeding or under IC 31-37-25 in a juvenile
- 26 delinquency proceeding;
- 27 (J) an order issued in another state that is substantially similar
- 28 to an order described in clauses (A) through (I);
- 29 (K) an order that is substantially similar to an order described
- 30 in clauses (A) through (I) and is issued by an Indian:
- 31 (i) tribe;
- 32 (ii) band;
- 33 (iii) pueblo;
- 34 (iv) nation; or
- 35 (v) organized group or community, including an Alaska
- 36 Native village or regional or village corporation as defined
- 37 in or established under the Alaska Native Claims Settlement
- 38 Act (43 U.S.C. 1601 et seq.);
- 39 that is recognized as eligible for the special programs and
- 40 services provided by the United States to Indians because of
- 41 their special status as Indians;
- 42 (L) an order issued under IC 35-33-8-3.2; or



- 1 (M) an order issued under IC 35-38-1-30.
- 2 (j) It is a defense to a prosecution under this section that:
- 3 (1) the person was less than eighteen (18) years of age at the time
- 4 the alleged offense was committed; and
- 5 (2) the circumstances described in IC 35-45-4-6(a)(2) through
- 6 IC 35-45-4-6(a)(4) apply.
- 7 (k) A person is entitled to present the defense described in
- 8 subsection (j) in a pretrial hearing. If a person proves by a
- 9 preponderance of the evidence in a pretrial hearing that the defense
- 10 described in subsection (j) applies, the court shall dismiss the charges
- 11 under this section with prejudice.
- 12 SECTION 11. IC 35-46-1-15.1, AS AMENDED BY P.L.87-2018,
- 13 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 14 JULY 1, 2019]: Sec. 15.1. (a) A person who knowingly or intentionally
- 15 violates:
- 16 (1) a protective order to prevent domestic or family violence **or**
- 17 **bullying** issued under IC 34-26-5 (or, if the order involved a
- 18 family or household member, under IC 34-26-2 or IC 34-4-5.1-5
- 19 before their repeal);
- 20 (2) an ex parte protective order issued under IC 34-26-5 (or, if the
- 21 order involved a family or household member, an emergency
- 22 order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);
- 23 (3) a workplace violence restraining order issued under
- 24 IC 34-26-6;
- 25 (4) a no contact order in a dispositional decree issued under
- 26 IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4
- 27 or IC 31-6-4-15.9 before their repeal) or an order issued under
- 28 IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the
- 29 person to refrain from direct or indirect contact with a child in
- 30 need of services or a delinquent child;
- 31 (5) a no contact order issued as a condition of pretrial release,
- 32 including release on bail or personal recognizance, or pretrial
- 33 diversion, and including a no contact order issued under
- 34 IC 35-33-8-3.6;
- 35 (6) a no contact order issued as a condition of probation;
- 36 (7) a protective order to prevent domestic or family violence
- 37 issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before
- 38 their repeal);
- 39 (8) a protective order to prevent domestic or family violence
- 40 issued under IC 31-14-16-1 in a paternity action;
- 41 (9) an order issued in another state that is substantially similar to
- 42 an order described in subdivisions (1) through (8);



1 (10) an order that is substantially similar to an order described in
2 subdivisions (1) through (8) and is issued by an Indian:
3 (A) tribe;
4 (B) band;
5 (C) pueblo;
6 (D) nation; or
7 (E) organized group or community, including an Alaska
8 Native village or regional or village corporation as defined in
9 or established under the Alaska Native Claims Settlement Act
10 (43 U.S.C. 1601 et seq.);
11 that is recognized as eligible for the special programs and services
12 provided by the United States to Indians because of their special
13 status as Indians;
14 (11) an order issued under IC 35-33-8-3.2; or
15 (12) an order issued under IC 35-38-1-30;
16 commits invasion of privacy, a Class A misdemeanor. However, the
17 offense is a Level 6 felony if the person has a prior unrelated
18 conviction for an offense under this subsection.
19 (b) It is not a defense to a prosecution under subsection (a) that the
20 accused person used or operated an unmanned aerial vehicle in
21 committing the violation.
22 (c) A sex offender under IC 11-8-8-4.5 who:
23 (1) establishes a new residence within a one (1) mile radius of the
24 residence of the victim of the offender's sex offense;
25 (2) intends to reside (as defined in IC 35-42-4-11(b)) at the
26 residence; and
27 (3) at the time the sex offender established the residence, knew or
28 reasonably should have known that the residence was located
29 within a one (1) mile radius of the residence of the victim of the
30 offender's sex offense;
31 commits invasion of privacy, a Class A misdemeanor. However, the
32 offense is a Level 6 felony if the sex offender has a prior unrelated
33 conviction under this subsection.
34 (d) The victim of the sex offender's sex offense may not be
35 prosecuted under subsection (c) if the victim's liability is based on
36 aiding, inducing, or causing the offender to commit the offense
37 described in subsection (c).
38 (e) Subsection (c) does not apply to a sex offender who has obtained
39 a waiver of residency under IC 35-38-2-2.5 or IC 35-38-1-33.
40 SECTION 12. IC 35-49-3-4, AS AMENDED BY P.L.158-2013,
41 SECTION 649, IS AMENDED TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) It is a defense to a



- 1 prosecution under section 3 of this chapter for the defendant to show:
- 2 (1) that the matter was disseminated or that the performance was
- 3 performed for legitimate scientific or educational purposes;
- 4 (2) that the matter was disseminated or displayed to or that the
- 5 performance was performed before the recipient by a bona fide
- 6 school, museum, or public library that qualifies for certain
- 7 property tax exemptions under IC 6-1.1-10, or by an employee of
- 8 such a school, museum, or public library acting within the scope
- 9 of the employee's employment;
- 10 (3) that the defendant had reasonable cause to believe that the
- 11 minor involved was eighteen (18) years of age or older and that
- 12 the minor exhibited to the defendant a draft card, driver's license,
- 13 birth certificate, or other official or apparently official document
- 14 purporting to establish that the minor was eighteen (18) years of
- 15 age or older; or
- 16 (4) that the defendant was a salesclerk, motion picture
- 17 projectionist, usher, or ticket taker, acting within the scope of the
- 18 defendant's employment and that the defendant had no financial
- 19 interest in the place where the defendant was so employed.
- 20 (b) Except as provided in subsection (c), it is a defense to a
- 21 prosecution under section 3 of this chapter if all the following apply:
- 22 (1) A cellular telephone, another wireless or cellular
- 23 communications device, or a social networking web site was used
- 24 to disseminate matter to a minor that is harmful to minors.
- 25 (2) The defendant is not more than four (4) years older or younger
- 26 than the person who received the matter that is harmful to minors.
- 27 (3) The relationship between the defendant and the person who
- 28 received the matter that is harmful to minors was a dating
- 29 relationship or an ongoing personal relationship. For purposes of
- 30 this subdivision, the term "ongoing personal relationship" does
- 31 not include a family relationship.
- 32 (4) The crime was committed by a person less than twenty-two
- 33 (22) years of age.
- 34 (5) The person receiving the matter expressly or implicitly
- 35 acquiesced in the defendant's conduct.
- 36 (c) The defense to a prosecution described in subsection (b) does
- 37 not apply if:
- 38 (1) the image is disseminated to a person other than the person:
- 39 (A) who sent the image; or
- 40 (B) who is depicted in the image; or
- 41 (2) the dissemination of the image violates:
- 42 (A) a protective order to prevent domestic or family violence



- 1 **or bullying** issued under IC 34-26-5 (or, if the order involved
 2 a family or household member, under IC 34-26-2 or
 3 IC 34-4-5.1-5 before their repeal);
 4 (B) an ex parte protective order issued under IC 34-26-5 (or,
 5 if the order involved a family or household member, an
 6 emergency order issued under IC 34-26-2 or IC 34-4-5.1
 7 before their repeal);
 8 (C) a workplace violence restraining order issued under
 9 IC 34-26-6;
 10 (D) a no contact order in a dispositional decree issued under
 11 IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or
 12 IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an
 13 order issued under IC 31-32-13 (or IC 31-6-7-14 before its
 14 repeal) that orders the person to refrain from direct or indirect
 15 contact with a child in need of services or a delinquent child;
 16 (E) a no contact order issued as a condition of pretrial release,
 17 including release on bail or personal recognizance, or pretrial
 18 diversion, and including a no contact order issued under
 19 IC 35-33-8-3.6;
 20 (F) a no contact order issued as a condition of probation;
 21 (G) a protective order to prevent domestic or family violence
 22 issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2
 23 before their repeal);
 24 (H) a protective order to prevent domestic or family violence
 25 issued under IC 31-14-16-1 in a paternity action;
 26 (I) a no contact order issued under IC 31-34-25 in a child in
 27 need of services proceeding or under IC 31-37-25 in a juvenile
 28 delinquency proceeding;
 29 (J) an order issued in another state that is substantially similar
 30 to an order described in clauses (A) through (I);
 31 (K) an order that is substantially similar to an order described
 32 in clauses (A) through (I) and is issued by an Indian:
 33 (i) tribe;
 34 (ii) band;
 35 (iii) pueblo;
 36 (iv) nation; or
 37 (v) organized group or community, including an Alaska
 38 Native village or regional or village corporation as defined
 39 in or established under the Alaska Native Claims Settlement
 40 Act (43 U.S.C. 1601 et seq.);
 41 that is recognized as eligible for the special programs and
 42 services provided by the United States to Indians because of



- 1 their special status as Indians;
- 2 (L) an order issued under IC 35-33-8-3.2; or
- 3 (M) an order issued under IC 35-38-1-30.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1607, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 22, after ";" and insert "**or**".

Page 2, line 23, delete "committed;" and insert ";".

Page 2, delete lines 24 through 25.

Page 2, line 28, delete "ridicule,".

Page 2, line 28, delete "humiliate,".

Page 2, line 29, after "persons." insert "**The term does not include lawful debt collection acts, practices, or behaviors.**".

Page 3, line 6, delete "an act of".

Page 3, line 14, delete "an act of".

Page 3, delete lines 26 through 35, begin a new paragraph and insert:

"SECTION 5. IC 34-26-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) Any court of record has jurisdiction to issue a civil order for protection.

(b) A petition for an order for protection:

(1) must be filed in the county in which the:

(+) (A) petitioner currently or temporarily resides;

(-) (B) respondent resides; or

(-) (C) domestic or family violence occurred; **or**

(2) **in instances of bullying may be filed in the county where:**

(A) **the petitioner currently or temporarily resides;**

(B) **the respondent resides; or**

(C) **any act that comprised the bullying occurred.**

(c) There is no minimum residency requirement to petition for an order for protection."

Page 5, between lines 29 and 30, begin a new line block indented and insert:

"(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."

Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to HB 1607 as introduced.)

TORR

Committee Vote: yeas 9, nays 1.

