



Reprinted
April 10, 2019

ENGROSSED HOUSE BILL No. 1607

DIGEST OF HB 1607 (Updated April 9, 2019 4:05 pm - DI 106)

Citations Affected: IC 20-33; IC 31-9; IC 33-23; IC 34-6; IC 34-26; IC 35-31.5; IC 35-40; IC 35-42; IC 35-45; IC 35-46; IC 35-49; noncode.

Synopsis: Criminal law, protection orders, and court procedures. Repeals the crime of "harassment" and creates a new crime of "criminal harassment". Provides that a person commits criminal harassment, a Class B misdemeanor, if the person harasses another person with the intent to cause that person emotional distress. Establishes a procedure permitting a court to issue a criminal harassment protection order to protect a person who is subject to criminal harassment. Provides that a criminal harassment protection order is treated the same as similar orders for purposes of certain criminal offenses. Specifies the powers of magistrates.

Effective: Upon passage; July 1, 2019.

Hatfield, Candelaria Reardon, Beck, Burton

(SENATE SPONSORS — HEAD, RUCKELSHAUS, RANDOLPH LONNIE M)

January 22, 2019, read first time and referred to Committee on Judiciary.
February 18, 2019, amended, reported — Do Pass.
February 20, 2019, read second time, amended, ordered engrossed.
February 21, 2019, engrossed. Read third time, passed. Yeas 97, nays 1.

SENATE ACTION

March 7, 2019, read first time and referred to Committee on Corrections and Criminal Law.
March 19, 2019, amended, reported favorably — Do Pass.
April 9, 2019, read second time, amended, ordered engrossed.

EH 1607—LS 6695/DI 128



Reprinted
April 10, 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.

ENGROSSED 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 20-33-9-1.5, AS ADDED BY P.L.72-2006,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 1.5. As used in this chapter, "harassment" refers
4 to **criminal** harassment under ~~IC 35-45-2-2~~. **IC 35-45-10-7**.
- 5 SECTION 2. IC 31-9-2-29.5, AS AMENDED BY P.L.65-2016,
6 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2019]: Sec. 29.5. "Crime involving domestic or family
8 violence" means a crime that occurs when a family or household
9 member commits, attempts to commit, or conspires to commit any of
10 the following against another family or household member:
11 (1) A homicide offense under IC 35-42-1.
12 (2) A battery offense under IC 35-42-2.
13 (3) Kidnapping or confinement under IC 35-42-3.
14 (4) A sex offense under IC 35-42-4.
15 (5) Robbery under IC 35-42-5.
16 (6) Arson or mischief under IC 35-43-1.
17 (7) Burglary or trespass under IC 35-43-2.

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- 1 (8) Disorderly conduct under IC 35-45-1.
 2 (9) Intimidation ~~or harassment~~ under IC 35-45-2.
 3 (10) Voyeurism under IC 35-45-4.
 4 (11) Stalking **or criminal harassment** under IC 35-45-10.
 5 (12) An offense against the family under IC 35-46-1-2 through
 6 IC 35-46-1-8, IC 35-46-1-12, IC 35-46-1-15.1, or
 7 IC 35-46-1-15.3.
 8 (13) Human and sexual trafficking crimes under IC 35-42-3.5.
 9 (14) A crime involving animal cruelty and a family or household
 10 member under IC 35-46-3-12(b)(2) or IC 35-46-3-12.5.
 11 SECTION 3. IC 33-23-5-5, AS AMENDED BY P.L.173-2015,
 12 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2019]: Sec. 5. A magistrate may do any of the following:
 14 (1) Administer an oath or affirmation required by law.
 15 (2) Solemnize a marriage.
 16 (3) Take and certify an affidavit or deposition.
 17 (4) Order that a subpoena be issued in a matter pending before the
 18 court.
 19 (5) Compel the attendance of a witness.
 20 (6) Punish contempt.
 21 (7) Issue a warrant.
 22 (8) Set bail.
 23 (9) Enforce court rules.
 24 (10) Conduct a preliminary, an initial, an omnibus, or other
 25 pretrial hearing.
 26 (11) Conduct an evidentiary hearing or trial.
 27 (12) Receive a jury's verdict.
 28 (13) Verify a certificate for the authentication of records of a
 29 proceeding conducted by the magistrate.
 30 (14) Enter a final order, conduct a sentencing hearing, and impose
 31 a sentence on a person convicted of a criminal offense as
 32 described in section 9 of this chapter.
 33 (15) Enter a final order or judgment in any proceeding involving
 34 matters specified in IC 33-29-2-4 (jurisdiction of small claims
 35 docket), ~~or~~ IC 34-26-5 (protective orders to prevent domestic or
 36 family violence), **or IC 34-26-7 (criminal harassment**
 37 **protection order).**
 38 (16) Approve and accept criminal plea agreements.
 39 (17) Approve agreed settlements concerning civil matters.
 40 (18) Approve:
 41 (A) decrees of dissolution;
 42 (B) settlement agreements; and



1 (C) any other agreements;
 2 of the parties in domestic relations actions or paternity actions.
 3 SECTION 4. IC 33-23-5-8, AS AMENDED BY P.L.161-2018,
 4 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2019]: Sec. 8. ~~Except as provided under sections 5(14) and~~
 6 ~~9(b) of this chapter~~, A magistrate does not have the power of judicial
 7 mandate.

8 SECTION 5. IC 33-23-5-9, AS AMENDED BY P.L.173-2015,
 9 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2019]: Sec. 9. ~~(a) Except as provided under subsection (b), a~~
 11 ~~magistrate shall report findings in an evidentiary hearing, a trial, or a~~
 12 ~~jury's verdict to the court. The court shall enter the final order.~~

13 ~~(b)~~ (a) If a magistrate presides at a criminal trial or a guilty plea
 14 hearing, the magistrate may do the following:

- 15 (1) Enter a final order.
- 16 (2) Conduct a sentencing hearing.
- 17 (3) Impose a sentence on a person convicted of a criminal offense.

18 ~~(c)~~ (b) This subsection does not apply to a consolidated city. Unless
 19 the defendant consents, a magistrate who did not preside at the criminal
 20 trial may not preside at the sentencing hearing. However, this
 21 subsection does not prohibit a magistrate from presiding at a
 22 sentencing hearing if there was no trial.

23 SECTION 6. IC 34-6-2-34.5, AS AMENDED BY P.L.171-2007,
 24 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2019]: Sec. 34.5. "Domestic or family violence" means,
 26 except for an act of self-defense, the occurrence of at least one (1) of
 27 the following acts committed by a family or household member:

- 28 (1) Attempting to cause, threatening to cause, or causing physical
 29 harm to another family or household member.
- 30 (2) Placing a family or household member in fear of physical
 31 harm.
- 32 (3) Causing a family or household member to involuntarily
 33 engage in sexual activity by force, threat of force, or duress.
- 34 (4) Beating (as described in IC 35-46-3-0.5(2)), torturing (as
 35 described in IC 35-46-3-0.5(5)), mutilating (as described in
 36 IC 35-46-3-0.5(3)), or killing a vertebrate animal without
 37 justification with the intent to threaten, intimidate, coerce, harass,
 38 or terrorize a family or household member.

39 For purposes of IC 34-26-5, domestic and family violence also includes
 40 stalking (as defined in ~~IC 35-45-10-1~~ **IC 35-45-10-5**) or a sex offense
 41 under IC 35-42-4, whether or not the stalking or sex offense is
 42 committed by a family or household member.



1 SECTION 7. IC 34-26-7 IS ADDED TO THE INDIANA CODE AS
 2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2019]:

4 **Chapter 7. Criminal Harassment Protection Orders**

5 **Sec. 1. The following definitions apply throughout this chapter:**

6 (1) "Criminal harassment" has the meaning set forth in
 7 IC 35-45-10-7.

8 (2) "Stalking" has the meaning set forth in IC 35-45-10-5.

9 **Sec. 2. (a)** A person who has been subjected to criminal
 10 harassment may file a petition for a criminal harassment
 11 protection order to prohibit further criminal harassment. A person
 12 who has been subjected to stalking may file a petition for a civil
 13 protection order under IC 34-26-5, even if the stalking is not
 14 committed by a family or household member.

15 (b) A parent, a guardian, or another representative of a child
 16 may file a petition for a criminal harassment protection order on
 17 behalf of the child to prohibit further criminal harassment of the
 18 child.

19 (c) Except as provided in subsection (d), a petition for a criminal
 20 harassment protection order may be filed in the county where:

- 21 (1) the petitioner currently or temporarily resides;
 22 (2) the petitioner is employed;
 23 (3) the respondent resides; or
 24 (4) any act of criminal harassment occurred.

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

30 **Sec. 3.** A court shall hold a hearing not more than thirty (30)
 31 days after a petition for a criminal harassment protection order is
 32 filed. The respondent may file a cross-complaint or a responsive
 33 pleading that denies, explains, excuses, or justifies the conduct
 34 alleged to constitute criminal harassment. The court:

- 35 (1) shall receive testimony; and
 36 (2) may make independent inquiry.

37 If the court finds by clear and convincing evidence that the
 38 respondent criminally harassed the petitioner, the court shall issue
 39 a criminal harassment protection order prohibiting further
 40 criminal harassment, or, if the petitioner is a victim in a criminal
 41 case in which the respondent is a defendant, prohibiting contact
 42 between the petitioner and respondent.



1 **Sec. 4. A criminal harassment protection order issued under this**
 2 **chapter remains in effect for not more than one (1) year.**

3 **Sec. 5. A respondent shall be personally served with:**

4 **(1) a copy of the petition; and**

5 **(2) notice of the hearing;**

6 **not less than five (5) days before the hearing.**

7 **Sec. 6. The court shall order a petitioner or the attorney for a**
 8 **petitioner to deliver a copy of each:**

9 **(1) criminal harassment protection order;**

10 **(2) modification of a criminal harassment protection order;**

11 **and**

12 **(3) termination of a criminal harassment protection order;**

13 **to a law enforcement agency that is requested by the petitioner and**
 14 **approved by the court. The copies must be delivered by the close**
 15 **of the business day on which the order is granted. Each law**
 16 **enforcement agency shall make information on the existence and**
 17 **status of a criminal harassment protection order available to a**
 18 **responding law enforcement officer, as appropriate.**

19 **Sec. 7. A violation of a criminal harassment protection order**
 20 **issued under this chapter may constitute a criminal offense under**
 21 **IC 35-46-1-15.1.**

22 **Sec. 8. (a) The office of judicial administration shall develop**
 23 **forms, instructions, and rules for the scheduling of hearings and**
 24 **other procedures under this chapter. A party to an action under**
 25 **this chapter must use the forms developed by the office of judicial**
 26 **administration.**

27 **(b) A criminal harassment protection order must be issued on**
 28 **forms adopted and approved by the office of judicial**
 29 **administration and must be consistent with IC 34-26-5-3. However,**
 30 **a criminal harassment protection order issued is not rendered**
 31 **unenforceable solely because it is not issued on forms adopted and**
 32 **approved by the office of judicial administration.**

33 **Sec. 9. A filing fee may not be charged for filing a:**

34 **(1) petition for a criminal harassment protection order; or**

35 **(2) responsive pleading described under section 3 of this**
 36 **chapter.**

37 SECTION 8. IC 35-31.5-2-76, AS AMENDED BY P.L.65-2016,
 38 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2019]: Sec. 76. "Crime involving domestic or family violence"
 40 means a crime that occurs when a family or household member
 41 commits, attempts to commit, or conspires to commit any of the
 42 following against another family or household member:



- 1 (1) A homicide offense under IC 35-42-1.
- 2 (2) A battery offense under IC 35-42-2.
- 3 (3) Kidnapping or confinement under IC 35-42-3.
- 4 (4) Human and sexual trafficking crimes under IC 35-42-3.5.
- 5 (5) A sex offense under IC 35-42-4.
- 6 (6) Robbery under IC 35-42-5.
- 7 (7) Arson or mischief under IC 35-43-1.
- 8 (8) Burglary or trespass under IC 35-43-2.
- 9 (9) Disorderly conduct under IC 35-45-1.
- 10 (10) Intimidation ~~or harassment~~ under IC 35-45-2.
- 11 (11) Voyeurism under IC 35-45-4.
- 12 (12) Stalking ~~or criminal harassment~~ under IC 35-45-10.
- 13 (13) An offense against family under IC 35-46-1-2 through
- 14 IC 35-46-1-8, IC 35-46-1-12, IC 35-46-1-15.1, or
- 15 IC 35-46-1-15.3.
- 16 (14) A crime involving animal cruelty and a family or household
- 17 member under IC 35-46-3-12(b)(2) or IC 35-46-3-12.5.

18 SECTION 9. IC 35-40-5-3, AS AMENDED BY P.L.65-2016,
 19 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2019]: Sec. 3. (a) This section applies if either of the
 21 following has occurred:

- 22 (1) The alleged felony or delinquent act that would have been a
- 23 felony if committed by an adult was directly perpetrated against
- 24 the victim.
- 25 (2) The alleged felony, misdemeanor, or delinquent act that would
- 26 have been a felony or misdemeanor if committed by an adult was:
- 27 (A) a violation of IC 35-42-2 (offenses against the person),
- 28 IC 35-45-2-1 (intimidation), ~~IC 35-45-2-2 (harassment);~~
- 29 **IC 35-45-10-7 (criminal harassment)**, IC 35-46-1-15.1
- 30 (invasion of privacy), IC 35-46-1-15.3, or IC 35-47-4-3
- 31 (pointing a firearm); and
- 32 (B) directly perpetrated against the victim by a person who:
- 33 (i) is or was a spouse of the victim;
- 34 (ii) is or was living as if a spouse of the victim; or
- 35 (iii) has a child in common with the victim.
- 36 (3) The alleged misdemeanor or delinquent act that would have
- 37 been a misdemeanor if committed by an adult, other than a
- 38 misdemeanor described in subdivision (2), was directly
- 39 perpetrated against the victim, and the victim has complied with
- 40 the notice requirements under IC 35-40-10.
- 41 (b) A victim has the right to confer with a representative of the
- 42 prosecuting attorney's office:



- 1 (1) after a crime allegedly committed against the victim has been
 2 charged;
 3 (2) before the trial of a crime allegedly committed against the
 4 victim; and
 5 (3) before any disposition of a criminal case involving the victim.
 6 This right does not include the authority to direct the prosecution of a
 7 criminal case involving the victim.
 8 SECTION 10. IC 35-42-4-4, AS AMENDED BY P.L.132-2017,
 9 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2019]: Sec. 4. (a) The following definitions apply throughout
 11 this section:
 12 (1) "Disseminate" means to transfer possession for free or for a
 13 consideration.
 14 (2) "Matter" has the same meaning as in IC 35-49-1-3.
 15 (3) "Performance" has the same meaning as in IC 35-49-1-7.
 16 (4) "Sexual conduct" means:
 17 (A) sexual intercourse;
 18 (B) other sexual conduct (as defined in IC 35-31.5-2-221.5);
 19 (C) exhibition of the:
 20 (i) uncovered genitals; or
 21 (ii) female breast with less than a fully opaque covering of
 22 any part of the nipple;
 23 intended to satisfy or arouse the sexual desires of any person;
 24 (D) sadomasochistic abuse;
 25 (E) sexual intercourse or other sexual conduct (as defined in
 26 IC 35-31.5-2-221.5) with an animal; or
 27 (F) any fondling or touching of a child by another person or of
 28 another person by a child intended to arouse or satisfy the
 29 sexual desires of either the child or the other person.
 30 (b) A person who:
 31 (1) knowingly or intentionally manages, produces, sponsors,
 32 presents, exhibits, photographs, films, videotapes, or creates a
 33 digitized image of any performance or incident that includes
 34 sexual conduct by a child under eighteen (18) years of age;
 35 (2) knowingly or intentionally disseminates, exhibits to another
 36 person, offers to disseminate or exhibit to another person, or
 37 sends or brings into Indiana for dissemination or exhibition matter
 38 that depicts or describes sexual conduct by a child under eighteen
 39 (18) years of age;
 40 (3) knowingly or intentionally makes available to another person
 41 a computer, knowing that the computer's fixed drive or peripheral
 42 device contains matter that depicts or describes sexual conduct by



- 1 a child less than eighteen (18) years of age; or
 2 (4) with the intent to satisfy or arouse the sexual desires of any
 3 person:
 4 (A) knowingly or intentionally:
 5 (i) manages;
 6 (ii) produces;
 7 (iii) sponsors;
 8 (iv) presents;
 9 (v) exhibits;
 10 (vi) photographs;
 11 (vii) films;
 12 (viii) videotapes; or
 13 (ix) creates a digitized image of;
 14 any performance or incident that includes the uncovered
 15 genitals of a child less than eighteen (18) years of age or the
 16 exhibition of the female breast with less than a fully opaque
 17 covering of any part of the nipple by a child less than eighteen
 18 (18) years of age;
 19 (B) knowingly or intentionally:
 20 (i) disseminates to another person;
 21 (ii) exhibits to another person;
 22 (iii) offers to disseminate or exhibit to another person; or
 23 (iv) sends or brings into Indiana for dissemination or
 24 exhibition;
 25 matter that depicts the uncovered genitals of a child less than
 26 eighteen (18) years of age or the exhibition of the female
 27 breast with less than a fully opaque covering of any part of the
 28 nipple by a child less than eighteen (18) years of age; or
 29 (C) makes available to another person a computer, knowing
 30 that the computer's fixed drive or peripheral device contains
 31 matter that depicts the uncovered genitals of a child less than
 32 eighteen (18) years of age or the exhibition of the female
 33 breast with less than a fully opaque covering of any part of the
 34 nipple by a child less than eighteen (18) years of age;
 35 commits child exploitation, a Level 5 felony.
 36 (c) However, the offense of child exploitation described in
 37 subsection (b) is a Level 4 felony if:
 38 (1) the sexual conduct, matter, performance, or incident depicts
 39 or describes a child less than eighteen (18) years of age who:
 40 (A) engages in bestiality (as described in IC 35-46-3-14);
 41 (B) is mentally disabled or deficient;
 42 (C) participates in the sexual conduct, matter, performance, or



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



- 1 (D) physically or verbally resists participating in the sexual
- 2 conduct, matter, performance, or incident;
- 3 (E) receives a bodily injury while participating in the sexual
- 4 conduct, matter, performance, or incident; or
- 5 (F) is less than twelve (12) years of age; or
- 6 (2) the child whose sexual conduct is depicted or described in an
- 7 item described in subsection (d)(1) through (d)(9):
- 8 (A) engages in bestiality (as described in IC 35-46-3-14);
- 9 (B) is mentally disabled or deficient;
- 10 (C) participates in the sexual conduct, matter, performance, or
- 11 incident by use of force or the threat of force;
- 12 (D) physically or verbally resists participating in the sexual
- 13 conduct, matter, performance, or incident;
- 14 (E) receives a bodily injury while participating in the sexual
- 15 conduct, matter, performance, or incident; or
- 16 (F) is less than twelve (12) years of age.
- 17 (f) Subsections (b), (c), (d), and (e) do not apply to a bona fide
- 18 school, museum, or public library that qualifies for certain property tax
- 19 exemptions under IC 6-1.1-10, or to an employee of such a school,
- 20 museum, or public library acting within the scope of the employee's
- 21 employment when the possession of the listed materials is for
- 22 legitimate scientific or educational purposes.
- 23 (g) It is a defense to a prosecution under this section that:
- 24 (1) the person is a school employee; and
- 25 (2) the acts constituting the elements of the offense were
- 26 performed solely within the scope of the person's employment as
- 27 a school employee.
- 28 (h) Except as provided in subsection (i), it is a defense to a
- 29 prosecution under subsection (b), (c), (d), or (e) if all of the following
- 30 apply:
- 31 (1) A cellular telephone, another wireless or cellular
- 32 communications device, or a social networking web site was used
- 33 to possess, produce, or disseminate the image.
- 34 (2) The defendant is not more than four (4) years older or younger
- 35 than the person who is depicted in the image or who received the
- 36 image.
- 37 (3) The relationship between the defendant and the person who
- 38 received the image or who is depicted in the image was a dating
- 39 relationship or an ongoing personal relationship. For purposes of
- 40 this subdivision, the term "ongoing personal relationship" does
- 41 not include a family relationship.
- 42 (4) The crime was committed by a person less than twenty-two



- 1 (22) years of age.
2 (5) The person receiving the image or who is depicted in the
3 image acquiesced in the defendant's conduct.
4 (i) The defense to a prosecution described in subsection (h) does not
5 apply if:
6 (1) the person who receives the image disseminates it to a person
7 other than the person:
8 (A) who sent the image; or
9 (B) who is depicted in the image;
10 (2) the image is of a person other than the person who sent the
11 image or received the image; or
12 (3) the dissemination of the image violates:
13 (A) a protective order to prevent domestic or family violence
14 issued under IC 34-26-5 (or, if the order involved a family or
15 household member, under IC 34-26-2 or IC 34-4-5.1-5 before
16 their repeal);
17 (B) an ex parte protective order issued under IC 34-26-5 (or,
18 if the order involved a family or household member, an
19 emergency order issued under IC 34-26-2 or IC 34-4-5.1
20 before their repeal);
21 (C) a workplace violence restraining order issued under
22 IC 34-26-6;
23 (D) a no contact order in a dispositional decree issued under
24 IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or
25 IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an
26 order issued under IC 31-32-13 (or IC 31-6-7-14 before its
27 repeal) that orders the person to refrain from direct or indirect
28 contact with a child in need of services or a delinquent child;
29 (E) a no contact order issued as a condition of pretrial release,
30 including release on bail or personal recognizance, or pretrial
31 diversion, and including a no contact order issued under
32 IC 35-33-8-3.6;
33 (F) a no contact order issued as a condition of probation;
34 (G) a protective order to prevent domestic or family violence
35 issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2
36 before their repeal);
37 (H) a protective order to prevent domestic or family violence
38 issued under IC 31-14-16-1 in a paternity action;
39 (I) a no contact order issued under IC 31-34-25 in a child in
40 need of services proceeding or under IC 31-37-25 in a juvenile
41 delinquency proceeding;
42 (J) an order issued in another state that is substantially similar



- 1 to an order described in ~~clauses (A) through (F)~~; **this**
 2 **subdivision**;
 3 (K) an order that is substantially similar to an order described
 4 in ~~clauses (A) through (F)~~ **this subdivision** and is issued by an
 5 Indian:
 6 (i) tribe;
 7 (ii) band;
 8 (iii) pueblo;
 9 (iv) nation; or
 10 (v) organized group or community, including an Alaska
 11 Native village or regional or village corporation as defined
 12 in or established under the Alaska Native Claims Settlement
 13 Act (43 U.S.C. 1601 et seq.);
 14 that is recognized as eligible for the special programs and
 15 services provided by the United States to Indians because of
 16 their special status as Indians;
 17 (L) an order issued under IC 35-33-8-3.2; ~~or~~
 18 (M) an order issued under IC 35-38-1-30; ~~or~~
 19 **(N) a criminal harassment protection order issued under**
 20 **IC 34-26-7.**
 21 (j) It is a defense to a prosecution under this section that:
 22 (1) the person was less than eighteen (18) years of age at the time
 23 the alleged offense was committed; and
 24 (2) the circumstances described in IC 35-45-4-6(a)(2) through
 25 IC 35-45-4-6(a)(4) apply.
 26 (k) A person is entitled to present the defense described in
 27 subsection (j) in a pretrial hearing. If a person proves by a
 28 preponderance of the evidence in a pretrial hearing that the defense
 29 described in subsection (j) applies, the court shall dismiss the charges
 30 under this section with prejudice.
 31 SECTION 11. IC 35-45-2-2 IS REPEALED [EFFECTIVE JULY 1,
 32 2019]. ~~Sec. 2. (a) A person who, with intent to harass, annoy, or alarm~~
 33 ~~another person but with no intent of legitimate communication:~~
 34 ~~(1) makes a telephone call, whether or not a conversation ensues;~~
 35 ~~(2) communicates with a person by telegraph, mail, or other form~~
 36 ~~of written communication;~~
 37 ~~(3) transmits an obscene message, or indecent or profane words,~~
 38 ~~on a Citizens Radio Service channel; or~~
 39 ~~(4) uses a computer network (as defined in IC 35-43-2-3(a)) or~~
 40 ~~other form of electronic communication to:~~
 41 ~~(A) communicate with a person; or~~
 42 ~~(B) transmit an obscene message or indecent or profane words~~



- 1 to a person;
 2 commits harassment, a Class B misdemeanor.
 3 (b) A message is obscene if:
 4 (1) the average person, applying contemporary community
 5 standards, finds that the dominant theme of the message, taken as
 6 a whole, appeals to the prurient interest in sex;
 7 (2) the message refers to sexual conduct in a patently offensive
 8 way; and
 9 (3) the message, taken as a whole, lacks serious artistic, literary,
 10 political, or scientific value.

11 SECTION 12. IC 35-45-10-2 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. As used in this
 13 chapter, "harassment" or "**harass**" means conduct directed toward a
 14 victim that includes ~~but is not limited to repeated or continuing~~
 15 impermissible contact that would cause a reasonable person to suffer
 16 emotional distress and that actually causes the victim to suffer
 17 emotional distress. Harassment does not include statutorily or
 18 constitutionally protected activity, such as lawful picketing pursuant to
 19 labor disputes or lawful employer-related activities pursuant to labor
 20 disputes.

21 SECTION 13. IC 35-45-10-3 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. **(a)** As used in this
 23 chapter, "impermissible contact" includes ~~but is not limited to~~
 24 knowingly or intentionally following or pursuing the victim: **the**
 25 **following:**

- 26 **(1) Following or pursuing the victim.**
 27 **(2) Communicating with the victim in person, in writing, by**
 28 **telephone, by telegraph, or through electronic means.**
 29 **(3) Posting on social media, if the post:**
 30 **(A) is directed to the victim; or**
 31 **(B) refers to the victim, directly or indirectly.**
 32 **(b) The list in subsection (a) is nonexclusive.**

33 SECTION 14. IC 35-45-10-4 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. As used in this
 35 chapter, "victim" means a person who is the object **or target** of
 36 ~~stalking~~: **a crime under this chapter.**

37 SECTION 15. IC 35-45-10-7 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2019]: **Sec. 7. A person who, with the intent**
 40 **to cause emotional distress to an individual and with no intent of**
 41 **legitimate communication, knowingly or intentionally harasses that**
 42 **individual commits criminal harassment, a Class B misdemeanor.**



1 SECTION 16. IC 35-46-1-15.1, AS AMENDED BY P.L.87-2018,
 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2019]: Sec. 15.1. (a) A person who knowingly or intentionally
 4 violates:

5 (1) a protective order to prevent domestic or family violence
 6 issued under IC 34-26-5 (or, if the order involved a family or
 7 household member, under IC 34-26-2 or IC 34-4-5.1-5 before
 8 their repeal);

9 (2) an ex parte protective order issued under IC 34-26-5 (or, if the
 10 order involved a family or household member, an emergency
 11 order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);

12 (3) a workplace violence restraining order issued under
 13 IC 34-26-6;

14 (4) a no contact order in a dispositional decree issued under
 15 IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4
 16 or IC 31-6-4-15.9 before their repeal) or an order issued under
 17 IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the
 18 person to refrain from direct or indirect contact with a child in
 19 need of services or a delinquent child;

20 (5) a no contact order issued as a condition of pretrial release,
 21 including release on bail or personal recognizance, or pretrial
 22 diversion, and including a no contact order issued under
 23 IC 35-33-8-3.6;

24 (6) a no contact order issued as a condition of probation;

25 (7) a protective order to prevent domestic or family violence
 26 issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before
 27 their repeal);

28 (8) a protective order to prevent domestic or family violence
 29 issued under IC 31-14-16-1 in a paternity action;

30 (9) an order issued in another state that is substantially similar to
 31 an order described in ~~subdivisions (1) through (8)~~; **this**
 32 **subsection**;

33 (10) an order that is substantially similar to an order described in
 34 ~~subdivisions (1) through (8)~~ **this subsection** and is issued by an
 35 Indian:

36 (A) tribe;

37 (B) band;

38 (C) pueblo;

39 (D) nation; or

40 (E) organized group or community, including an Alaska
 41 Native village or regional or village corporation as defined in
 42 or established under the Alaska Native Claims Settlement Act



- 1 (43 U.S.C. 1601 et seq.);
 2 that is recognized as eligible for the special programs and services
 3 provided by the United States to Indians because of their special
 4 status as Indians;
 5 (11) an order issued under IC 35-33-8-3.2; **or**
 6 (12) an order issued under IC 35-38-1-30; **or**
 7 **(13) a criminal harassment protection order issued under**
 8 **IC 34-26-7;**
 9 commits invasion of privacy, a Class A misdemeanor. However, the
 10 offense is a Level 6 felony if the person has a prior unrelated
 11 conviction for an offense under this subsection.
 12 (b) It is not a defense to a prosecution under subsection (a) that the
 13 accused person used or operated an unmanned aerial vehicle in
 14 committing the violation.
 15 (c) A sex offender under IC 11-8-8-4.5 who:
 16 (1) establishes a new residence within a one (1) mile radius of the
 17 residence of the victim of the offender's sex offense;
 18 (2) intends to reside (as defined in IC 35-42-4-11(b)) at the
 19 residence; and
 20 (3) at the time the sex offender established the residence, knew or
 21 reasonably should have known that the residence was located
 22 within a one (1) mile radius of the residence of the victim of the
 23 offender's sex offense;
 24 commits invasion of privacy, a Class A misdemeanor. However, the
 25 offense is a Level 6 felony if the sex offender has a prior unrelated
 26 conviction under this subsection.
 27 (d) The victim of the sex offender's sex offense may not be
 28 prosecuted under subsection (c) if the victim's liability is based on
 29 aiding, inducing, or causing the offender to commit the offense
 30 described in subsection (c).
 31 (e) Subsection (c) does not apply to a sex offender who has obtained
 32 a waiver of residency under IC 35-38-2-2.5 or IC 35-38-1-33.
 33 SECTION 17. IC 35-49-3-4, AS AMENDED BY P.L.158-2013,
 34 SECTION 649, IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) It is a defense to a
 36 prosecution under section 3 of this chapter for the defendant to show:
 37 (1) that the matter was disseminated or that the performance was
 38 performed for legitimate scientific or educational purposes;
 39 (2) that the matter was disseminated or displayed to or that the
 40 performance was performed before the recipient by a bona fide
 41 school, museum, or public library that qualifies for certain
 42 property tax exemptions under IC 6-1.1-10, or by an employee of



- 1 such a school, museum, or public library acting within the scope
 2 of the employee's employment;
- 3 (3) that the defendant had reasonable cause to believe that the
 4 minor involved was eighteen (18) years of age or older and that
 5 the minor exhibited to the defendant a draft card, driver's license,
 6 birth certificate, or other official or apparently official document
 7 purporting to establish that the minor was eighteen (18) years of
 8 age or older; or
- 9 (4) that the defendant was a salesclerk, motion picture
 10 projectionist, usher, or ticket taker, acting within the scope of the
 11 defendant's employment and that the defendant had no financial
 12 interest in the place where the defendant was so employed.
- 13 (b) Except as provided in subsection (c), it is a defense to a
 14 prosecution under section 3 of this chapter if all the following apply:
- 15 (1) A cellular telephone, another wireless or cellular
 16 communications device, or a social networking web site was used
 17 to disseminate matter to a minor that is harmful to minors.
- 18 (2) The defendant is not more than four (4) years older or younger
 19 than the person who received the matter that is harmful to minors.
- 20 (3) The relationship between the defendant and the person who
 21 received the matter that is harmful to minors was a dating
 22 relationship or an ongoing personal relationship. For purposes of
 23 this subdivision, the term "ongoing personal relationship" does
 24 not include a family relationship.
- 25 (4) The crime was committed by a person less than twenty-two
 26 (22) years of age.
- 27 (5) The person receiving the matter expressly or implicitly
 28 acquiesced in the defendant's conduct.
- 29 (c) The defense to a prosecution described in subsection (b) does
 30 not apply if:
- 31 (1) the image is disseminated to a person other than the person:
 32 (A) who sent the image; or
 33 (B) who is depicted in the image; or
- 34 (2) the dissemination of the image violates:
 35 (A) a protective order to prevent domestic or family violence
 36 issued under IC 34-26-5 (or, if the order involved a family or
 37 household member, under IC 34-26-2 or IC 34-4-5.1-5 before
 38 their repeal);
 39 (B) an ex parte protective order issued under IC 34-26-5 (or,
 40 if the order involved a family or household member, an
 41 emergency order issued under IC 34-26-2 or IC 34-4-5.1
 42 before their repeal);



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



1 SECTION 18. [EFFECTIVE UPON PASSAGE] (a) As used in this
 2 SECTION, "legislative council" refers to the legislative council
 3 created by IC 2-5-1.1-1.

4 (b) The legislative council is urged to assign to the appropriate
 5 interim study committee during the 2019 legislative interim the
 6 topic of bullying and bullying prevention. If the topic of bullying
 7 and bullying prevention is assigned to an interim study committee
 8 during the 2019 legislative interim, the interim study committee
 9 shall consider the following topics:

10 (1) Bullying prevention.

11 (2) Cyber bullying and social media bullying.

12 (3) The propriety of using criminal prosecution to prevent or
 13 stop bullying.

14 (4) The propriety of using civil orders of protection to prevent
 15 or stop bullying.

16 (5) Bullying in a school or educational environment.

17 (6) The role of schools and teachers in preventing or stopping
 18 bullying that occurs:

19 (A) off of school premises; or

20 (B) outside of school hours.

21 (7) The role of parents in preventing or stopping bullying.

22 (8) Any other topic relevant to the issue of bullying and
 23 bullying prevention.

24 (c) If the topics described in subsection (b) are assigned to an
 25 interim study committee, the interim study committee shall issue
 26 a final report to the legislative council containing the interim study
 27 committee's findings and recommendations, including any
 28 recommended legislation, in an electronic format under IC 5-14-6,
 29 not later than November 1, 2019.

30 (d) This SECTION expires December 31, 2019.

31 SECTION 19. An emergency is declared for this act.



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.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1607 be amended to read as follows:

Page 2, line 9, delete "bullying)" and insert "**harassment (as set forth under IC 35-45-2-2))**".

Page 2, delete lines 17 through 27, begin a new paragraph and insert:

"SECTION 2. IC 34-26-5-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 0.5. As used in this chapter, "harassment" refers to harassment under IC 35-45-2-2.**"

Page 2, line 32, delete "or bullying" and insert "**or harassment**".

Page 2, line 36, delete "bullying" and insert "**harassment**".

Page 2, line 39, delete "bullying" and insert "**harassment**".

Page 2, line 42, after "violence;" reset in roman "or".

Page 3, line 3, delete ";" and insert ".".

Page 3, line 3, delete "or".

Page 3, delete line 4.

Page 3, line 8, after "child;" reset in roman "or".

Page 3, line 11, delete ";" and insert ".".

Page 3, line 11, delete "or".

Page 3, delete line 12.

Page 3, line 32, delete "bullying" and insert "**harassment**".

Page 3, line 35, delete "bullying" and insert "**harassment**".

Page 3, line 42, delete "bullying" and insert "**harassment**".

Page 4, line 10, delete "bullying" and insert "**harassment**".

Page 5, line 18, delete "bullying" and insert "**harassment**".



Page 6, line 17, delete "or bullying" and insert "**or harassment**".

Page 6, line 21, delete "bullying" and insert "**harassment**".

Page 7, line 12, delete "bullying" and insert "**harassment**".

Page 7, line 21, delete "harassment, or domestic or family violence, or bullying" and insert "harassment or domestic or family violence".

Page 7, line 28, delete "harassment, or domestic or family violence, or bullying" and insert "harassment or domestic or family violence".

Page 7, delete lines 31 through 34, begin a new paragraph and insert:

"SECTION 9. IC 35-31.5-2-150, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 150. **(a)** "Harassment", for purposes of IC 35-45-10, has the meaning set forth in IC 35-45-10-2.

(b) "Harassment", for purposes of IC 35-46-1-15.1, refers to harassment under IC 35-45-2-2."

Page 11, line 41, delete "bullying" and insert "**harassment**".

Page 13, line 17, delete "bullying" and insert "**harassment**".

Page 16, line 1, delete "bullying" and insert "**harassment**".

Page 17, after line 3, begin a new paragraph and insert:

"SECTION 13. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "legislative council" refers to the legislative council created by IC 2-5-1.1-1.**

(b) The legislative council is urged to assign to the appropriate interim study committee during the 2019 legislative interim the topic of bullying and bullying prevention. If the topic of bullying and bullying prevention is assigned to an interim study committee during the 2019 legislative interim, the interim study committee shall consider the following topics:

(1) Bullying prevention.

(2) Cyber bullying and social media bullying.

(3) The propriety of using criminal prosecution to prevent or stop bullying.

(4) The propriety of using civil orders of protection to prevent or stop bullying.

(5) Bullying in a school or educational environment.

(6) The role of schools and teachers in preventing or stopping bullying that occurs:

(A) off of school premises; or

(B) outside of school hours.

(7) The role of parents in preventing or stopping bullying.

(8) Any other topic relevant to the issue of bullying and bullying prevention.



(c) If the topics described in subsection (b) are assigned to an interim study committee, the interim study committee shall issue a final report to the legislative council containing the interim study committee's findings and recommendations, including any recommended legislation, in an electronic format under IC 5-14-6, not later than November 1, 2019.

(d) This SECTION expires December 31, 2019.

SECTION 14. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 1607 as printed February 18, 2019.)

HATFIELD

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred House Bill No. 1607, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:
 "SECTION 1. IC 33-23-5-5, AS AMENDED BY P.L.173-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. A magistrate may do any of the following:

- (1) Administer an oath or affirmation required by law.
- (2) Solemnize a marriage.
- (3) Take and certify an affidavit or deposition.
- (4) Order that a subpoena be issued in a matter pending before the court.
- (5) Compel the attendance of a witness.
- (6) Punish contempt.
- (7) Issue a warrant.
- (8) Set bail.
- (9) Enforce court rules.
- (10) Conduct a preliminary, an initial, an omnibus, or other pretrial hearing.
- (11) Conduct an evidentiary hearing or trial.
- (12) Receive a jury's verdict.
- (13) Verify a certificate for the authentication of records of a proceeding conducted by the magistrate.

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(14) Enter a final order, conduct a sentencing hearing, and impose a sentence on a person convicted of a criminal offense as described in section 9 of this chapter.

(15) Enter a final order or judgment in any proceeding involving matters specified in IC 33-29-2-4 (jurisdiction of small claims docket), ~~or~~ IC 34-26-5 (protective orders to prevent domestic or family violence), **or IC 34-26-7 (harassment protection order)**.

(16) Approve and accept criminal plea agreements.

(17) Approve agreed settlements concerning civil matters.

(18) Approve:

(A) decrees of dissolution;

(B) settlement agreements; and

(C) any other agreements;

of the parties in domestic relations actions or paternity actions."

Delete pages 2 through 6.

Page 7, delete lines 1 through 30, begin a new paragraph and insert:

"SECTION 2. IC 34-26-5-18, AS AMENDED BY P.L.1-2010, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 18. The following orders are required to be entered into the Indiana data and communication system (IDACS) by a county sheriff or local law enforcement agency:

(1) A no contact order issued under IC 31-32-13 in a juvenile case.

(2) A no contact order issued under IC 31-34-20 in a child in need of services (CHINS) case.

(3) A no contact order issued under IC 31-34-25 in a CHINS case.

(4) A no contact order issued under IC 31-37-19 in a delinquency case.

(5) A no contact order issued under IC 31-37-25 in a delinquency case.

(6) A no contact order issued under IC 33-39-1-8 in a criminal case.

(7) An order for protection issued under this chapter.

(8) A workplace violence restraining order issued under IC 34-26-6.

(9) A no contact order issued under IC 35-33-8-3.2 in a criminal case.

(10) A no contact order issued under IC 35-38-2-2.3 in a criminal case.

(11) A child protective order issued under IC 31-34-2.3.

(12) A foreign protective order registered under section 17 of this chapter.



(13) A harassment protection order issued under IC 34-26-7.
SECTION 3. IC 34-26-7 IS ADDED TO THE INDIANA CODE AS
A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
1, 2019]: **Chapter 7. Harassment Protection Orders**

Sec. 1. As used in this chapter, "harassment" has the meaning set forth in IC 35-45-10-2.

Sec. 2. (a) An person who has been subjected to harassment may file a petition for a harassment protection order to prohibit further harassment.

(b) A parent, a guardian, or another representative of a child may file a petition for a harassment protection order on behalf of the child to prohibit further harassment of the child.

(c) A petition for a harassment protection order may be filed in the county where:

- (1)** the petitioner currently or temporarily resides;
- (2)** the petitioner is employed;
- (3)** the respondent resides; or
- (4)** any act of harassment occurred.

Sec. 3. A court shall hold a hearing not more than fifteen (15) days after a petition for a harassment protection order is filed. The respondent may file a cross-complaint or a responsive pleading that denies, explains, excuses, or justifies the conduct alleged to constitute harassment. The court:

- (1)** shall receive testimony; and
- (2)** may make independent inquiry.

If the court finds by clear and convincing evidence that the respondent harassed the petitioner, the court shall issue a harassment protection order prohibiting further harassment.

Sec. 4. (a) Except as provided in subsection (b), a harassment protection order issued under this chapter remains in effect for not more than one (1) year.

(b) If a court issues a second or subsequent harassment protection order on behalf of the same petitioner against the same harasser, the second or subsequent harassment protection order remains in effect for not more than three (3) years.

Sec. 5. A respondent shall be personally served with:

- (1)** a copy of the petition; and
- (2)** notice of the hearing;

not less than five (5) days before the hearing.

Sec. 6. The court shall order a petitioner or the attorney for a petitioner to deliver a copy of each:

- (1)** harassment protection order;



(2) modification of a harassment protection order; and
 (3) termination of a harassment protection order;
 to a law enforcement agency that is requested by the petitioner and approved by the court. The copies must be delivered by the close of the business day on which the order is granted. Each law enforcement agency shall make information on the existence and status of a harassment protection order available to a responding law enforcement officer, as appropriate.

Sec. 7. A violation of a harassment protection order issued under this chapter may constitute a criminal offense under IC 35-46-1-15.1.

Sec. 8. (a) The office of judicial administration shall develop forms, instructions, and rules for the scheduling of hearings and other procedures under this chapter. A party to an action under this chapter must use the forms developed by the office of judicial administration.

(b) A harassment protection order must be issued on forms adopted and approved by the office of judicial administration and must be consistent with IC 34-26-5-3. However, a harassment protection order issued is not rendered unenforceable solely because it is not issued on forms adopted and approved by the office of judicial administration.

(c) Information in a harassment protection order shall be transmitted to the Indiana data and communication system (IDACS) as required under IC 34-26-5-18.

Sec. 9. A filing fee may not be charged for filing a:

- (1) petition for a harassment protection order; or
- (2) responsive pleading described under section 3 of this chapter."

Page 11, line 37, delete "or harassment".

Page 12, line 24, strike "clauses (A) through (I);" and insert "**this subdivision;**".

Page 12, line 26, strike "clauses (A) through (I)" and insert "**this subdivision**".

Page 12, line 38, strike "or".

Page 12, line 39, delete "IC 35-38-1-30." and insert "IC 35-38-1-30;
 or

(N) a harassment protection order issued under IC 34-26-7."

Page 13, line 12, after "violence" delete "or".

Page 13, line 13, delete "harassment".

Page 13, line 38, strike "subdivisions (1) through (8);" and insert



"this subsection;".

Page 13, line 40, strike "subdivisions (1) through (8)" and insert **"this subsection"**.

Page 14, line 10, strike "or".

Page 14, line 11, after "IC 35-38-1-30;" insert **"or**

(13) a harassment protection order issued under IC 34-26-7;".

Page 14, delete lines 36 through 42, begin a new paragraph and insert:

"SECTION 6. IC 35-49-3-4, AS AMENDED BY P.L.158-2013, SECTION 649, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) It is a defense to a prosecution under section 3 of this chapter for the defendant to show:

(1) that the matter was disseminated or that the performance was performed for legitimate scientific or educational purposes;

(2) that the matter was disseminated or displayed to or that the performance was performed before the recipient by a bona fide school, museum, or public library that qualifies for certain property tax exemptions under IC 6-1.1-10, or by an employee of such a school, museum, or public library acting within the scope of the employee's employment;

(3) that the defendant had reasonable cause to believe that the minor involved was eighteen (18) years of age or older and that the minor exhibited to the defendant a draft card, driver's license, birth certificate, or other official or apparently official document purporting to establish that the minor was eighteen (18) years of age or older; or

(4) that the defendant was a salesclerk, motion picture projectionist, usher, or ticket taker, acting within the scope of the defendant's employment and that the defendant had no financial interest in the place where the defendant was so employed.

(b) Except as provided in subsection (c), it is a defense to a prosecution under section 3 of this chapter if all the following apply:

(1) A cellular telephone, another wireless or cellular communications device, or a social networking web site was used to disseminate matter to a minor that is harmful to minors.

(2) The defendant is not more than four (4) years older or younger than the person who received the matter that is harmful to minors.

(3) The relationship between the defendant and the person who received the matter that is harmful to minors was a dating relationship or an ongoing personal relationship. For purposes of this subdivision, the term "ongoing personal relationship" does not include a family relationship.



- (4) The crime was committed by a person less than twenty-two (22) years of age.
- (5) The person receiving the matter expressly or implicitly acquiesced in the defendant's conduct.
- (c) The defense to a prosecution described in subsection (b) does not apply if:
- (1) the image is disseminated to a person other than the person:
 - (A) who sent the image; or
 - (B) who is depicted in the image; or
 - (2) the dissemination of the image violates:
 - (A) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal);
 - (B) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);
 - (C) a workplace violence restraining order issued under IC 34-26-6;
 - (D) a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;
 - (E) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion, and including a no contact order issued under IC 35-33-8-3.6;
 - (F) a no contact order issued as a condition of probation;
 - (G) a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);
 - (H) a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;
 - (I) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;
 - (J) an order issued in another state that is substantially similar to an order described in ~~clauses (A) through (I)~~; **this subdivision;**



(K) an order that is substantially similar to an order described in ~~clauses (A) through (I)~~ **this subdivision** and is issued by an Indian:

- (i) tribe;
- (ii) band;
- (iii) pueblo;
- (iv) nation; or
- (v) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;

(L) an order issued under IC 35-33-8-3.2; ~~or~~

(M) an order issued under IC 35-38-1-30; ~~or~~

(N) a harassment protection order issued under IC 34-26-7."

Delete page 15.

Page 16, delete lines 1 through 41.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1607 as reprinted February 21, 2019.)

YOUNG M, Chairperson

Committee Vote: Yeas 7, Nays 1.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1607 be amended to read as follows:

Page 2, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 2. IC 33-23-5-8, AS AMENDED BY P.L.161-2018, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. ~~Except as provided under sections 5(14) and 9(b) of this chapter,~~ A magistrate does not have the power of judicial mandate.

SECTION 3. IC 33-23-5-9, AS AMENDED BY P.L.173-2015, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2019]: Sec. 9. (a) Except as provided under subsection (b), a magistrate shall report findings in an evidentiary hearing, a trial, or a jury's verdict to the court. The court shall enter the final order.

(b) (a) If a magistrate presides at a criminal trial or a guilty plea hearing, the magistrate may do the following:

- (1) Enter a final order.
- (2) Conduct a sentencing hearing.
- (3) Impose a sentence on a person convicted of a criminal offense.

(c) (b) This subsection does not apply to a consolidated city. Unless the defendant consents, a magistrate who did not preside at the criminal trial may not preside at the sentencing hearing. However, this subsection does not prohibit a magistrate from presiding at a sentencing hearing if there was no trial."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1607 as printed March 20, 2019.)

HEAD

SENATE MOTION

Madam President: I move that Engrossed House Bill 1607 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-33-9-1.5, AS ADDED BY P.L.72-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1.5. As used in this chapter, "harassment" refers to **criminal** harassment under ~~IC 35-45-2-2~~. **IC 35-45-10-7**.

SECTION 2. IC 31-9-2-29.5, AS AMENDED BY P.L.65-2016, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 29.5. "Crime involving domestic or family violence" means a crime that occurs when a family or household member commits, attempts to commit, or conspires to commit any of the following against another family or household member:

- (1) A homicide offense under IC 35-42-1.
- (2) A battery offense under IC 35-42-2.
- (3) Kidnapping or confinement under IC 35-42-3.
- (4) A sex offense under IC 35-42-4.
- (5) Robbery under IC 35-42-5.
- (6) Arson or mischief under IC 35-43-1.

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- (7) Burglary or trespass under IC 35-43-2.
- (8) Disorderly conduct under IC 35-45-1.
- (9) Intimidation ~~or harassment~~ under IC 35-45-2.
- (10) Voyeurism under IC 35-45-4.
- (11) Stalking **or criminal harassment** under IC 35-45-10.
- (12) An offense against the family under IC 35-46-1-2 through IC 35-46-1-8, IC 35-46-1-12, IC 35-46-1-15.1, or IC 35-46-1-15.3.
- (13) Human and sexual trafficking crimes under IC 35-42-3.5.
- (14) A crime involving animal cruelty and a family or household member under IC 35-46-3-12(b)(2) or IC 35-46-3-12.5."

Page 2, line 9, delete "(harassment" and insert "**(criminal harassment"**".

Page 2, delete lines 17 through 42.

Delete page 3, begin a new paragraph and insert:

"SECTION 4. IC 34-6-2-34.5, AS AMENDED BY P.L.171-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 34.5. "Domestic or family violence" means, except for an act of self-defense, the occurrence of at least one (1) of the following acts committed by a family or household member:

- (1) Attempting to cause, threatening to cause, or causing physical harm to another family or household member.
- (2) Placing a family or household member in fear of physical harm.
- (3) Causing a family or household member to involuntarily engage in sexual activity by force, threat of force, or duress.
- (4) Beating (as described in IC 35-46-3-0.5(2)), torturing (as described in IC 35-46-3-0.5(5)), mutilating (as described in IC 35-46-3-0.5(3)), or killing a vertebrate animal without justification with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member.

For purposes of IC 34-26-5, domestic and family violence also includes stalking (as defined in ~~IC 35-45-10-1~~ **IC 35-45-10-5**) or a sex offense under IC 35-42-4, whether or not the stalking or sex offense is committed by a family or household member.

SECTION 5. IC 34-26-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 7. Criminal Harassment Protection Orders

Sec. 1. The following definitions apply throughout this chapter:

- (1) "Criminal harassment" has the meaning set forth in IC 35-45-10-7.



(2) "Stalking" has the meaning set forth in IC 35-45-10-5.

Sec. 2. (a) A person who has been subjected to criminal harassment may file a petition for a criminal harassment protection order to prohibit further criminal harassment. A person who has been subjected to stalking may file a petition for a civil protection order under IC 34-26-5, even if the stalking is not committed by a family or household member.

(b) A parent, a guardian, or another representative of a child may file a petition for a criminal harassment protection order on behalf of the child to prohibit further criminal harassment of the child.

(c) A petition for a criminal harassment protection order may be filed in the county where:

- (1) the petitioner currently or temporarily resides;
- (2) the petitioner is employed;
- (3) the respondent resides; or
- (4) any act of criminal harassment occurred.

Sec. 3. A court shall hold a hearing not more than thirty (30) days after a petition for a criminal harassment protection order is filed. The respondent may file a cross-complaint or a responsive pleading that denies, explains, excuses, or justifies the conduct alleged to constitute criminal harassment. The court:

- (1) shall receive testimony; and
- (2) may make independent inquiry.

If the court finds by clear and convincing evidence that the respondent criminally harassed the petitioner, the court shall issue a criminal harassment protection order prohibiting further criminal harassment.

Sec. 4. A criminal harassment protection order issued under this chapter remains in effect for not more than one (1) year.

Sec. 5. A respondent shall be personally served with:

- (1) a copy of the petition; and
- (2) notice of the hearing;

not less than five (5) days before the hearing.

Sec. 6. The court shall order a petitioner or the attorney for a petitioner to deliver a copy of each:

- (1) criminal harassment protection order;
- (2) modification of a criminal harassment protection order;
- and
- (3) termination of a criminal harassment protection order;

to a law enforcement agency that is requested by the petitioner and approved by the court. The copies must be delivered by the close



of the business day on which the order is granted. Each law enforcement agency shall make information on the existence and status of a criminal harassment protection order available to a responding law enforcement officer, as appropriate.

Sec. 7. A violation of a criminal harassment protection order issued under this chapter may constitute a criminal offense under IC 35-46-1-15.1.

Sec. 8. (a) The office of judicial administration shall develop forms, instructions, and rules for the scheduling of hearings and other procedures under this chapter. A party to an action under this chapter must use the forms developed by the office of judicial administration.

(b) A criminal harassment protection order must be issued on forms adopted and approved by the office of judicial administration and must be consistent with IC 34-26-5-3. However, a criminal harassment protection order issued is not rendered unenforceable solely because it is not issued on forms adopted and approved by the office of judicial administration.

Sec. 9. A filing fee may not be charged for filing a:

- (1)** petition for a criminal harassment protection order; or
- (2)** responsive pleading described under section 3 of this chapter.

SECTION 6. IC 35-31.5-2-76, AS AMENDED BY P.L.65-2016, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 76. "Crime involving domestic or family violence" means a crime that occurs when a family or household member commits, attempts to commit, or conspires to commit any of the following against another family or household member:

- (1) A homicide offense under IC 35-42-1.
- (2) A battery offense under IC 35-42-2.
- (3) Kidnapping or confinement under IC 35-42-3.
- (4) Human and sexual trafficking crimes under IC 35-42-3.5.
- (5) A sex offense under IC 35-42-4.
- (6) Robbery under IC 35-42-5.
- (7) Arson or mischief under IC 35-43-1.
- (8) Burglary or trespass under IC 35-43-2.
- (9) Disorderly conduct under IC 35-45-1.
- (10) Intimidation ~~or harassment~~ under IC 35-45-2.
- (11) Voyeurism under IC 35-45-4.
- (12) Stalking ~~or criminal harassment~~ under IC 35-45-10.
- (13) An offense against family under IC 35-46-1-2 through IC 35-46-1-8, IC 35-46-1-12, IC 35-46-1-15.1, or



IC 35-46-1-15.3.

(14) A crime involving animal cruelty and a family or household member under IC 35-46-3-12(b)(2) or IC 35-46-3-12.5.

SECTION 7. IC 35-40-5-3, AS AMENDED BY P.L.65-2016, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) This section applies if either of the following has occurred:

(1) The alleged felony or delinquent act that would have been a felony if committed by an adult was directly perpetrated against the victim.

(2) The alleged felony, misdemeanor, or delinquent act that would have been a felony or misdemeanor if committed by an adult was:

(A) a violation of IC 35-42-2 (offenses against the person), IC 35-45-2-1 (intimidation), ~~IC 35-45-2-2 (harassment);~~ **IC 35-45-10-7 (criminal harassment)**, IC 35-46-1-15.1 (invasion of privacy), IC 35-46-1-15.3, or IC 35-47-4-3 (pointing a firearm); and

(B) directly perpetrated against the victim by a person who:

- (i) is or was a spouse of the victim;
- (ii) is or was living as if a spouse of the victim; or
- (iii) has a child in common with the victim.

(3) The alleged misdemeanor or delinquent act that would have been a misdemeanor if committed by an adult, other than a misdemeanor described in subdivision (2), was directly perpetrated against the victim, and the victim has complied with the notice requirements under IC 35-40-10.

(b) A victim has the right to confer with a representative of the prosecuting attorney's office:

(1) after a crime allegedly committed against the victim has been charged;

(2) before the trial of a crime allegedly committed against the victim; and

(3) before any disposition of a criminal case involving the victim.

This right does not include the authority to direct the prosecution of a criminal case involving the victim."

Page 4, delete lines 1 through 29.

Page 9, line 41, after "a" insert "**criminal**".

Page 10, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 9. IC 35-45-2-2 IS REPEALED [EFFECTIVE JULY 1, 2019]. Sec. 2: (a) ~~A person who, with intent to harass, annoy, or alarm another person but with no intent of legitimate communication:~~

~~(1) makes a telephone call; whether or not a conversation ensues;~~



(2) communicates with a person by telegraph, mail, or other form of written communication;

(3) transmits an obscene message, or indecent or profane words, on a Citizens Radio Service channel; or

(4) uses a computer network (as defined in IC 35-43-2-3(a)) or other form of electronic communication to:

(A) communicate with a person; or

(B) transmit an obscene message or indecent or profane words to a person;

commits harassment; a Class B misdemeanor.

(b) A message is obscene if:

(1) the average person, applying contemporary community standards, finds that the dominant theme of the message, taken as a whole, appeals to the prurient interest in sex;

(2) the message refers to sexual conduct in a patently offensive way; and

(3) the message, taken as a whole, lacks serious artistic, literary, political, or scientific value.

SECTION 10. IC 35-45-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. As used in this chapter, "harassment" or "**harass**" means conduct directed toward a victim that includes **but is not limited to repeated or continuing** impermissible contact that would cause a reasonable person to suffer emotional distress and that actually causes the victim to suffer emotional distress. Harassment does not include statutorily or constitutionally protected activity, such as lawful picketing pursuant to labor disputes or lawful employer-related activities pursuant to labor disputes.

SECTION 11. IC 35-45-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. **(a)** As used in this chapter, "impermissible contact" includes **but is not limited to knowingly or intentionally following or pursuing the victim: the following:**

(1) Following or pursuing the victim.

(2) Communicating with the victim in person, in writing, by telephone, by telegraph, or through electronic means.

(3) Posting on social media, if the post:

(A) is directed to the victim; or

(B) refers to the victim, directly or indirectly.

(b) The list in subsection (a) is nonexclusive.

SECTION 12. IC 35-45-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. As used in this



chapter, "victim" means a person who is the object **or target** of ~~stalking~~ **a crime under this chapter.**

SECTION 13. IC 35-45-10-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 7. A person who, with the intent to cause emotional distress to an individual and with no intent of legitimate communication, knowingly or intentionally harasses that individual commits criminal harassment, a Class B misdemeanor."**

Page 11, line 17, after "a" insert "**criminal**".

Page 14, line 8, after "a" insert "**criminal**".

Re-number all SECTIONS consecutively.

(Reference is to EHB 1607 as printed March 20, 2019.)

TALLIAN

SENATE MOTION

Madam President: I move that Engrossed House Bill 1607 be amended to read as follows:

Page 3, line 13, delete "(c) A" and insert "**(c) Except as provided in subsection (d), a**".

Page 3, between lines 18 and 19, begin a new paragraph and insert:

"(d) If a court has jurisdiction over an action that relates to the subject matter of the requested 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 a harassment protection order in that court."

Page 3, line 28, delete "harassment." and insert "**harassment, or, if the petitioner is a victim in a criminal case in which the respondent is a defendant, prohibiting contact between the petitioner and respondent."**

(Reference is to EHB 1607 as printed March 20, 2019.)

HEAD

