

SENATE BILL No. 22

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-6-2-148.5; IC 34-26-5-9.

Synopsis: GPS tracking. Specifies that "victim notification capabilities", with respect to a GPS tracking device, includes the ability of the device to notify a victim if the device comes within a specified distance of a receiver possessed by the victim. Authorizes a court, after notice and a hearing, to require the subject of a civil protection order to wear a GPS device with victim notification capabilities if it appears from the petition that domestic or family violence has occurred.

Effective: July 1, 2016.

Zakas

January 5, 2016, read first time and referred to Committee on Judiciary.



Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

SENATE BILL No. 22

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

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

- 1 SECTION 1. IC 34-6-2-148.5, AS ADDED BY P.L.116-2009,
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 148.5. "Victim notification capabilities" means,
4 with respect to a GPS tracking device, the ability of the device to do the
5 following:
6 (1) Immediately notify law enforcement or other supervisory
7 personnel if the device enters a forbidden area.
8 (2) Notify the victim in real time or near real time if the device
9 enters a forbidden area.
10 (3) Allow a law enforcement officer or other supervisory officer
11 to contact the offender immediately if the device enters a
12 forbidden area.
13 (4) Activate an alarm to warn others of the device's presence in a
14 forbidden area.
15 **(5) Notify the victim if the device comes within a specified**
16 **distance of a receiver possessed by the victim.**
17 SECTION 2. IC 34-26-5-9, AS AMENDED BY P.L.1-2010,



1 SECTION 135, IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2016]: Sec. 9. (a) If it appears from a petition
3 for an order for protection or from a petition to modify an order for
4 protection that domestic or family violence has occurred or that a
5 modification of an order for protection is required, a court may:

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

10 (b) A court may grant the following relief without notice and
11 hearing in an ex parte order for protection or in an ex parte order for
12 protection modification:

13 (1) Enjoin a respondent from threatening to commit or
14 committing acts of domestic or family violence against a
15 petitioner and each designated family or household member.

16 (2) Prohibit a respondent from harassing, annoying, telephoning,
17 contacting, or directly or indirectly communicating with a
18 petitioner.

19 (3) Remove and exclude a respondent from the residence of a
20 petitioner, regardless of ownership of the residence.

21 (4) Order a respondent to stay away from the residence, school, or
22 place of employment of a petitioner or a specified place
23 frequented by a petitioner and each designated family or
24 household member.

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

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

34 (B) supervise a petitioner's or respondent's removal of personal
35 belongings.

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

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

- 42 (1) Grant the relief under subsection (b).



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

3 (A) require supervision by a third party; or

4 (B) deny parenting time;

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

6 (3) Order a respondent to:

7 (A) pay attorney's fees;

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

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

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

14 (i) medical expenses;

15 (ii) counseling;

16 (iii) shelter; and

17 (iv) repair or replacement of damaged property;

18 (E) pay the costs and expenses incurred in connection with the
19 use of a GPS tracking device under subsection (i); or

20 (F) pay the costs and fees incurred by a petitioner in bringing
21 the action.

22 (4) Prohibit a respondent from using or possessing a firearm,
23 ammunition, or a deadly weapon specified by the court, and direct
24 the respondent to surrender to a specified law enforcement agency
25 the firearm, ammunition, or deadly weapon for the duration of the
26 order for protection unless another date is ordered by the court.

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

29 (d) The court shall:

30 (1) cause the order for protection to be delivered to the county
31 sheriff for service;

32 (2) make reasonable efforts to ensure that the order for protection
33 is understood by a petitioner and a respondent if present;

34 (3) electronically notify each law enforcement agency:

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

36 (B) designated by the petitioner;

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

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

41 (6) require the clerk of court to enter or provide a copy of the
42 order to the Indiana protective order registry established by



1 IC 5-2-9-5.5.

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

7 (f) A finding that domestic or family violence has occurred
8 sufficient to justify the issuance of an order under this section means
9 that a respondent represents a credible threat to the safety of a
10 petitioner or a member of a petitioner's household. Upon a showing of
11 domestic or family violence by a preponderance of the evidence, the
12 court shall grant relief necessary to bring about a cessation of the
13 violence or the threat of violence. The relief may include an order
14 directing a respondent to surrender to a law enforcement officer or
15 agency all firearms, ammunition, and deadly weapons:

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

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

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

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

28 (i) ~~Upon a finding of a violation of an order for protection;~~ The court
29 may

- 30 ~~(1)~~ require a respondent to wear a GPS tracking device and
31 ~~(2)~~ prohibit the respondent from approaching or entering certain
32 locations where the petitioner may be found:

- 33 **(1) after notice and a hearing, whether or not a respondent**
34 **appears, if it appears from a petition for an order for**
35 **protection or from a petition to modify an order for**
36 **protection that domestic or family violence has occurred; or**
37 **(2) without notice or hearing, if the court finds a violation of**
38 **an order for protection.**

39 If the court requires a respondent to wear a GPS tracking device under
40 ~~subdivision (1)~~ **this subsection**, the court shall, if available, require the
41 respondent to wear a GPS tracking device with victim notification
42 capabilities.



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

