
INDIANA LAWS RELATING TO THE RIGHTS OF CRIME VICTIMS AND VICTIM ASSISTANCE

Steve Stewart, Clark County Deputy Prosecuting Attorney July 1, 2024

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INDIANA LAWS RELATING TO THE RIGHTS OF CRIME VICTIMS

Indiana Constitution *Article 1. Bill of Rights* *Section 13(b)*

(b) Victims of crime, as defined by law, shall have the right to be treated with fairness, dignity, and respect throughout the criminal justice process; and, as defined by law, to be informed of and present during public hearings and to confer with the prosecution, to the extent that exercising these rights does not infringe upon the constitutional rights of the accused. (History: As Amended November 5, 1996).

Indiana Constitution *Article 16. Amendments* *Section 1*

(a) An amendment to this Constitution may be proposed in either branch of the General Assembly. If the amendment is agreed to by a majority of the members elected to each of the two houses, the proposed amendment shall, with the yeas and nays thereon, be entered on their journals, and referred to the General Assembly to be chosen at the next general election.

(b) If, in the General Assembly so next chosen, the proposed amendment is agreed to by a majority of all the members elected to each House, then the General Assembly shall submit the amendment to the electors of the State at the next general election.

(c) If a majority of the electors voting on the amendment ratify the amendment, the amendment becomes a part of this Constitution.

- ▶ Indiana Code 35-40 are the primary statutes which implement the Victim Rights Amendment to the Indiana Constitution, and it is the Prosecuting Attorney who has the foremost responsibility to insure that the rights of crime victims are protected and preserved.

INDIANA CODE 35-40 VICTIM RIGHTS

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IC 35-40-1-1 Intent to protect rights of victims

The legislature recognizes that many innocent persons suffer economic loss and personal injury or death as a result of criminal or delinquent acts. It is the intent of the general assembly to do the following:

(1) Enact laws that define, implement, preserve, and protect the rights guaranteed to victims by Article 1, Section 13 of the Constitution of the State of Indiana.

(2) Ensure that Article 1, Section 13 of the Constitution of the State of Indiana is fully and fairly implemented. *[As added by P.L.139-1999, SEC.1.]*

35-40-2-1 Standing of victims

A victim has standing to assert the rights established by this article. However, this article does not do any of the following:

(1) Provide grounds for a victim to challenge a charging decision or a conviction, obtain a stay of trial, or compel a new trial.

(2) Give rise to a claim for damages against the state of Indiana, a political subdivision, or any public official.

(3) Provide grounds for a person accused of or convicted of a crime or an act of delinquency to obtain any form of relief. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-3-1 Construction of article

This article shall be construed to preserve and protect the rights to which a victim is entitled without interfering with the rights of the accused to receive a fair trial or the duty of the prosecuting attorney to represent the people of Indiana. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-3-2 Victims confined by law enforcement

This article may not be construed to imply that a victim who is confined by the department of correction or by any local law enforcement agency has a right to be released to attend a hearing or that the department of correction or the local law enforcement agency has a duty to transport the confined victim to a hearing. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-3-3 Delinquent acts

In cases involving a delinquent act, a reference in this article to:

- (1) a criminal court shall be treated as a reference to the juvenile court; and
- (2) a criminal proceeding or an action related to a criminal proceeding shall be treated as a reference to the equivalent proceeding or action under IC 31.

[As added by P.L.139-1999, SEC.1.]

IC 35-40-4-1 Applicability of definitions

The definitions in this chapter apply throughout this article. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-4-2 "Accused"

"Accused" means that an indictment or information charging a person with a crime or a petition alleging that a child is a delinquent child has been filed. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-4-3 "Crime"

"Crime" includes a delinquent act. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-4-4 "Delinquent act"

"Delinquent act" has the meaning set forth in IC 31-37-1-2. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-4-5 "Postarrest release"

"Postarrest release" means the discharge on recognizance, bond, or other condition imposed under IC 31 or IC 35-33 of an accused person from confinement. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-4-6 "Postconviction release"

"Postconviction release" means parole, work release, home detention, or any other permanent, conditional, or temporary discharge from confinement of a person who is confined in:

- (1) the custody of:
 - (A) the department of correction; or
 - (B) a sheriff;
- (2) a county jail;
- (3) a secure mental health facility; or
- (4) a secure juvenile facility or shelter care facility. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-4-7 "Public court proceeding"

"Public court proceeding" means a hearing, an argument, or another matter scheduled by and

held before a trial court. The term does not include:

- (1) a deposition;
 - (2) a lineup;
 - (3) a grand jury proceeding; or
 - (4) any other procedure not held in the presence of a court having jurisdiction.
- [As added by P.L.139-1999, SEC.1.]*

IC 35-40-4-8 "Victim"

"Victim" means a person that has suffered harm as a result of a crime that was perpetrated directly against the person. The term does not include a person that has been charged with a crime arising out of the same occurrence. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-5-1 Right to fairness, dignity, and respect; right to freedom from harassment and intimidation

A victim has the right to be:

- (1) treated with fairness, dignity, and respect; and
 - (2) free from intimidation, harassment, and abuse;
- throughout the criminal justice process.

[As added by P.L.139-1999, SEC.1. Amended by P.L.169-2009, SEC.2.]

IC 35-40-5-2 Release or escape from custody of perpetrator

(a) A victim has the right to be informed, upon request, when a person who is:

- (1) accused of committing; or
- (2) convicted of committing;

a crime perpetrated directly against the victim is released from custody or has escaped.

(b) Whenever a person accused or convicted of committing a crime is released or escapes from the custody of a mental health treatment agency or a hospital that is not operated by a county sheriff or the department of correction, the court committing the accused or convicted person to the mental health treatment agency or hospital shall carry out this section to inform the victim of the release or escape. The mental health treatment agency or hospital shall provide the court with sufficient information about the release or escape to allow the court to carry out this section. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-5-3 Right to confer with prosecuting attorney's office

(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 35-46-1-15.1 (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.

(c) A child victim (as defined in section 11.5 of this chapter) has the right to confer with a representative of the prosecuting attorney's office before being deposed. The representative of the prosecuting attorney's office may not instruct the child victim to refuse to participate in the deposition.

[As added by P.L.139-1999, SEC.1. Amended by P.L.65-2016, SEC.30; P.L. 62-2020, SEC.6.]

IC 35-40-5-4 Consideration of victim's safety

A victim has the right to have the victim's safety considered in determining release from custody of a person accused of committing a crime against the victim. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-5-5 Right to be heard at sentencing or release

A victim has the right to be heard at any proceeding involving sentencing, a postconviction release decision, or a pre-conviction release decision under a forensic diversion program. *[As added by P.L.139-1999, SEC.1. Amended by P.L.85-2004, SEC.7.]*

IC 35-40-5-6 Presentence reports

(a) A victim has the right to make a written or oral statement for use in preparation of the presentence report.

(b) Notwithstanding IC 35-38-1-13, the victim has the right to read presentence reports relating to the crime committed against the victim, except those parts of the reports containing the following:

- (1) The source of confidential information.
- (2) Information about another victim.
- (3) Other information determined confidential or privileged by the judge in a proceeding.

The information given to the victim must afford the victim a fair opportunity to respond to the material included in the presentence report. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-5-7 Order of restitution

A victim has the right to pursue an order of restitution and other civil remedies against the person convicted of a crime against the victim. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-5-8 Right to information about criminal case or perpetrator

A victim has the right to information, upon request, about the disposition of the criminal case involving the victim or the conviction, sentence, and release of a person accused of committing a crime against the victim. *[As added by P.L. 139-1999, SEC. 1.]*

IC 35-40-5-8.5 Victim's right to an electronic transcript

(a) This section applies if:

- (1) a defendant has filed an appeal of the defendant's conviction; or
- (2) the state has filed an appeal in connection with criminal proceedings against a defendant.

(b) A:

- (1) victim or alleged victim; or
- (2) spouse or member of the immediate family (as defined in IC 27-14-1-17 (before its repeal) or IC 27-14.5-1-16) of the victim or alleged victim, if:

(A) the victim or alleged victim is deceased; and

(B) the spouse or the immediate family member is not a defendant in the criminal case; in a case described in subsection (a) is entitled, at no charge, to an electronic copy of the transcript prepared for appeal in the case described in subsection (a).

(c) The trial court clerk shall provide the victim or alleged victim (or spouse or immediate family member) with an electronic copy of the transcript as soon as practicable after the court reporter has filed the transcript with the clerk.

(d) The victim or alleged victim (or spouse or immediate family member) is not entitled to any confidential information that the court has excluded from public access under the Indiana rules of appellate procedure, the court administrative rules adopted by the supreme court, or any other statute or court rule. *[As added by P.L. 78-2018, SEC. 1. Amended by P.L. 226-2023, SEC. 32.]*

IC 35-40-5-9 Right to be informed of victim's rights

A victim has the right to be informed of the victim's constitutional and statutory rights. *[As added by P.L. 139-1999, SEC. 1.]*

IC 35-40-5-11 *[Repealed by P.L. 62-2020, SEC. 7.]*

IC 35-40-5-11.5 Deposition of child victims of sex crimes

(a) This section applies only to a criminal case involving a child less than sixteen (16) years of age who is the victim or alleged victim of a sex offense.

(b) The following definitions apply throughout this section:

- (1) "Accused" or "the accused" means a person charged with committing a sex offense against a child victim. The term does not include an attorney who represents the accused.
- (2) "Child victim" means a child less than sixteen (16) years of age who is the victim or alleged victim of a sex offense.
- (3) "Defendant" means a person charged with committing a sex offense against a child victim and an attorney who represents the defendant.
- (4) "Deposition" or "depose" means a deposition or taking a deposition pursuant to Indiana Trial Rule 30 or Indiana Trial Rule 31, or any other formal or informal statement or interview.

(5) "Sex offense" has the meaning set forth in IC 11-8-8-5.2.

(c) A defendant may depose a child victim only in accordance with this section.

(d) A defendant may not take the deposition of a child victim unless the defendant contacts the prosecuting attorney before contacting the child, and one (1) or more of the following apply:

(1) The prosecuting attorney agrees to the deposition. The prosecuting attorney may condition the prosecuting attorney's agreement to the deposition upon the defendant's acceptance of the manner in which the deposition shall be conducted.

(2) The court authorizes the deposition after finding, following a hearing under subsection (f), that there is a reasonable likelihood that the child victim will be unavailable for trial and the deposition is necessary to preserve the child victim's testimony.

(3) The court authorizes the deposition after finding, following a hearing under subsection (g), that the deposition is necessary:

(A) due to the existence of extraordinary circumstances; and

(B) in the interest of justice.

(e) If the prosecuting attorney does not agree to the deposition, the defendant may petition the court for authorization to depose the child victim under subsection (d)(2), (d)(3), or both subsection (d)(2) and (d)(3). Upon receipt of the petition, the court shall notify the prosecuting attorney and set a hearing to determine whether to authorize a deposition of the child victim, and, if applicable, to determine the manner in which the deposition shall be conducted.

(f) The court shall authorize the deposition of a child victim under subsection (d)(2) if the defendant proves by a preponderance of the evidence that there is a reasonable likelihood that the child victim will be unavailable for trial and the deposition is necessary to preserve the child victim's testimony.

(g) The court may not authorize the deposition of a child victim under subsection (d)(3) unless the defendant establishes by a preponderance of the evidence that the deposition is necessary:

(1) due to the existence of extraordinary circumstances; and

(2) in the interest of justice.

(h) If the court authorizes the deposition of a child victim under subsection (f) or (g), the court shall determine the manner in which the deposition shall be conducted, after considering:

(1) the age of the child;

(2) the rights of the victim under IC 35-40-5-1; and

(3) any other relevant factors or special considerations.

(i) If the court denies a petition to depose a child victim, the court shall issue a written order describing the reason for the denial.

(j) If the court grants a request to depose a child victim, the court shall issue a written order describing the reason for granting the petition and setting forth the manner in which the deposition shall be conducted. The order shall:

(1) expressly prohibit the accused from deposing or being present at the deposition of the child victim unless:

(A) there is a reasonable likelihood that the child victim will be unavailable for trial;

(B) the deposition is necessary to preserve the child victim's testimony; and

(C) the presence of the accused is necessary to preserve the constitutional rights of the accused under the Sixth Amendment of the Constitution of the United States or Article 1, Section 13 of the Constitution of the State of Indiana;

(2) describe the manner in which the deposition shall be conducted; and

(3) if applicable, issue a protective order under Indiana Trial Rule 26(C).

[As added by P.L.62-2020, SEC.8. Amended by P.L.42-2023, SEC.3.]

IC 35-40-5-12 Designation of certain victims in public documents

(a) The following shall be identified by means of a designation omitting the victim's name, such as "Victim 1", in court documents open to the public:

(1) A victim of a sex crime under IC 35-42-4.

(2) A child victim of a crime of violence (as defined in IC 35-50-1-2).

(b) The state shall provide to the court a confidential document identifying the victims named in the court documents. *[As added by P.L.40-2019, SEC.5.]*

IC 35-40-5-13 Use of comfort item by child witness

When a child less than sixteen (16) years of age is summoned as a witness to any hearing in any criminal matter, including a preliminary hearing, a comfort item or comfort animal shall be allowed to remain in the courtroom with the child during the child's testimony unless the court finds that the defendant's constitutional right to a fair trial will be unduly prejudiced.

[As added by P.L.40-2019, SEC.6.]

IC 35-40-6 Chapter 6. Prosecuting Attorney Duties and Victim Assistance Programs

IC 35-40-6-1 Applicability of chapter

This chapter applies when:

(1) law enforcement officials have received a report of an alleged offense not later than five (5) days after the alleged offense occurred or was discovered, unless the prosecuting attorney having jurisdiction finds that the report was not made within the five (5) day period due to circumstances beyond the control of a victim of the alleged offense; and

(2) a victim fully cooperates with and responds to reasonable requests from law enforcement officials and the prosecuting attorney. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-6-2 Victims to be treated with dignity

A prosecuting attorney shall provide that:

(1) victims are treated with dignity, respect, and sensitivity at all stages of the criminal justice process; and

(2) the rights of victims are protected. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-6-3 Victim assistance program; contract to operate

A prosecuting attorney may contract with a person to operate a victim assistance program to provide the services required under this chapter. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-6-4 Victim assistance program; purposes

A prosecuting attorney or a victim assistance program shall do the following:

(1) Inform a victim that the victim may be present at all public stages of the criminal justice process to the extent that:

(A) the victim's presence and statements do not interfere with a defendant's constitutional rights; and

(B) there has not been a court order restricting, limiting, or prohibiting attendance at the criminal proceedings.

(2) Timely notify a victim of all criminal justice hearings and proceedings that are scheduled for a criminal matter in which the victim was involved.

- (3) Promptly notify a victim when a criminal court proceeding has been rescheduled or canceled.
- (4) Obtain an interpreter or translator, if necessary, to advise a victim of the rights granted to a victim under the law.
- (5) Coordinate efforts of local law enforcement agencies that are designed to promptly inform a victim after an offense occurs of the availability of, and the application process for, community services for victims and the families of victims, including information concerning services such as the following:
 - (A) Victim compensation funds.
 - (B) Victim assistance resources.
 - (C) Legal resources.
 - (D) Mental health services.
 - (E) Social services.
 - (F) Health resources.
 - (G) Rehabilitative services.
 - (H) Financial assistance services.
 - (I) Crisis intervention services.
 - (J) Transportation and child care services to promote the participation of a victim or a member of the victim's immediate family in the criminal proceedings.
- (6) Inform the victim that the court may order a defendant convicted of the offense involving the victim to pay restitution to the victim under IC 35-50-5-3.
- (7) Upon request of the victim, inform the victim of the terms and conditions of release of the person accused of committing a crime against the victim.
- (8) Upon request of the victim, give the victim notice of the criminal offense for which:
 - (A) the defendant accused of committing the offense against the victim was convicted or acquitted; or
 - (B) the charges were dismissed against the defendant accused of committing the offense against the victim.
- (9) In a county having a victim-offender reconciliation program (VORP), provide an opportunity for a victim, if the accused person or the offender agrees, to:
 - (A) meet with the accused person or the offender in a safe, controlled environment;
 - (B) give to the accused person or the offender, either orally or in writing, a summary of the financial, emotional, and physical effects of the offense on the victim and the victim's family; and
 - (C) negotiate a restitution agreement to be submitted to the sentencing court for damages incurred by the victim as a result of the offense.
- (10) Assist a victim in preparing verified documentation necessary to obtain a restitution order under IC 35-50-5-3.
- (11) Inform a victim (or the spouse or an immediate family member of a deceased victim) of the victim's right to a copy of the trial transcript, and assist the victim, spouse, or immediate family member in obtaining a transcript as described in IC 35-40-5-8.5.
- (12) Advise a victim of other rights granted to a victim under the law.
- (13) Assist a local law enforcement authority in notifying a victim (or the spouse or an immediate family member of a deceased victim) under IC 11-8-8-23 of an offender's name change. *[As added by P.L.139-1999, SEC.1. Amended by P.L.78-2018, SEC.2; P.L.244-2019, SEC.14.]*

IC 35-40-6-5 Victim-offender reconciliation program

(a) If a victim participates in a victim-offender reconciliation program (VORP) operated by a victim assistance program under section 4(9) of this chapter, the victim shall execute a waiver releasing:

- (1) the prosecuting attorney responsible for the victim assistance program; and
- (2) the victim assistance program;

from civil and criminal liability for actions taken by the victim, an accused person, or an offender as a result of participation by the victim, the accused person, or the offender in a victim-offender reconciliation program (VORP).

(b) A victim is not required to participate in a victim-offender reconciliation program (VORP) under section 4(9) of this chapter. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-6-6 Threat of harm to victim

If:

- (1) a victim submits to the prosecuting attorney an affidavit asserting:
 - (A) that an act or threat of physical violence or intimidation has been made against the victim or the immediate family of the victim; and
 - (B) that the act or threat described in clause (A) has been made by the defendant or at the direction of the defendant; and
- (2) the prosecuting attorney has reason to believe the allegations in the affidavit are true and warrant the filing of a motion for bond revocation;

the prosecuting attorney shall file a motion under IC 35-33-8-5 requesting the court to revoke the defendant's bond or order for personal recognizance. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-6-7 Notification requested by victim

If the defendant is convicted, and upon the victim's request, the victim shall be notified, if applicable, of the following:

- (1) The function of the presentence report.
- (2) The name and telephone number of the probation department that is preparing the presentence report.
- (3) The right to make a victim impact statement under IC 35-38-1-8.5.
- (4) The defendant's right to review the presentence report.
- (5) The victim's right to review the presentence report, except those parts excised by the court or made confidential by IC 35-40-5-6.
- (6) The victim's right to be present and heard at any sentencing procedure under IC 35-40-5-5.
- (7) The time, place, and date of the sentencing proceeding.

[As added by P.L.139-1999, SEC.1. Amended by P.L.14-2000, SEC.71.]

IC 35-40-6-8 Request form for revocation of bond

The prosecuting attorney or a victim assistance program shall advise a victim on how the request form completed under section 6 of this chapter may be filed with the appropriate agencies and departments. *[As added by P.L. 139-1999, SEC.1.]*

IC 35-40-6-9 Contact between victim and probation department

(a) Notice provided under this chapter does not relieve a probation department of responsibility under IC 35-38-1-8.5 to initiate the contact between a victim and the probation department concerning the consequences suffered by the victim as a result of the crime.

(b) At the time of contact with a victim, a probation department shall advise the victim of the date, time, and place of sentencing and of the victim's right to be present and to be heard at the proceeding. *[As added by P.L. 139-1999, SEC.1.]*

IC 35-40-6-10 Victim to be informed of status of case

If a person convicted of a crime against the victim seeks appellate review or attacks the person's conviction or sentence, the prosecuting attorney or the office of the attorney general, whichever is appropriate, shall inform the victim, upon request, of the status of the case and of the decision of the court. *[As added by P.L. 139-1999, SEC.1.]*

IC 35-40-7-1 Responsibility of law enforcement agency with custody

The law enforcement agency having custody of a person accused of committing a crime against a victim shall notify the victim if the accused person escapes from the custody of the law enforcement agency. *[As added by P.L. 139-1999, SEC.1.]*

IC 35-40-7-2 Notifying victim of a bond hearing, escape, death, or release

Upon request of a victim, the office of the prosecuting attorney having jurisdiction or a law enforcement agency having custody of a person accused of a crime against the victim shall notify the victim of the scheduling of a bond hearing, the escape or death of a person accused of committing a crime against the victim, release of a person convicted of a crime against the victim to a work release program, or any other type of postarrest release of a person convicted of a crime or charged with a crime against the victim. *[As added by P.L. 139-1999, SEC.1. Amended by P.L. 162-2011, SEC.56.]*

IC 35-40-7-3 Notice; timing

A notice under this chapter must be given by a law enforcement agency that has custody of the person at the time of the escape or release to a victim:

- (1) before the person is released by the law enforcement agency, if possible; or
- (2) as soon as practicable after the person escapes or has been released by the law enforcement agency. *[As added by P.L. 139-1999, SEC.1.]*

IC 35-40-8-1 Victim notification of termination of probation or forensic diversion

Upon request of a victim, a criminal court shall notify the victim of any probation or forensic diversion revocation disposition proceeding or proceeding in which the court is asked to terminate the probation or forensic diversion of a person who is convicted of a crime against the victim. *[As added by P.L. 139-1999, SEC.1. Amended by P.L. 85-2004, SEC.8.]*

IC 35-40-8-2 Victim notification of probation or forensic diversion modifications

Upon request of a victim, a criminal court shall notify the victim of a modification of the terms of probation or a forensic diversion program of a person convicted of a crime against the victim only if:

- (1) the modification will substantially affect the person's contact with or safety of the victim; or
- (2) the modification affects the person's restitution or confinement status.

[As added by P.L.139-1999, SEC.1. Amended by P.L.85-2004, SEC.9.]

IC 35-40-9-1 Mental health treatment agency to notify victim

If the court described in IC 35-40-5-2 has received a request for notice from a victim and has communicated the request to a mental health treatment agency, the mental health treatment agency shall mail a notification to the court described in IC 35-40-5-2 not later than ten (10) days before the release or discharge of a person:

- (1) accused or convicted of committing a criminal offense against the victim; and
- (2) placed by court order with the mental health treatment agency.

[As added by P.L.139-1999, SEC.1.]

IC 35-40-9-2 Mental health treatment agency to notify court

A mental health treatment agency shall immediately notify the court described in IC 35-40-5-2 after the escape or subsequent readmission of a person:

- (1) accused or convicted of committing a criminal offense against the victim; and
- (2) placed by court order with the mental health treatment agency.

[As added by P.L.139-1999, SEC.1.]

IC 35-40-9-3 Court to give notice on behalf of mental health treatment agency

The court described in IC 35-40-5-2 shall give the notice required under IC 35-40-5-2 on behalf of the mental health treatment agency. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-10-1 Responsibilities of victims

(a) A victim shall provide to and maintain with the agency that is responsible for providing notice to the victim a request for notice on a form that is provided by that agency. The form must include a telephone number, electronic mail address, and mailing address for the victim. If the victim fails to keep the victim's telephone number and address current, the agency may withdraw the victim's request for notice.

(b) A victim may restore a request for notice of subsequent proceedings by filing, on a request form provided by an agency, the victim's current telephone number, electronic mail address, and mailing address. *[As added by P.L.139-1999, SEC.1. Amended by P.L.162-2011, SEC.57.]*

IC 35-40-10-2 Forms designated by prosecuting attorney

A notice provided to a victim under this article must be on a form designated by the prosecuting attorney. The prosecuting attorneys council of Indiana established by IC 33-39-8-2 shall develop and disseminate model notice forms for use by prosecuting attorneys. *[As added by P.L.139-1999, SEC.1. Amended by P.L.98-2004, SEC.153.]*

IC 35-40-11-1 Victim's right to be heard at court proceedings

It is at the victim's discretion to exercise the victim's rights under this article to be present and to be heard at court proceedings, and the absence of the victim at a court proceeding does not preclude the court from holding the proceeding. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-11-2 Oral, written, or taped statements allowed

Except as provided in section 3 of this chapter, a victim's right to be heard may be exercised, at the victim's discretion, through an oral statement, submission of a written statement, or submission of a statement through audiotape or videotape. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-11-3 Statement when victim in custody

If a victim is in custody for committing or allegedly committing an offense, the victim may be heard by submitting a written statement to the court. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-12-1 Consultation with victim's next of kin, parent, or guardian

(a) This section applies if:

- (1) the victim is an individual;
- (2) the victim is incompetent, deceased, less than eighteen (18) years of age, or otherwise incapable of receiving or understanding a notice or consultation required under this article; and
- (3) a person has not been designated under IC 35-40-13 to exercise the rights of the victim under this article.

(b) A notice or consultation required under this article may be performed by notifying or consulting with at least one (1) of the next of kin or the parent, guardian, or custodian of the victim. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-12-2 Notice to victim's agent

(a) This section applies if the victim is an entity other than an individual.

(b) A notice or consultation required under this article may be performed by notifying or consulting with a responsible officer or agent of the entity. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-12-3 Notice when victim is a partnership

(a) This section applies if the victim is a partnership.

(b) A notice or consultation required under this article may be performed by notifying or consulting with at least one (1) partner. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-12-4 Name and address of person to receive notice

(a) This section applies if the victim is an entity other than an individual.

(b) A request for notice under IC 35-40-10 must identify the name, electronic mail address, and mailing address of the person who is to receive notices and consultations on behalf of the entity. *[As added by P.L.139-1999, SEC.1. Amended by P.L.162-2011, SEC.58.]*

IC 35-40-12-5 Notice to multiple victims

(a) This section applies if there are multiple victims that are entitled to notices or consultations under this article.

(b) The prosecuting attorney for the county in which the crime occurred may adopt procedures that afford to a group of victims the rights afforded by this article. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-13-1 Victim physically or emotionally unable to exercise rights; designation of representative

(a) If a victim is physically or emotionally unable to exercise any right but is able to designate a lawful representative who is not a bona fide witness, the designated person may exercise the same rights that the victim is entitled to exercise.

(b) A victim may revoke the designation of a representative at any time and exercise the victim's rights. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-13-2 Appointment of representative by court

If a victim is incompetent, deceased, or otherwise incapable of designating another person to act in the victim's place, the court may appoint, upon request of the prosecuting attorney, a lawful representative who is not a witness. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-13-3 Victim a minor

If the victim is a minor, the victim's parents or legal guardian may exercise all of the victim's rights on behalf of the victim. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-13-4 Victim not a minor; appointment of representative by court

If section 3 of this chapter does not apply, the court shall consider appointing a relative of the incompetent, deceased, or otherwise incapable victim as the lawful representative. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-13-5 Guidelines for court when appointing representatives

The court shall consider the following guidelines in appointing a person to represent an incompetent or deceased victim:

- (1) Any conflict occasioned by the allegation of criminal conduct that substantially or adversely affected the person.
- (2) The person's willingness and ability to do all of the following:
 - (A) Work with and accompany the victim through all proceedings, including criminal, civil, and dependency proceedings.
 - (B) Communicate with the victim.
 - (C) Express the concerns of the victim to those authorized to come in contact with the victim as a result of the proceedings.
- (3) The person's training, if any, to serve as a representative of the incompetent victim.
- (4) The likelihood of the person being called as a witness in the criminal case involving the incompetent victim. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-14-1 "Identity theft"

As used in this chapter, "identity theft" means:

- (1) identity deception (IC 35-43-5-3.5);

- (2) synthetic identity deception (IC 35-43-5-3.8); or
 - (3) a substantially similar crime committed in another jurisdiction.
- [As added by P.L.137-2009, SEC.11.]*

IC 35-40-14-2 "Unit"

As used in this chapter, "unit" refers to the identity theft unit established under IC 4-6-13-2. *[As added by P.L.137-2009, SEC.11.]*

IC 35-40-14-3 Duties of law enforcement agencies concerning identity theft

(a) A person who has learned or reasonably suspects that the person has been the victim of identity theft may contact the local law enforcement agency that has jurisdiction over the person's residence. The local law enforcement agency shall take an official report of the matter and provide the complainant with a copy of that report. Even if jurisdiction lies elsewhere for investigation and prosecution of a crime of theft, the local law enforcement agency shall take the complaint and provide the person with a copy of the complaint. The law enforcement authority may refer the complaint to a law enforcement agency in a different jurisdiction.

(b) This section does not affect the discretion of a local law enforcement agency to allocate resources for investigation of crimes. A complaint filed under this section is not required to be counted as an open case for purposes of compiling open case statistics.

[As added by P.L.137-2009, SEC.11.]

IC 35-40-14-4 Protections for victims of identity theft

(a) A person who is injured by a crime of identity theft or who has filed a police report alleging commission of an offense of identity theft may file an application with the court in the jurisdiction where the person resides for the issuance of a court order declaring that the person is a victim of identity theft. A person may file an application under this section regardless of whether the person is able to identify each person who allegedly obtained, possessed, transferred, or used the person's identifying information in an unlawful manner.

(b) A person filing an application under subsection (a) shall file a copy of the application with the unit. The unit may appear at and present evidence in a hearing conducted under this section if the unit determines that a court order declaring the applicant a victim of identity theft would be inappropriate.

(c) A person is presumed to be a victim of identity theft under this section if another person is charged with and convicted of an offense of identity theft for unlawfully obtaining, possessing, transferring, or using the person's identifying information.

(d) After notice and hearing, if the court is satisfied by a preponderance of the evidence that the applicant has been injured by a crime of identity theft, the court shall enter an order containing:

- (1) a declaration that the person filing the application is a victim of identity theft resulting from the commission of a crime of identity theft;
- (2) any known information identifying the violator or person charged with the offense;
- (3) the specific personal identifying information and any related document or record used to commit the alleged offense; and
- (4) information identifying any financial account or transaction affected by the alleged

offense, including:

- (A) the name of the financial institution in which the account is established or of the merchant or creditor involved in the transaction, as appropriate;
- (B) any relevant account numbers;
- (C) the dollar amount of the account or transaction affected by the alleged offense; and
- (D) the date or dates of the offense.

(e) Except as provided in subsection (h), an order issued under this section must be sealed because of the confidential nature of the information required to be included in the order. The order may be opened and the order or a copy of the order may be released only:

- (1) to the proper officials in a civil proceeding brought by or against the victim arising or resulting from the commission of a crime of identity theft, including a proceeding to set aside a judgment obtained against the victim;
- (2) to the victim for the purpose of submitting the copy of the order to a governmental entity or private business to:
 - (A) prove that a financial transaction or account of the victim was directly affected by the commission of a crime of identity theft; and
 - (B) correct any record of the entity or business that contains inaccurate or false information as a result of the offense;
- (3) on order of the judge; or
- (4) as otherwise required by law.

(f) A court at any time may vacate an order issued under this section if the court finds that the application or any information submitted to the court by the applicant contains a fraudulent misrepresentation or a material misrepresentation of fact.

(g) Except as provided in subsection (h), a copy of the order provided to a person under subsection (e)(1) must remain sealed throughout and after the civil proceeding. Information contained in a copy of an order provided to a governmental entity or business under subsection (e)(2) is confidential and may not be released to another person except as otherwise required by law.

(h) The following information regarding an application filed under this section may be released to the public:

- (1) The name of the applicant.
- (2) The county of residence of the applicant.
- (3) Whether the application was approved or denied by the court.

[As added by P.L. 137-2009, SEC.11.]

VICTIM'S RIGHT TO BE INFORMED OF RIGHTS

IC 35-40-5-9 Right to be informed of victim's rights

A victim has the right to be informed of the victim's constitutional and statutory rights. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-10-2 Forms designated by prosecuting attorney

A notice provided to a victim under this article must be on a form designated by the prosecuting attorney. The prosecuting attorneys council of Indiana established by IC 33-39-8-2 shall develop and disseminate model notice forms for use by prosecuting attorneys. *[As added by P.L.139-1999, SEC.1. Amended by P.L.98-2004, SEC.153.]*

Notice of Victim Rights

A victim has the right to be treated with fairness, dignity, and respect throughout the criminal justice process.

A victim has the right to be informed, upon request, when a person who is accused of committing or convicted of committing a crime perpetrated directly against the victim, is released from custody, or has escaped. This includes release or escape from mental health facilities.

A victim has the right to have the victim's safety considered in determining release from custody of a person accused of committing a crime against the person.

A victim has the right to information, upon request, about the disposition of the criminal case involving the victim, or conviction, sentence, or release of a person accused of committing a crime against the victim.

A victim has the right to be heard at any proceeding involving sentence or post-conviction release decision. A victim's right to be heard may be exercised, at the victim's discretion, through an oral or written statement, or submission of a statement through audiotape or videotape.

A victim has the right to make a written or oral statement for use in preparation of the presentence report. The victim also has the right to read presentence reports relating to the crime committed against the victim in order that the victim can respond to the presentence report.

A victim has the right to confer with a representative of the prosecuting attorney's office after a crime allegedly committed against the victim has been charged; before the trial of a crime allegedly committed against the victim; and before any disposition of a criminal case involving the victim. This right applies in any of the following situations:

- The alleged felony was directly committed against the victim.
- The alleged felony or misdemeanor was an offense against the person, which includes the crimes of Battery, Domestic Battery, Aggravated Battery, Battery by Body Waste, Criminal Recklessness, Intimidation, Harassment, Invasion of Privacy, or Pointing a Firearm, and the alleged felony or misdemeanor was committed against the victim by a person who:
 - is or was a spouse of the victim;
 - is or was living as if a spouse of the victim; or
 - has a child in common with the victim.
- For other misdemeanors, a victim must file a request for notice, which includes a current telephone number and address.

A victim has the right to pursue an order of restitution and other civil remedies against the person convicted of a crime against the victim.

A victim has the right to be informed of the victim's constitutional and statutory rights.

A victim does not have the right to direct a prosecution.

[IPAC Form Notice of Victim Rights]

IC 35-40-6-4 (5), (12) Victim assistance program; purposes

A prosecuting attorney or a victim assistance program shall do the following:

* * *

(5) Coordinate efforts of local law enforcement agencies that are designed to promptly inform a victim after an offense occurs of the availability of, and the application process for, community services for victims and the families of victims, including information concerning services such as the following:

(A) Victim compensation funds.

(B) Victim assistance resources.

(C) Legal resources.

(D) Mental health services.

(E) Social services.

(F) Health resources.

(G) Rehabilitative services.

(H) Financial assistance services.

(I) Crisis intervention services.

(J) Transportation and child care services to promote the participation of a victim or a member of the victim's immediate family in the criminal proceedings.

* * *

(12) Advise a victim of other rights granted to a victim under the law.

* * *

[As added by P.L.139-1999, SEC.1. Amended by P.L.78-2018, SEC.2; P.L.244-2019, SEC.14.]

IC 35-33-1-1.5(a)(3) Actions taken by law enforcement officers.

(a) A law enforcement officer responding to the scene of an alleged crime involving domestic or family violence shall use all reasonable means to prevent further violence, including the following:

* * *

(3) Giving the alleged victim immediate and written notice of the rights under IC 35-40.

* * *

[P.L.133-2002, § 60.]








RIGHTS OF VICTIMS OF SEXUAL ASSAULT

The following rights of victims of sexual assault attach whenever a victim is subject to a forensic medical examination or an interview by a law enforcement officer in relation to injuries, trauma, or an investigation resulting from an alleged sexual assault.

You retain these rights regardless of whether you agree to participate in any civil or criminal proceeding related to the assault, and regardless of whether you consent to a forensic medical examination to collect forensic evidence related to the alleged sexual assault.

You have the right to be informed of your rights as a victim under Indiana law before the commencement of any forensic medical examination or an interview by a law enforcement officer. Those rights include:

-  You have the right to speak with a victim advocate or victim service provider during any hospital visit for the purpose of receiving a sexual assault examination. If a victim advocate or victim service provider is not available, you have the right to speak with victim's assistance or a social worker. You retain these rights even if you have waived one or more of these rights in a previous examination or interview.
-  You have the right to be treated with fairness, dignity and respect and free from intimidation, harassment and abuse throughout the criminal justice process.
-  Your private communications with a victim advocate, victim service provider, victim's assistance, or a social worker are not admissible into evidence for any purpose except with your consent.
-  You have the right to speak with a victim advocate or victim service provider during the course of the investigation. If a victim advocate or victim service provider is not available, you have the right to speak with victim's assistance or a social worker. You retain these rights even if you have waived one or more of these rights in a previous examination or interview.
-  You have the right to be provided with a forensic medical exam and additional forensic services without charge. You can ask the person administering your exam whether they have been trained to do so. You have the right to decline any part of the sexual assault examination. You have the right to a shower at the medical facility after the examination.

BROCHURE - RIGHTS OF VICTIMS OF SEXUAL ASSAULT (ENGLISH)
<https://www.in.gov/cji/victim-compensation/rights-of-victims-of-sexual-assault/>

WHAT EXPENSES ARE COVERED BY CJI?

For victims of sexual assault, ICJI administers payment for certain costs associated with a forensic medical exam. These costs include (not limited to): a forensic medical exam, mental health counseling, certain diagnostic testing, initial pregnancy and follow-up pregnancy testing, certain laboratory testing for STDs, alcohol, drugs, suturing and care of wounds and other limited outpatient services. The approved costs will be paid by ICJI to the provider, pending certain conditions are met.

Additionally, ICJI may also provide payment for: one follow-up pregnancy test, STD testing up to (30) days following the initial treatment, one syphilis test up to (90) days following the initial visit and mental health treatment up to \$3,000. Services must be provided by a licensed mental health provider.

HOW DO I TRACK THE STATUS OF MY SEXUAL ASSAULT KIT?

In order to track the status of your sexual assault kit, please follow these instructions:

1. Visit the Indiana Sexual Assault Tracking System website at:
sak.cji.in.gov/Public/Home.aspx
2. Select the Sexual Assault Kit tracking module.
3. Enter your sexual assault kit serial number and assigned pin.

Sexual Assault Kit _____

PIN _____



CONTACT US

317.232.1233
www.cji.in.gov/2333.htm

402 W. Washington St., Room W469 | Indianapolis, IN 46204

RIGHTS OF VICTIMS OF SEXUAL ASSAULT

Helping victims of sexual assault better understand their rights.



CONOZCA SUS DERECHOS

DERECHOS DE LA VÍCTIMA DE AGRESIÓN SEXUAL

Los siguientes derechos se otorgan a la víctima cuando se someta a un examen médico forense o a una entrevista por parte de un agente de la ley en relación a lesiones, traumas o una investigación producto de una presunta agresión sexual.

Usted conserva estos derechos, independientemente de que acepte participar o no en cualquier procedimiento civil o penal relacionado con la agresión y de que acepte someterse a un examen médico forense para recopilar evidencia relacionada con la presunta agresión sexual.

Como víctima, tiene derecho a que le informen sus derechos según la ley de Indiana antes de cualquier examen médico forense o de una entrevista por parte de un agente de la ley. Esos derechos comprenden:



Tiene derecho a hablar con un abogado o un proveedor de servicios durante cualquier consulta en el hospital con el fin de realizarse un examen de agresión sexual. Si no dispone de ninguno de los dos, tiene derecho a hablar con algún funcionario de asistencia a la víctima o con un trabajador social. Usted conserva estos derechos incluso si ha renunciado a uno o más de estos en un examen o entrevista anterior.



Tiene derecho a que se le trate con equidad, dignidad y respeto, sin intimidación, acoso ni maltrato durante todo el proceso de justicia penal.



Sus comunicaciones privadas con un abogado, un proveedor de servicios, un funcionario de asistencia a la víctima o un trabajador social no se admitirán como prueba para ningún propósito, a no ser que usted lo consienta.



Tiene derecho a hablar con un abogado o un proveedor de servicios en el transcurso de la investigación. Si no dispone de ninguno de los dos, tiene derecho a hablar con un funcionario de asistencia a la víctima o con un trabajador social. Usted conserva estos derechos incluso si ha renunciado a uno o más de estos en un examen o entrevista anterior.



Tiene derecho a que le realicen un examen médico forense y presten otros servicios forenses sin cargo alguno. Puede preguntar al examinador si ha recibido capacitación para llevar a cabo esta tarea. Tiene derecho a declinar realizarse cualquier parte del examen de agresión sexual. Tiene derecho a ducharse en el centro médico después del examen.

BROCHURE - RIGHTS OF VICTIMS OF SEXUAL ASSAULT (SPANISH)
<https://www.in.gov/cji/victim-compensation/rights-of-victims-of-sexual-assault/>

¿QUÉ GASTOS CUBRE EL CJI?

Para las víctimas de agresión sexual, el Instituto de Justicia Penal de Indiana (Indiana Criminal Justice Institute, ICJI), administra el pago de ciertos costos asociados al examen médico forense. Estos costos incluyen (entre otros): examen médico forense, consulta de salud mental, ciertas pruebas de diagnóstico, pruebas iniciales y de seguimiento de embarazo, ciertas pruebas de laboratorio para enfermedades de transmisión sexual (sexually transmitted diseases, STD), alcohol, medicamentos, sutura y cuidado de heridas, y otros tantos servicios ambulatorios. EL ICJI pagará los costos aprobados al proveedor, siempre que se cumplan ciertas condiciones.

Adicionalmente, el ICJI puede pagar: una prueba de embarazo de seguimiento, pruebas de STD hasta (30) días después del tratamiento inicial, una prueba de sífilis hasta (90) días después de la consulta inicial y un tratamiento de salud mental de hasta \$ 3,000. Los servicios los debe prestar un proveedor de salud mental con licencia.

¿CÓMO HAGO SEGUIMIENTO AL ESTADO DE MI KIT DE AGRESIÓN SEXUAL?

Para seguir el estado de su kit, siga estas instrucciones:

1. Visite el seguimiento de agresiones sexuales de Indiana Sitio web del sistema en: sak.cji.in.gov/Public/Home.aspx
2. Seleccione el módulo de seguimiento del kit de agresión sexual.
3. Ingrese el número de serie del kit y el pin que se le asignó.

Kit de agresión sexual _____

PIN _____



CONTÁCTENOS

317.232.1233
www.cji.in.gov/2333.htm

402 W. Washington St., Room W469 | Indianapolis, IN 46204

DERECHOS DE LA VÍCTIMA DE AGRESIÓN SEXUAL

Ayudar a la víctima de agresión sexual a comprender mejor sus derechos.










WAS SIE ÜBER IHRE RECHTE WISSEN SOLLTEN

RECHTE DER OPFER VON SEXUELLEN ÜBERGRIFFEN

Die folgenden Rechte der Opfer von sexuellen Übergriffen kommen immer dann zum Tragen, wenn ein Opfer einer medizinischen kriminaltechnischen Untersuchung oder durch einen Strafverfolgungsbeamten einer Befragung hinsichtlich Verletzungen und Traumata unterzogen wird oder Gegenstand einer Ermittlung ist, die infolge eines mutmaßlichen sexuellen Übergriffs eingeleitet wurde.

Sie behalten diese Rechte, unabhängig davon, ob Sie sich damit einverstanden erklären, an einem Zivil- oder Strafverfahren, verbunden mit dem sexuellen Übergriff, teilzunehmen oder nicht, und unabhängig davon, ob Sie einer medizinischen kriminaltechnischen Untersuchung, um kriminaltechnisches Beweismaterial im Zusammenhang mit dem mutmaßlichen sexuellen Übergriff zu sammeln, zustimmen oder nicht.

Sie haben gemäß dem Gesetz von Indiana das Recht, über Ihre Rechte als Opfer vor dem Beginn irgendeiner medizinischen kriminaltechnischen Untersuchung oder einer Befragung durch einen Strafverfolgungsbeamten informiert zu werden. Zu diesen Rechten gehören:

-  Sie haben das Recht, bei jedem Krankenhausbesuch zwecks Untersuchung wegen sexuellen Übergriffs mit einem Opferanwalt (victim advocate) oder mit einem Opferbetreuer (victim service provider) zu sprechen. Sollte kein Opferanwalt oder kein Opferbetreuer verfügbar sein, haben Sie das Recht, mit der Opferhilfe oder einem Sozialarbeiter zu sprechen. Sie behalten diese Rechte auch, wenn Sie auf eines oder mehrere dieser Rechte bei einer früheren Untersuchung oder Befragung verzichtet haben.
-  Sie haben das Recht, während des strafrechtlichen Verfahrens mit Fairness, Würde und Respekt behandelt zu werden, ohne Einschüchterungen, Belästigungen und Beleidigungen.
-  Ihre private Kommunikation mit einem Opferanwalt oder einem Opferbetreuer, mit der Opferhilfe oder einem Sozialarbeiter ist zu keinem Zweck für die Aufnahme in die Beweismittel zulässig, es sei denn, Sie haben die Erlaubnis dazu erteilt.
-  Sie haben das Recht, im Laufe der Ermittlungen mit einem Opferanwalt oder einem Opferbetreuer zu sprechen. Sollte kein Opferanwalt oder kein Opferbetreuer verfügbar sein, haben Sie das Recht, mit der Opferhilfe oder einem Sozialarbeiter zu sprechen. Sie behalten diese Rechte auch, wenn Sie auf eines oder mehrere dieser Rechte bei einer früheren Untersuchung oder Befragung verzichtet haben.
-  Sie haben das Recht, sich kostenlos einer medizinischen kriminaltechnischen Untersuchung unterziehen zu lassen und zusätzliche kriminaltechnische Dienste in Anspruch zu nehmen. Sie können die Person, die Sie untersucht, fragen, ob sie über die hierfür notwendige Ausbildung verfügt. Sie haben das Recht, jedweden Teil der Untersuchung wegen sexuellem Übergriff abzulehnen. Sie haben das Recht, nach der Untersuchung in der medizinischen Einrichtung zu duschen.

BROCHURE - RIGHTS OF VICTIMS OF SEXUAL ASSAULT (GERMAN)
<https://www.in.gov/cji/victim-compensation/rights-of-victims-of-sexual-assault/>

WELCHE KOSTEN WERDEN VOM CJI ÜBERNOMMEN?

Das ICJI (Indiana Criminal Justice Institute) verwaltet die Erstattung von bestimmten, mit einer medizinischen kriminaltechnischen Untersuchung verbundenen Kosten an Opfer von sexuellen Übergriffen. In diesen Kosten ist unter anderem enthalten: eine medizinische kriminaltechnische Untersuchung, psychologische Beratung, bestimmte diagnostische Tests, Erstuntersuchung und Folgeuntersuchungen in der Schwangerschaft, bestimmte Labortests zum Nachweis von Geschlechtskrankheiten, Alkohol oder Drogen, Nahtversorgung und Wundpflege und andere eingeschränkte ambulante Dienste. Die genehmigten Kosten werden dem Leistungserbringer vom ICJI erstattet, sofern gewisse Bedingungen erfüllt sind.

Zusätzlich kann das ICJI auch die Zahlung übernehmen für: eine Folgeuntersuchung in der Schwangerschaft, Test zum Nachweis von Geschlechtskrankheiten bis zu (30) Tage nach der Erstbehandlung, einen Syphilistest bis zu (90) Tage nach dem Erstbesuch und psychologische Behandlung in einer Höhe von bis zu 3.000 USD. Die Dienste müssen von einem lizenzierten Psychiater oder Psychologen erbracht werden.

WIE KANN ICH DEN STATUS MEINES SEXUAL ASSAULT KIT VERFOLGEN?

Um den Status Ihres Sexual Assault Kit zu verfolgen, befolgen Sie bitte diese Anweisungen:

1. Besuchen Sie das Indiana Sexual Assault Tracking System-Website unter:
sak.cji.in.gov/Public/Home.aspx
2. Wählen Sie das Modul zur Verfolgung des Sexual Assault Kit
3. Geben Sie die Seriennummer und den zugewiesenen Pin-Code Ihres Sexual Assault Kit ein.

Sexual Assault Kit _____

PIN CODE _____



KONTAKTIEREN SIE UNS

317.232.1233
www.cji.in.gov/2333.htm

402 W. Washington St., Room W469 | Indianapolis, IN 46204

RECHTE DER OPFER VON SEXUELLEN ÜBERGRIFFEN

Informiert die Opfer von sexuellen Übergriffen über ihre Rechte



Acknowledgement of Receipt of Rights of Victims of Sexual Assault Information

By signing below, I am indicating that I have received a copy of the "Rights of Victims of Sexual Assault" brochure as required by IC 35-40.5.

Name of person receiving the brochure (First, Last)

Signature

Witness

Date

If the victim is visually impaired, please fill out the bottom portion of this form only:

By signing below, I am indicating that I read the "Rights of Victims of Sexual Assault" brochure out loud to the victim.

Name of person receiving the brochure (First, Last)

Signature

Witness

Date

State Form version of this document is pending

An electronic copy of the this form and the brochure as well as the link for access to the sexual assault kit tracking system may be found at www.in.gov/cji/2333.htm.

If you have additional questions related to the payment of the medical forensic exam or additional forensic services you may contact the Indiana Criminal Justice Institute at 1-800-353-1484.

VICTIM'S RIGHT TO PURSUE RESTITUTION AND OTHER CIVIL REMEDIES

Indiana Code 5-2-6.1-0.2 to 5-2-6.1-49 Compensation for Victims of Violent Crimes

Victim Services Division of the Indiana Criminal Justice Institute

Victim Compensation

<https://www.in.gov/cji/victim-compensation/>

OVERVIEW

In the wake of a criminal act, victims and their families often need information, resources and support. As the administrators of the Indiana Violent Crime Victim Compensation Program, ICJI is committed to helping individuals who suffered bodily injury recover and move forward.

The Indiana Victim Compensation Program was established in 1978 as a fund of last resort to financially compensate innocent victims who were injured as a result of a violent crime. In the case of death, dependent relatives may be eligible for compensation. Victims and claimants who meet the eligibility requirements may receive compensation for medical expenses, loss of wages and other unforeseen costs related to the crime. To find out if you may be eligible for compensation, please review the requirements below.

Who is eligible?

- ✓ Innocent victims of a violent crime.
- ✓ A surviving parent, spouse, dependent child or other legal dependent of an innocent victim who has been killed as a result of any violent crime.
- ✓ A person who was injured or killed trying to prevent a violent crime or giving aid to a law enforcement officer.
- ✓ Recent change: Starting July 1, 2022, family members of victims who have paid a portion of funeral or burial costs and children who were eyewitnesses to the crime but were not physically injured are eligible for compensation.

Who is NOT eligible?

- ✗ A victim who DID NOT receive a physical/bodily injury as a result of the crime.
- ✗ A victim who DID NOT incur \$100 out-of-pocket expenses for treatment of bodily injury.

- ✗ A person injured in a crime that DID NOT occur in Indiana.
- ✗ An individual who is incarcerated at the time of their assault.
- ✗ A person who sustained an injury while committing, attempting, or participating in a criminal act.

Additional eligibility requirements

Additionally, a victim must meet the following conditions to be eligible for compensation:

- ✓ The crime must have taken place in Indiana.
- ✓ The crime must have resulted in bodily injury or death.
- ✓ The victim must have incurred a minimum of \$100 in out-of-pocket expenses.
- ✓ The crime must have occurred within the past two years.
- ✓ The crime must have been reported to the police within 72 hours.
Exception: Starting July 1, 2022, victims of sexual assault who have had a forensic exam conducted DO NOT have to report the crime to law enforcement.
- ✓ The victim or survivors must have been cooperative in the investigation and prosecution of the crime. Exception: Starting July 1, 2022, victims of sexual assault who have had a forensic exam conducted are eligible for compensation, whether or not they choose to involve the police.

Indiana Code defines a violent crime as a felony or Class A misdemeanor that results in bodily injury or death to the victim.

Covered Expenses

- ✓ A maximum award of \$15,000 may be available to help cover expenses resulting from any one injury or death. Medical expenses must be incurred within two years of the crime. On top of that, an additional \$5,000 can be used to recoup funeral and burial costs.
- ✓ By law, the program is a payer of last resort, which means applicants are compensated for covered expenses that have not been and will not be compensated from any other source. You are still legally responsible for the payment of your bills associated with the crime. Filing an application does not prevent service providers from taking collection steps against you. If your application is approved, you will be reimbursed for eligible out-of-pocket expenses.

Eligible expenses

Examples of reimbursable expenses include:

- ✓ Medical bills.
- ✓ Out-patient services including but not limited to: medical, hospital, surgical, lab, x-ray, pharmacy, physical therapy, dental, optometry, and ambulance expenses.
- ✓ Mental health counseling (up to \$3,000).
- ✓ Funeral and burial or cremation expenses (up to \$5,000).
- ✓ Lost wages.
- ✓ Loss of support for legal dependents of a crime victim who was killed. (Note: This requires verification of legal dependent status (marriage and support, or paternity and support).
- ✓ Reasonable child care services.
- ✓ Limited attorney fees related to a successful appeal.

Recent change: Crime scene clean-up and the replacement of windows or door locks are eligible expenses for crimes that occurred after July 1, 2022.

Non-eligible expenses

Examples of non-reimbursable expenses include:

- ✗ Property damage (other than the replacement of windows or door locks) and replacement of property or cash.
- ✗ Moving, relocation or daily living expenses.
- ✗ Rent, utilities, food, travel, or lodging.
- ✗ Burial clothing, funeral flowers, or food.
- ✗ Pain and suffering.
- ✗ Out of pocket expenses without proof of payment.
- ✗ Attorney fees (other than fees charged to represent the victim at an administrative hearing before the division).

- ✗ Medical expenses incurred for treatment of injuries not a direct result of the crime.
- ✗ Expenses that cannot be verified via an itemized bill.

Filing a Claim

You can file a claim either online or by submitting a paper application. Since the paper application must be mailed or hand-delivered, the fastest and easiest way to apply is online. It is unnecessary to submit medical bills or police reports at the time you file your application, as additional information will be requested throughout the investigation process.

Applications must be filed no later than two years after the crime occurred.

Apply online

File a PDF claim: If applying online isn't an option, PDF applications can be mailed or hand delivered to the Indiana Criminal Justice Institute at: Indiana Government Center South, 402 W. Washington Street, Room W469, Indianapolis, IN 46204.

They can also be faxed to: 317-232-7103.

Download a PDF application or Descargar aplicación en español

Still have questions?

If you have questions about completing the application or if you are an organization that would like to request application forms, please contact the Violent Crime Victim Compensation division at: 1-800-353-1484

violentcrimecompensation@cji.in.gov

Want to know the status of your claim? Claimants can check on the status of their claim by logging into the online system using their assigned claim number and four-digit PIN, or by calling the toll-free number and asking for their assigned claims analyst.

FAQ: WHO IS ELIGIBLE FOR VICTIM COMPENSATION?

Indiana Code defines a violent crime as a felony or Class A misdemeanor that results in bodily injury or death to the victim. Persons eligible for assistance from this fund include:

- ▶ Innocent victims of eligible violent crimes, including a motor vehicle crash caused by a drunk driver;
- ▶ A parent, surviving spouse, dependent child or other legal dependent of an innocent victim who has been killed as a result of an eligible violent crime; or
- ▶ A person who is injured or killed trying to prevent a violent crime or giving aid to a law enforcement officer.

Other requirements include:

- ▶ The crime must have taken place in Indiana;

- ▶ The victim must have incurred a minimum out-of-pocket loss of \$100;
- ▶ The crime must have been reported to the police within 72 hours (Note: Victims of sexual assault do not have to report the crime to law enforcement unless they choose to apply for compensation under the Victim Crime Fund for expenses not covered at the time a forensic exam was completed);
- ▶ The victim or survivors must cooperate in investigation and prosecution of the crime;
- ▶ An application for benefits must be filed no later than 180 days after the crime occurred;
- ▶ Medical expenses must be incurred within 180 days of the crime but can be extended under certain circumstances.

FAQ: WHO IS NOT ELIGIBLE FOR VICTIM COMPENSATION?

Persons not eligible for assistance from this fund include:

- ▶ A victim who was not injured or killed as a result of the crime;
- ▶ A victim who is determined to have contributed to the crime that led to the injury or death;
- ▶ A victim who was injured while committing, attempting to commit, participating or attempting to participate in a criminal act;
- ▶ A victim who was injured while confined in a correctional facility;
- ▶ A victim who did not report the crime to a law enforcement officer within 72 hours of the date of the crime (Note: this requirement does not include victims of sexual assault who do not apply to the violent crime compensation fund);
- ▶ A victim who is injured or killed in a hit and run accident or by a driver who was not found to be legally intoxicated or impaired;
- ▶ A claimant whose net worth exceeds \$200,000;
- ▶ A victim who receives collateral source payments in excess of \$15,000 (Note: An award will be reduced by any collateral source income received.);
- ▶ A claimant who fails to file an application within 180 days of the crime's occurrence.

Indiana Code 5-2-6.1 Compensation for Victims of Violent Crimes

IC 5-2-6.1-0.2 Application of certain amendments to predecessor statute
IC 5-2-6.1-0.5 "Bodily injury"
IC 5-2-6.1-1 Claimant
IC 5-2-6.1-2 Division
IC 5-2-6.1-2.5 "Emergency shelter care"
IC 5-2-6.1-3 Fund
IC 5-2-6.1-4 Institute
IC 5-2-6.1-5 Intoxicated
IC 5-2-6.1-5.5 "Motor vehicle"
IC 5-2-6.1-5.7 Out-of-pocket loss
IC 5-2-6.1-6 Person
IC 5-2-6.1-6.7 Terrorist act
IC 5-2-6.1-7 Victim
IC 5-2-6.1-7.5 Victim of a child sex crime
IC 5-2-6.1-8 Violent crime
IC 5-2-6.1-9 Violent crime compensation unit
IC 5-2-6.1-10 Duties of division
IC 5-2-6.1-11 Powers of division
IC 5-2-6.1-11.5 Confidentiality
IC 5-2-6.1-12 Persons eligible for assistance
IC 5-2-6.1-13 Participants in criminal acts and prisoners not eligible for benefits;
IC 5-2-6.1-13.5 Only one claimant per victim eligible for a benefit
IC 5-2-6.1-14 Persons worth more than \$200,000 not eligible for benefits
IC 5-2-6.1-15 Payment of funeral, burial, or cremation expenses of victim
IC 5-2-6.1-16 Applications for assistance
IC 5-2-6.1-17 Requirements for compensation
IC 5-2-6.1-18 Denial of awards for failure to cooperate with law enforcement
IC 5-2-6.1-19 Forfeit of awards for failure to cooperate with law enforcement
IC 5-2-6.1-20 Suspension of reporting and cooperation requirements
IC 5-2-6.1-21 Compensable losses
IC 5-2-6.1-21.1 Compensable losses; health care provider compensation
IC 5-2-6.1-22 Subrogation of rights; notice of civil actions
IC 5-2-6.1-23 Liens on civil awards; deductions; limits
IC 5-2-6.1-24 Hearing officers
IC 5-2-6.1-25 Review of applications; additional information
IC 5-2-6.1-26 Investigations
IC 5-2-6.1-27 Hearings
IC 5-2-6.1-28 Decisions
IC 5-2-6.1-29 Appeals
IC 5-2-6.1-30 Procedures
IC 5-2-6.1-31 Denial of awards without opportunity for hearing prohibited

IC 5-2-6.1-32 Reduction of awards; other conditions
IC 5-2-6.1-33 Refund of award overpayments
IC 5-2-6.1-34 Denial of awards due to victim's contributory conduct
IC 5-2-6.1-35 Amount of awards; joint payments
IC 5-2-6.1-36 Emergency awards
IC 5-2-6.1-37 [Repealed]
IC 5-2-6.1-37.5 Contingency fee at hearing may not exceed 10%
IC 5-2-6.1-38 Exemption of awards from process
IC 5-2-6.1-39 Payment of forensic medical exams and additional forensic services
IC 5-2-6.1-40 Compensation fund; establishment
IC 5-2-6.1-41 Compensation fund; composition
IC 5-2-6.1-42 Compensation fund; reversion of money and income
IC 5-2-6.1-43 Computation and payment of awards
IC 5-2-6.1-44 Suspension of payments; prorated payments
IC 5-2-6.1-45 Liability for determinations
IC 5-2-6.1-46 Rules
IC 5-2-6.1-47 Forfeit of awards for forgery, fraud, or deception
IC 5-2-6.1-48 Expenses of administration
IC 5-2-6.1-49 Secured storage fund

IC 5-2-6.1-0.2 Application of certain amendments to predecessor statute

The amendments made to IC 16-7-3.6-5 (before its repeal, now codified in this chapter) and IC 16-7-3.6-8 (before its repeal, now codified in this chapter) by P.L.351-1989 do not apply to the reimbursement of a claim that arises from a violent crime that occurs before July 1, 1989. [As added by P.L.220-2011, SEC.60. Amended by P.L.63-2012, SEC.5.]

IC 5-2-6.1-0.5 "Bodily injury"

As used in section 7 of this chapter, "bodily injury" means:

- (1) an impairment of a physical condition;
- (2) a visible injury;
- (3) physical pain; or
- (4) emotional trauma that stems directly from the impairment of a physical condition, a visible injury, or physical pain. [As added by P.L.121-2006, SEC.1.]

IC 5-2-6.1-1 Claimant

As used in this chapter, "claimant" means a victim filing an application for assistance under this chapter. The term includes:

- (1) a parent;
- (2) a surviving spouse;
- (3) a legal dependent; or
- (4) a personal representative;

of the claimant. [As added by P.L.47-1993, SEC.2.]

IC 5-2-6.1-2 Division

As used in this chapter, "division" refers to the victim services division of the Indiana criminal justice institute. [As added by P.L.47-1993, SEC.2.]

IC 5-2-6.1-2.5 "Emergency shelter care"

As used in this chapter, "emergency shelter care" means housing in a facility having the primary purpose of providing temporary or transitional shelter for the homeless or for a specific population of the homeless. *[As added by P.L.121-2006, SEC.2.]*

IC 5-2-6.1-3 Fund

As used in this chapter, "fund" refers to the violent crime victims compensation fund established by section 40 of this chapter. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-4 Institute

As used in this chapter, "institute" means the Indiana criminal justice institute established by IC 5-2-6. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-5 Intoxicated

As used in this chapter, "intoxicated" has the meaning set forth in IC 9-13-2-86. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-5.5 "Motor vehicle"

As used in this chapter, "motor vehicle" has the meaning set forth in IC 7.1-1-3-26.3. *[As added by P.L.121-2006, SEC.3.]*

IC 5-2-6.1-5.7 Out-of-pocket loss

As used in this chapter, "out-of-pocket loss" means an amount equal to the amount of reimbursement payable under IC 27-8-10-3 for each of the types of services and items provided to a victim as a result of the bodily injury or death upon which an application is based. *[As added by P.L.129-2009, SEC.1.]*

IC 5-2-6.1-6 Person

As used in this chapter, "person" includes a sole proprietorship, a partnership, a corporation, an association, a fiduciary, and an individual. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-6.7 Terrorist act

As used in this chapter, "terrorist act" means an act that:

- (1) involves a violent act that is dangerous to human life;
- (2) violates a criminal law of the United States or of any state or that would be a criminal violation if committed within the jurisdiction of the United States or of any state;
- (3) appears to be intended to:
 - (A) intimidate or coerce a civilian population;
 - (B) influence the policy of a government by intimidation or coercion; or
 - (C) affect the conduct of a government by assassination or kidnapping; and
- (4) occurs primarily outside the territorial jurisdiction of the United States or transcends national boundaries because of the:
 - (A) means by which the act is accomplished;
 - (B) persons intended to be intimidated or coerced; or
 - (C) place in which the person that commits the act operates or seeks asylum.

[As added by P.L.36-1997, SEC.2.]

IC 5-2-6.1-7 Victim

As used in this chapter, "victim" means an individual who suffers bodily injury or death as a result of a violent crime. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-7.5 Victim of a child sex crime

As used in this chapter, "victim of a child sex crime" means an individual who was the victim of:

- (1) child molesting (IC 35-42-4-3(a));
- (2) vicarious sexual gratification (IC 35-42-4-5);
- (3) child solicitation (IC 35-42-4-6);
- (4) child seduction (IC 35-42-4-7); or
- (5) incest (IC 35-46-1-3);

and was less than eighteen (18) years of age at the time the crime occurred. *[As added by P.L.48-2012, SEC.3.]*

IC 5-2-6.1-8 Violent crime

As used in this chapter, "violent crime" means the following:

- (1) A crime under the Indiana Code that is a felony of any kind or a Class A misdemeanor that results in bodily injury or death to the victim but does not include any of the following:
 - (A) A crime under IC 9-30-5 resulting from the operation of a vehicle other than a motor vehicle.
 - (B) Involuntary manslaughter resulting from the operation of a motor vehicle by a person who was not intoxicated (IC 35-42-1-4).
 - (C) Reckless homicide resulting from the operation of a motor vehicle by a person who was not intoxicated (IC 35-42-1-5).
 - (D) Criminal recklessness involving the use of a motor vehicle, unless the offense was intentional or the person using the motor vehicle was intoxicated (IC 35-42-2-2).
 - (E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.
 - (F) A battery offense included in IC 35-42-2 upon a child less than fourteen (14) years of age.
 - (G) Child molesting (IC 35-42-4-3).
 - (H) Child seduction (IC 35-42-4-7).
- (2) A crime in another jurisdiction in which the elements of the crime are substantially similar to the elements of a crime that, if the crime results in death or bodily injury to the victim, would be a felony or a Class A misdemeanor if committed in Indiana. However, the term does not include any of the following:
 - (A) A crime in another jurisdiction resulting from operating a vehicle, other than a motor vehicle, while intoxicated.
 - (B) A crime in another jurisdiction with elements substantially similar to involuntary manslaughter resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(C) A crime in another jurisdiction with elements substantially similar to reckless homicide resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(D) A crime in another jurisdiction with elements substantially similar to criminal recklessness involving the use of a motor vehicle unless the offense was intentional or the person using the motor vehicle was intoxicated.

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(3) A terrorist act.

[As added by P.L.47-1993, SEC.2. Amended by P.L.36-1997, SEC.3; P.L.129-2009, SEC.2; P.L.48-2012, SEC.4; P.L.238-2015, SEC.1; P.L.65-2016, SEC.1.]

IC 5-2-6.1-9 Violent crime compensation unit

Sec. 9. The violent crime compensation unit is established as a unit of the victim services division of the institute. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-10 Duties of division

The division shall do the following:

(1) Maintain an office and staff in Indianapolis.

(2) Prescribe forms for processing applications for assistance.

(3) Determine claims for assistance filed under this chapter and investigate or reopen cases as necessary.

(4) Prepare and post on the division's Internet web site a report of the division's activities on a monthly, quarterly, and annual basis.

[As added by P.L.47-1993, SEC.2. Amended by P.L.28-2004, SEC.55; P.L.130-2018, SEC.12.]

IC 5-2-6.1-11 Powers of division

The division may do the following:

(1) Require from the attorney general, the state police department, local law enforcement personnel, a county department of public welfare, or a prosecuting attorney copies of investigations and data to assist the division in determining the validity of a claimant's application for assistance under this chapter.

(2) Require medical examination of victims.

(3) Hold hearings, administer oaths, examine any person under oath, issue subpoenas requiring the attendance and giving of testimony of witnesses, and require the production of books, papers, and documentary or other evidence. The subpoena powers provided in this subdivision may be exercised only by the director of the division or the director's designated representative.

(4) Take or cause to be taken affidavits or depositions. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-11.5 Confidentiality

A claimant's:

- (1) personal information (as defined in IC 9-14-6-6); and
- (2) medical records;

are confidential.

[As added by P.L.121-2006, SEC.4. Amended by P.L.198-2016, SEC.9.]

IC 5-2-6.1-12 Persons eligible for assistance

Except as provided in sections 13 through 15 of this chapter, the following persons are eligible for assistance under this chapter:

- (1) A resident of Indiana who is a victim of a violent crime committed:
 - (A) in Indiana; or
 - (B) in a jurisdiction other than Indiana, including a foreign country, if the jurisdiction in which the violent crime occurs does not offer assistance to a victim of a violent crime that is substantially similar to the assistance offered under this chapter.
- (2) A nonresident of Indiana who is a victim of a violent crime committed in Indiana.
- (3) A surviving spouse or dependent child of a victim of a violent crime who died as a result of that crime.
- (4) Any other person legally dependent for principal support upon a victim of a violent crime who died as a result of that crime.
- (5) A person who is injured or killed while trying to prevent a violent crime or an attempted violent crime from occurring in the person's presence or while trying to apprehend a person who had committed a violent crime.
- (6) A surviving spouse or dependent child of a person who dies as a result of:
 - (A) trying to prevent a violent crime or an attempted violent crime from occurring in the presence of the deceased person; or
 - (B) trying to apprehend a person who had committed a violent crime.
- (7) A person legally dependent for principal support upon a person who dies as a result of:
 - (A) trying to prevent a violent crime or an attempted violent crime from occurring in the presence of the deceased person; or
 - (B) trying to apprehend a person who had committed a violent crime.
- (8) A person who is injured or killed while giving aid and assistance to:
 - (A) a law enforcement officer in the performance of the officer's lawful duties; or
 - (B) a member of a fire department who is being obstructed from performing lawful duties.

[As added by P.L.47-1993, SEC.2. Amended by P.L.36-1997, SEC.4; P.L.161-2013, SEC.1; P.L.113-2014, SEC.6.]

IC 5-2-6.1-13 Participants in criminal acts and prisoners not eligible for benefits; exceptions; award of compensation to dependents of violent criminals

(a) Subject to subsection (b) and except as provided in subsection (c), benefits may not be awarded:

- (1) if the victim sustained the injury as a result of participating or assisting in, or attempting to commit or committing a criminal act;
- (2) if the injury occurred while the victim was a resident in a county, city, or federal jail or prison or in an institution operated by the department of correction;
- (3) if the victim profited or would have profited from the criminal act; or
- (4) if, at the time the injury occurred, the victim was intoxicated and contributed to the commission of an unrelated felony.

(b) If the victim is a dependent child or dependent parent of the person who commits a violent crime, compensation may be awarded where justice requires.

(c) Benefits may be awarded to a person described in subsection (a)(4) who is the victim of a sex crime under IC 35-42-4, a crime involving domestic or family violence (as defined in IC 35-31.5-2-76), or a crime of domestic violence (as defined in IC 35-31.5-2-78). *[As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.5; P.L.114-2012, SEC.11.]*

IC 5-2-6.1-13.5 Only one claimant per victim eligible for a benefit

The division may not award a benefit to more than one (1) claimant per victim. *[As added by P.L.121-2006, SEC.6.]*

IC 5-2-6.1-14 Persons worth more than \$200,000 not eligible for benefits

(a) Benefits may not be awarded to a claimant under section 12(1), 12(2), 12(3), 12(4), or 15 of this chapter if the victim or claimant had a net worth of greater than two hundred thousand dollars (\$200,000) at the time of suffering bodily injury.

(b) Benefits may not be awarded to a claimant under section 12(5), 12(6), 12(7), or 12(8) of this chapter if the victim or claimant had a net worth of greater than two hundred thousand dollars (\$200,000) at the time of suffering bodily injury. *[As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.7.]*

IC 5-2-6.1-15 Payment of funeral, burial, or cremation expenses of victim

(a) If a victim of a violent crime dies as a result of the crime, the division may pay the reasonable expenses incurred for funeral, burial, or cremation.

(b) The division shall adopt guidelines to determine when the payment of expenses under subsection (a) is appropriate. In adopting guidelines under this subsection, the division shall consider the availability of other sources of compensation, including township assistance and federal programs. *[As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.8; P.L.129-2009, SEC.3.]*

IC 5-2-6.1-16 Applications for assistance

(a) A person eligible for assistance under section 12 of this chapter may file an application for assistance with the division if the violent crime was committed in Indiana.

(b) Except as provided in subsections (e) and (f), the application must be received by the division not more than one hundred eighty (180) days after the date the crime was committed. The division may grant an extension of time for good cause shown by the claimant. However, and except as provided in subsections (e) and (f), the division may not accept an application that is received more than two (2) years after the date the crime was committed.

(c) The application must be filed in the office of the division in person, through the division's

Internet web site, or by first class or certified mail. If requested, the division shall assist a victim in preparing the application.

(d) The division shall accept all applications filed in compliance with this chapter. Upon receipt of a complete application, the division shall promptly begin the investigation and processing of an application.

(e) An alleged victim of a child sex crime may submit an application to the division until the victim becomes thirty-one (31) years of age or in accordance with subsection (f).

(f) An alleged victim of a child sex crime described in IC 35-41-4-2(e) which meets the requirements of IC 35-41-4-2(p) may submit an application to the division not later than five (5) years after the earliest of the date on which:

(1) the state first discovers evidence sufficient to charge the offender with the offense through DNA (deoxyribonucleic acid) analysis;

(2) the state first becomes aware of the existence of a recording (as defined in IC 35-31.5-2-273) that provides evidence sufficient to charge the offender with the offense;

or

(3) a person confesses to the offense.

(g) An alleged victim of a battery offense included in IC 35-42-2 upon a child less than fourteen (14) years of age may submit an application to the division not later than five (5) years after the commission of the offense. *[As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.9; P.L.48-2012, SEC.5; P.L.238-2015, SEC.2; P.L.65-2016, SEC.2; P.L.31-2020, SEC.1.]*

IC 5-2-6.1-17 Requirements for compensation

(a) Except for an alleged victim of a child sex crime, the division may not award compensation under this chapter unless the violent crime was reported to a law enforcement officer not more than seventy-two (72) hours after the occurrence of the crime.

(b) The division may not award compensation under this chapter until:

(1) law enforcement and other records concerning the circumstances of the crime are available; and

(2) any criminal investigation directly related to the crime has been substantially completed.

(c) If the crime involved a motor vehicle, the division may not award compensation under this chapter until an information or indictment alleging the commission of a crime has been filed by a prosecuting attorney. *[As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.10; P.L.129-2009, SEC.4; P.L.48-2012, SEC.6.]*

IC 5-2-6.1-18 Denial of awards for failure to cooperate with law enforcement

The division shall deny an award of compensation under this chapter if the claimant fails to fully cooperate with law enforcement personnel in the investigation, apprehension, and prosecution of the offender before the date the award is paid. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-19 Forfeit of awards for failure to cooperate with law enforcement

A claimant who fails to fully cooperate with law enforcement personnel in the investigation, apprehension, and prosecution of the offender after an award is paid forfeits the award. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-20 Suspension of reporting and cooperation requirements

- If: (1) the division finds a compelling reason for failure to report to or cooperate with law enforcement officials; and
(2) justice requires;

the division may suspend the requirements of section 17, 18, or 19 of this chapter. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-21 Compensable losses

(a) This section applies to claims filed with the division after December 31, 2005, and before July 1, 2009.

(b) This subsection does not apply to reimbursement for forensic and evidence gathering services provided under section 39 of this chapter.

(c) An award may not be made unless the claimant has incurred an out-of-pocket loss of at least one hundred dollars (\$100).

(d) Subject to subsections (b) and (c), the division may order the payment of compensation under this chapter for any of the following:

(1) Reasonable expenses incurred for necessary medical, chiropractic, hospital, dental, psychological, optometric, psychiatric, and ambulance services and prescription drugs and prosthetic devices that do not exceed the claimant's out-of-pocket loss.

(2) Loss of income the:

(A) victim would have earned had the victim not died or been injured, if the victim was employed at the time of the crime; or

(B) parent, guardian, or custodian of a victim who is less than eighteen (18) years of age incurred by taking time off work to care for the victim.

A claimant seeking reimbursement under this subdivision must provide the division with proof of employment and current wages.

(3) Reasonable emergency shelter care expenses, not to exceed the expenses for thirty (30) days, that are incurred for the claimant or a dependent of the claimant to avoid contact with a person who committed the violent crime.

(4) Reasonable expense incurred for child care, not to exceed one thousand dollars (\$1,000), to replace child care the victim would have supplied had the victim not died or been injured.

(5) Loss of financial support the victim would have supplied to legal dependents had the victim not died or been injured.

(6) Documented expenses incurred for funeral, burial, or cremation of the victim that do not exceed four thousand dollars (\$4,000). The division shall disburse compensation under this subdivision in accordance with guidelines adopted by the division.

(7) Other actual expenses resulting from the bodily injury or death of the victim, including costs of mental health care, not to exceed two thousand dollars (\$2,000) for the immediate family of a homicide or sex crime victim, and any other actual expenses that the division determines reasonable.

(e) If a health care provider accepts payment from the division under this chapter, the health care provider may not require the victim to pay a copayment or an additional fee for the provision of services.

(f) A health care provider who seeks compensation from the division under this chapter may not simultaneously seek funding for services provided to a victim from any other source. *[As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.11; P.L.129-2009, SEC.5.]*

IC 5-2-6.1-21.1 Compensable losses; health care provider compensation

(a) This section applies to claims filed with the division after June 30, 2009.

(b) This subsection does not apply to reimbursement for forensic and evidence gathering services provided under section 39 of this chapter.

(c) An award may not be made unless the claimant has incurred an out-of-pocket loss of at least one hundred dollars (\$100).

(d) Subject to subsections (b) and (c), the division may order the payment of compensation under this chapter for any of the following:

(1) Reasonable expenses incurred within one hundred eighty (180) days after the date of the violent crime for necessary:

- (A) medical, chiropractic, hospital, dental, optometric, and ambulance services;
- (B) prescription drugs; and
- (C) prosthetic devices;

that do not exceed the claimant's out-of-pocket loss.

(2) Loss of income:

(A) the victim would have earned had the victim not died or been injured, if the victim was employed at the time of the violent crime; or

(B) the parent, guardian, or custodian of a victim who is less than eighteen (18) years of age incurred by taking time off from work to care for the victim.

A claimant seeking reimbursement under this subdivision must provide the division with proof of employment and current wages.

(3) Reasonable emergency shelter care expenses, not to exceed the expenses for thirty (30) days, that are incurred for the claimant or a dependent of the claimant to avoid contact with a person who committed the violent crime.

(4) Reasonable expense incurred for child care, not to exceed one thousand dollars (\$1,000), to replace child care the victim would have supplied had the victim not died or been injured.

(5) Loss of financial support the victim would have supplied to legal dependents had the victim not died or been injured.

(6) Documented expenses incurred for funeral, burial, or cremation of the victim that do not exceed five thousand dollars (\$5,000). The division shall disburse compensation under this subdivision in accordance with guidelines adopted by the division.

(7) Outpatient mental health counseling, not to exceed three thousand dollars (\$3,000), concerning mental health issues related to the violent crime.

(8) Other actual expenses related to bodily injury to or the death of the victim that the division determines are reasonable.

(e) If a health care provider accepts payment from the division under this chapter, the health care provider may not require the victim to pay a copayment or an additional fee for the provision of services.

(f) A health care provider who seeks compensation from the division under this chapter may not simultaneously seek funding for services provided to a victim from any other source.

(g) The director may extend the one hundred eighty (180) day compensation period established by subsection (d)(1) for a period not to exceed two (2) years after the date of the violent crime if:

- (1) the victim or the victim's representative requests the extension; and
- (2) medical records and other documentation provided by the attending medical providers indicate that an extension is appropriate.

(h) The director may extend the one hundred eighty (180) day compensation period established by subsection (d)(1) for outpatient mental health counseling, established by subsection (d)(7), if the victim:

- (1) was allegedly a victim of a sex crime (under IC 35-42-4) or incest (under IC 35-46-1-3);
- (2) was under eighteen (18) years of age at the time of the alleged crime; and
- (3) did not reveal the crime within two (2) years after the date of the alleged crime.

[As added by P.L.129-2009, SEC.6. Amended by P.L.161-2013, SEC.2; P.L.113-2014, SEC.7.]

IC 5-2-6.1-22 Subrogation of rights; notice of civil actions

(a) The state is subrogated to the rights of the claimant to whom an award is granted to the extent of the award.

(b) The subrogation rights are against the perpetrator of the crime or a person liable for the pecuniary loss.

(c) If the claimant initiates a civil action against the perpetrator of the crime or against the person liable for the pecuniary loss, the claimant shall promptly notify the division of the filing of the civil action. *[As added by P.L.47-1993, SEC.2. Amended by P.L.161-2013, SEC.3; P.L.113-2014, SEC.8.]*

IC 5-2-6.1-23 Liens on civil awards; deductions; limits

(a) In addition to the subrogation rights under section 22 of this chapter, the state is entitled to a lien in the amount of the award on a recovery made by or on behalf of the claimant.

(b) The state may:

- (1) recover the amount under subsection (a) in a separate action; or
- (2) intervene in an action brought by or on behalf of the claimant.

(c) If the claimant brings the action, the claimant may deduct from the money owed to the state under the lien the state's pro rata share of the reasonable expenses for the court suit, including attorney's fees of not more than fifteen percent (15%). *[As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.12; P.L.161-2013, SEC.4; P.L.113-2014, SEC.9.]*

IC 5-2-6.1-24 Hearing officers

The division shall employ sufficient hearing officers to review each application for an award to carry out this chapter. *[As added by P.L.47-1993, SEC.2. Amended by P.L.100-2012, SEC.15.]*

IC 5-2-6.1-25 Review of applications; additional information

(a) The division shall review all applications to ensure that the applications are complete.

(b) If an application is not complete, the application shall be returned to the applicant with a brief statement of the additional information required.

(c) The applicant may, not more than thirty (30) days after receipt of the request for additional information, either supply the information or appeal to the director.

(d) The decision of the director is final.

(e) If:

- (1) the applicant does not furnish additional information;
- (2) additional time is not granted by the director for good cause; or
- (3) the applicant does not appeal the request not later than thirty (30) days after the request;

the application shall be denied. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-26 Investigations

(a) If an application is complete, the division shall accept the application for filing and investigate the facts stated in the application.

(b) As part of the investigation, the division shall verify that:

- (1) a violent crime was committed;
- (2) the victim was killed or suffered bodily injury as a result of the crime;
- (3) the requirements of sections 13, 16(a), 16(b), 17, 18, and 19 of this chapter are met; and
- (4) out-of-pocket loss exceeded one hundred dollars (\$100).

[As added by P.L.47-1993, SEC.2. Amended by P.L.161-2013, SEC.5; P.L.113-2014, SEC.10.]

IC 5-2-6.1-27 Hearings

(a) A hearing officer may hold a hearing concerning the merits of the application to allow any interested person to appear to offer evidence and argument on any issue relevant to the application or to the facts surrounding the bodily injury or death upon which the application is based.

(b) If a hearing is held, the claimant shall be notified in writing by certified mail with return receipt requested fifteen (15) days in advance concerning the date, time, place, and scope of the hearing in accordance with IC 4-21.5-3.

(c) A hearing must be open to the public unless the hearing officer, in consultation with the director, determines that the hearing or a part of the hearing should be held in private in the interest of the victim or society where justice requires. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-28 Decisions

(a) Not more than ten (10) days after the hearing, the hearing officer shall issue a written decision supported by findings of fact and conclusions of law based on the record from the hearing, the investigation, and the application of the claimant.

(b) Copies of the decision shall be mailed to the claimant at the address given in the application and to the attorney general. *[As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.13; P.L.1-2007, SEC.23.]*

IC 5-2-6.1-29 Appeals

(a) The state or a claimant may appeal the findings of the hearing officer not more than twenty-one (21) days after the date of receipt of the findings by filing a written appeal with the director.

(b) If an appeal is filed, the director shall review the matter and place the appeal on the docket for review by the division. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-30 Procedures

A proceeding under this chapter must be according to procedures adopted by the division. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-31 Denial of awards without opportunity for hearing prohibited

The hearing officer may not deny an award without providing the claimant with an opportunity for a hearing. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-32 Reduction of awards; other conditions

(a) The division shall reduce an award made under this chapter by the amount of benefits received or to be received from the following sources if those benefits result from or are in any manner attributable to the bodily injury or death upon which the award is based:

- (1) Benefits from public or private pension programs, including Social Security benefits.
- (2) Benefits from proceeds of an insurance policy.
- (3) Benefits under IC 22-3-2 through IC 22-3-6.
- (4) Unemployment compensation benefits.
- (5) Benefits from other public funds, including Medicaid and Medicare.

Compensation must be further reduced or denied to the extent that the claimant's loss is recouped from other collateral sources.

(b) The division shall further reduce an award under this chapter by the following:

- (1) The amount of court ordered restitution actually received by the claimant from the offender.
- (2) Benefits actually received by the claimant from a third party on behalf of the offender.

(c) The division shall determine whether the claimant vigorously pursued recovery against available collateral sources described in this section.

(d) If the division finds that a claimant has failed to pursue an applicable collateral source of recovery, the division shall reduce or deny an award under this section by the amount that is available to the claimant through the collateral source.

(e) A claimant must exhaust any paid or otherwise compensated vacation leave, sick leave, personal leave, or other compensatory time accrued through an employer before applying for benefits. The division may not reimburse the claimant for the use of paid or otherwise compensated vacation leave, sick leave, personal leave, or other compensatory time. *[As added by P.L.47-1993, SEC.2. Amended by P.L.7-2003, SEC.1; P.L.121-2006, SEC.14; P.L.161-2013, SEC.6; P.L.113-2014, SEC.11.]*

IC 5-2-6.1-33 Refund of award overpayments

If: (1) an award is made under this chapter; and

(2) the claimant receives a sum required to be deducted under section 32 of this chapter; the claimant shall refund to the state the amount of overpayment. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-34 Denial of awards due to victim's contributory conduct

(a) In determining the amount of the award, the division shall determine whether the victim contributed to the infliction of the victim's injury or death.

(b) If the division finds that the victim contributed to the infliction of the victim's injury or death, the division may deny an award.

(c) If the division further finds that the victim's contributory conduct was solely attributable to an effort to:

(1) prevent a crime from occurring; or

(2) apprehend a person who committed a crime;

in the victim's presence, the victim's contributory conduct does not render the victim ineligible for compensation. *[As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.15; P.L.161-2013, SEC.7; P.L.113-2014, SEC.12.]*

IC 5-2-6.1-35 Amount of awards; joint payments

(a) An award to a claimant under this chapter:

(1) may not exceed fifteen thousand dollars (\$15,000); and

(2) may not cover the first one hundred dollars (\$100) of the claim.

(b) The part of an award covering an unpaid bill shall be made payable to the service provider.

[As added by P.L.47-1993, SEC.2. Amended by P.L.55-2000, SEC.1; P.L.121-2006, SEC.16.]

IC 5-2-6.1-36 Emergency awards

(a) If:

(1) the division determines that a claimant will suffer severe financial hardship unless an emergency award is made; a

nd

(2) it appears likely that a final award will be made;

an emergency award not to exceed five hundred dollars (\$500) may be authorized by the director or the director's designated representative.

(b) The amount of an emergency award is:

(1) deducted from the final award made by the division; and

(2) recoverable from the claimant if no award is made by the division or to the extent that the emergency award exceeds the amount of the final award.

[As added by P.L.47-1993, SEC.2.]

IC 5-2-6.1-37 *[Repealed by P.L.121-2006, SEC.30.]*

IC 5-2-6.1-37.5 Contingency fee at hearing may not exceed 10%

An attorney who represents a victim at a hearing conducted by the division related to a claim under this chapter may not:

(1) charge a claimant a contingency fee for the representation that exceeds ten percent (10%) of the value of the award; or

(2) receive a direct payment from the division.

[As added by P.L.121-2006, SEC.17.]

IC 5-2-6.1-38 Exemption of awards from process

An award made by the division to a claimant is not subject to execution, attachment, garnishment, or other process, except the claim of a creditor to the extent that the costs were included in the award. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-39 Payment of forensic medical exams and additional forensic services

(a) When a hospital acting under IC 16-21-8 provides a forensic medical exam to an alleged sex crime victim, the hospital shall furnish the forensic medical exam described in IC 16-21-8-6 without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and shall adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter, despite delays in reimbursement from the victim services division of the Indiana criminal justice institute.

(b) When a hospital acting under IC 16-21-8 provides a forensic medical exam to an alleged sex crime victim, the hospital may also furnish additional forensic services to the alleged sex crime victim. However, the additional forensic services, if furnished, shall be furnished without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and may adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(c) Costs incurred by a hospital or other emergency medical facility for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3), if the examination is performed for the purposes of gathering evidence for possible prosecution, may not be charged to the victim of the crime.

(d) When a licensed medical service provider not covered by subsection (a) or (b) elects to provide a forensic medical exam to an alleged victim of one (1) or more of the sex crimes listed in IC 16-21-8-1(b), the medical service provider shall furnish the exam without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing forensic medical exams. A medical service provider may not charge the victim for a forensic medical exam required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(e) When a licensed medical service provider not covered by subsection (a) or (b) elects to provide additional forensic services to an alleged sex crime victim, the medical service provider shall furnish the services without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing the additional forensic services. A medical service provider may not charge the victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(f) The victim services division of the Indiana criminal justice institute is not required to reimburse a medical service provider for costs in providing additional forensic services unless the following conditions are met:

(1) The victim is at least eighteen (18) years of age.

(2) If the victim is less than eighteen (18) years of age, a report of the sex crime must be

made to child protective services or a law enforcement officer.

(3) The sex crime occurred in Indiana.

If the division finds a compelling reason for failure to comply with the requirements of this section, the division may suspend the requirements of this section.

(g) Costs incurred by a licensed medical service provider for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3) may not be charged to the victim of the crime if the examination is performed for the purposes of gathering evidence for possible prosecution. *[As added by P.L.47-1993, SEC.2. Amended by P.L.36-1997, SEC.5; P.L.121-2006, SEC.18; P.L.41-2007, SEC.1; P.L.129-2009, SEC.7.]*

IC 5-2-6.1-40 Compensation fund; establishment

The violent crime victims compensation fund is established as a dedicated fund to provide money for the awards provided under this chapter and for reimbursements under IC 16-21-8-6. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-41 Compensation fund; composition

The fund consists of amounts deposited under IC 5-2-6.3-6(b)(3), IC 11-10-7-5, IC 11-10-8-6, IC 33-37-7-9, IC 34-51-3-6, and IC 35-50-5-3 and appropriations from the general assembly. *[As added by P.L.47-1993, SEC.2. Amended by P.L.98-2004, SEC.49; P.L.121-2006, SEC.19; P.L.105-2006, SEC.1.]*

IC 5-2-6.1-42 Compensation fund; reversion of money and income

Money in the fund and income derived from money in the fund do not revert to the state general fund at the end of a state fiscal year. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-43 Computation and payment of awards

(a) If the division determines that an award from the fund becomes final during a month, the division shall compute the award before the fifteenth day of the following month.

(b) Except as provided in section 44 of this chapter, an award must be paid not more than thirty (30) days after the date on which the award is computed.

(c) Awards must be paid in the order in which the awards become final.

[As added by P.L.47-1993, SEC.2.]

IC 5-2-6.1-44 Suspension of payments; prorated payments

(a) If the fund would be reduced below two hundred fifty thousand dollars (\$250,000) by payment in full of all awards that become final in a month, the division shall suspend payment of the claims that become final during the month and the following two (2) months.

(b) At the end of the suspension period the division shall pay the suspended claims. If the fund would be exhausted by payment in full of the suspended claims, the amount paid to each claimant shall be prorated. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-45 Liability for determinations

The state is not liable for a written determination made by the division under this chapter except to the extent that money is available in the fund on the date the award is computed by the division under this chapter. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-46 Rules

The division shall adopt rules under IC 4-22-2 governing the computation and payment of awards under this chapter and the payment of reimbursements under IC 16-21-8-6. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-47 Forfeit of awards for forgery, fraud, or deception

A claimant convicted of forgery, fraud, or deception in connection with a claim under this chapter forfeits an award paid to the claimant under this chapter. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-48 Expenses of administration

The division may pay expenses incurred in administering this chapter only from money appropriated for that purpose from the violent crime victims compensation fund. *[As added by P.L.47-1993, SEC.2.]*

IC 5-2-6.1-49 Secured storage fund

(a) The secured storage fund is established as a dedicated fund to provide money to assist counties to pay expenses for the secured storage of samples from forensic medical examinations of alleged sex crime victims.

(b) The division shall administer the secured storage fund.

(c) The institute shall identify grants and other funds that can be used to fund the secured storage of samples from forensic medical examinations of alleged sex crime victims.

(d) The division may accept any gifts or donations to the secured storage fund.

(e) Money in the secured storage fund at the end of a state fiscal year does not revert to the state general fund. *[As added by P.L.41-2007, SEC.2.]*

INDIANA STATUTES - CRIME VICTIM RESTITUTION IN CRIMINAL CASES

IC 35-50-5-3 Restitution Order

(a) Except as provided in subsection (i), (j), (l), or (m), in addition to any sentence imposed under this article for a felony or misdemeanor, the court may, as a condition of probation or without placing the person on probation, order the person to make restitution to the victim of the crime, the victim's estate, or the family of a victim who is deceased. The court shall base its restitution order upon a consideration of:

- (1) property damages of the victim incurred as a result of the crime, based on the actual cost of repair (or replacement if repair is inappropriate);
- (2) medical and hospital costs incurred by the victim (before the date of sentencing) as a result of the crime;
- (3) the cost of medical laboratory tests to determine if the crime has caused the victim to contract a disease or other medical condition;
- (4) earnings lost by the victim (before the date of sentencing) as a result of the crime including earnings lost while the victim was hospitalized or participating in the investigation or trial of the crime; and
- (5) funeral, burial, or cremation costs incurred by the family or estate of a homicide victim as a result of the crime.

(b) A restitution order under subsection (a), (i), (j), (l), or (m) is a judgment lien that:

- (1) attaches to the property of the person subject to the order;
- (2) may be perfected;
- (3) may be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person's assignee; and
- (4) expires;

in the same manner as a judgment lien created in a civil proceeding.

(c) When a restitution order is issued under subsection (a), the issuing court may order the person to pay the restitution, or part of the restitution, directly to:

(1) the victim services division of the Indiana criminal justice institute in an amount not exceeding:

(A) the amount of the award, if any, paid to the victim under IC 5-2-6.1 [Violent Crime Compensation]; and

(B) the cost of the reimbursements, if any, for emergency services provided to the victim under IC 16-10-1.5 (before its repeal) or IC 16-21-8 [Medical exams for sex crime victims]; or

(2) a probation department that shall forward restitution or part of restitution to:

(A) a victim of a crime;

(B) a victim's estate; or

(C) the family of a victim who is deceased.

The victim services division of the Indiana criminal justice institute shall deposit the restitution it receives under this subsection in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(d) When a restitution order is issued under subsection (a), (i), (j), (l), or (m), the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the

felony or misdemeanor charge was filed. The restitution order must include the following information:

- (1) The name and address of the person that is to receive the restitution.
- (2) The amount of restitution the person is to receive.

Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket in the manner prescribed by IC 33-32-3-2. The clerk shall also notify the department of insurance of an order of restitution under subsection (i).

(e) An order of restitution under subsection (a), (i), (j), (l), or (m) does not bar a civil action for:

- (1) damages that the court did not require the person to pay to the victim under the restitution order but arise from an injury or property damage that is the basis of restitution ordered by the court; and

- (2) other damages suffered by the victim.

(f) Regardless of whether restitution is required under subsection (a) as a condition of probation or other sentence, the restitution order is not discharged by the completion of any probationary period or other sentence imposed for a felony or misdemeanor.

(g) A restitution order under subsection (a), (i), (j), (l), or (m) is not discharged by the liquidation of a person's estate by a receiver under IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, IC 34-48-6, IC 34-1-12, or IC 34-2-7 before their repeal).

(h) The attorney general may pursue restitution ordered by the court under subsections (a) and (c) on behalf of the victim services division of the Indiana criminal justice institute established under IC 5-2-6-8.

(i) The court may order the person convicted of an offense under IC 35-43-9 [Conversion of Escrow Funds] to make restitution to the victim of the crime. The court shall base its restitution order upon a consideration of the amount of money that the convicted person converted, misappropriated, or received, or for which the convicted person conspired. The restitution order issued for a violation of IC 35-43-9 must comply with subsections (b), (d), (e), and (g), and is not discharged by the completion of any probationary period or other sentence imposed for a violation of IC 35-43-9.

(j) The court may order the person convicted of an offense under IC 35-43-5-3.5 [Identity Deception] to make restitution to the victim of the crime, the victim's estate, or the family of a victim who is deceased. The court shall base its restitution order upon a consideration of the amount of fraud or harm caused by the convicted person and any reasonable expenses (including lost wages) incurred by the victim in correcting the victim's credit report and addressing any other issues caused by the commission of the offense under IC 35-43-5-3.5. If, after a person is sentenced for an offense under IC 35-43-5-3.5, a victim, a victim's estate, or the family of a victim discovers or incurs additional expenses that result from the convicted person's commission of the offense under IC 35-43-5-3.5, the court may issue one (1) or more restitution orders to require the convicted person to make restitution, even if the court issued a restitution order at the time of sentencing. For purposes of entering a restitution order after sentencing, a court has continuing jurisdiction over a person convicted of an offense under IC 35-43-5-3.5 for five (5) years after the date of sentencing. Each restitution order issued for a violation of IC 35-43-5-3.5 must comply with subsections (b), (d), (e), and (g), and is not discharged by the completion of any probationary period or other sentence imposed for an offense under IC 35-43-5-3.5.

(k) The court shall order a person convicted of an offense under IC 35-42-3.5 [Human Trafficking] to make restitution to the victim of the crime in an amount equal to the greater of the

following:

- (1) The gross income or value to the person of the victim's labor or services.
- (2) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of:

- (A) the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201-209); or
- (B) IC 22-2-2 (Minimum Wage);

whichever is greater.

- (l) The court shall order a person who:

- (1) is convicted of dealing in methamphetamine under IC 35-48-4-1.1 or manufacturing methamphetamine under IC 35-48-4-1.2; and

- (2) manufactured the methamphetamine on property owned by another person, without the consent of the property owner;

to pay liquidated damages to the property owner in the amount of ten thousand dollars (\$10,000) or to pay actual damages to the property owner, including lost rent and the costs of decontamination by a qualified inspector certified under IC 16-19-3.1.

- (m) The court shall order a person who:

- (1) is convicted of dealing in marijuana under IC 35-48-4-10(a)(1)(A); and

- (2) manufactured the marijuana on property owned by another person, without the consent of the property owner;

to pay liquidated damages to the property owner in the amount of two thousand dollars (\$2,000). *[As added by P.L.337-1983, SEC.1. Amended by P.L.149-1988, SEC.6; P.L.240-1991(ss2), SEC.99; P.L.2-1992, SEC.885; P.L.2-1993, SEC.194; P.L.47-1993, SEC.13; P.L.4-1994, SEC.21; P.L.307-1995, SEC.1; P.L.300-1995, SEC.3; P.L.1-1998, SEC.200; P.L.2-2002, SEC.105; P.L.88-2002, SEC.3; P.L.85-2004, SEC.54; P.L.98-2004, SEC.157; P.L.2-2005, SEC.129; P.L.125-2006, SEC.11; P.L.173-2006, SEC.54; P.L.73-2012, SEC.2; P.L.180-2014, SEC.6; P.L.252-2017, SEC.28; P.L.111-2018, SEC.16.]*

IC 35-38-1-7.1(b)(9) Considerations in imposing sentence

(b) The court may consider the following factors as mitigating circumstances or as favoring suspending the sentence and imposing probation:

- (9) The person has made or will make restitution to the victim of the crime for the injury, damage, or loss sustained.

IC 35-38-1-8.5 Presentence investigation; notice to victim; victim impact statement;

(a) A probation officer who is conducting a presentence investigation shall send written notification of the following to each victim or each victim representative designated by the court under section 2(e) of this chapter:

- (1) The date, time, and place of the sentencing hearing set by the court.

- (2) The right of the victim or victim representative to make an oral or written statement to the court at the sentencing hearing.

- (3) The right of the victim or victim representative to submit or refuse to submit to the probation officer a written or oral statement of the impact of the crime upon the victim for inclusion by the probation officer in a victim impact statement.

- (b) The notification required by subsection (a) must be sent at least seven (7) days before the

date of the sentencing hearing to the last known address of the victim or the victim representative.

(c) The probation officer shall prepare a victim impact statement for inclusion in the convicted person's presentence report. The victim impact statement consists of information about each victim and the consequences suffered by a victim or a victim's family as a result of the crime.

(d) Unless the probation officer certifies to the court under section 9 of this chapter that a victim or victim representative could not be contacted or elected not to submit a statement to the probation officer concerning the crime, the victim impact statement required under this section must include the following information about each victim:

(1) A summary of the financial, emotional, and physical effects of the crime on the victim and the victim's family.

(2) Personal information concerning the victim, excluding telephone numbers, place of employment, and residential address.

(3) Any written statements submitted by a victim or victim representative to the probation officer.

(4) If the victim desires restitution, the basis and amount of a request for victim restitution.

(e) A victim or victim representative is not required to submit a statement or to cooperate in the preparation of the victim impact statement required under this section. *[As added by P.L.36-1990, SEC.12. Amended by P.L.216-1996, SEC.12.]*

IC 35-38-2-2.3(a)(6), (17), (18) Conditions of probation; statement of conditions; term of imprisonment; intermittent service; transfers and retransfers of supervision

(a) As a condition of probation, the court may require a person to do a combination of the following:

(6) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.

IC 35-43-9-9 Restitution; Conversion of Title Insurance Escrow Funds

In addition to any sentence or fine imposed for a conviction of an offense in section 7 of this chapter, the court shall order the person convicted to make restitution to the victim of the crime pursuant to IC 35-50-5-3. *[As added by P.L.300-1995, SEC.2.]*

IC 35-45-9-6 Restitution; Criminal Organizations

In addition to any sentence or fine imposed on a criminal organization member for committing a felony or misdemeanor, the court shall order a criminal organization member convicted of a felony or misdemeanor to make restitution to the victim of the crime *[As added by P.L.192-2007, SEC.11. Amended by P.L.25-2016, SEC.25.]*

INDIANA STATUTES - CIVIL CAUSES OF ACTION FOR CRIME VICTIMS

IC 35-40-5-7 Order of restitution

A victim has the right to pursue an order of restitution and other civil remedies against the person convicted of a crime against the victim. *[As added by P.L.139-1999, SEC.1.]*

IC 34-24-3-1. Treble damages in civil action - Crime Victims Relief Act.

If a person has an unpaid claim on a liability that is covered by IC 24-4.6-5 (Theft of Vehicle Fuel) or suffers a pecuniary loss as a result of a violation of IC 35-43 [Crimes Against Property], IC 35-42-3-3 [Criminal Confinement], IC 35-42-3-4 [Interference with Custody], IC 35-45-9 [Criminal Organization Control], or IC 35-46-10 [Critical Infrastructures], the person may bring a civil action against the person who caused the loss for the following:

- (1) An amount not to exceed three (3) times:
 - (A) the actual damages of the person suffering the loss, in the case of a liability that is not covered by IC 24-4.6-5; or
 - (B) the total pump price of the motor fuel received, in the case of a liability that is covered by IC 24-4.6-5.
- (2) The costs of the action.
- (3) A reasonable attorney's fee.
- (4) Actual travel expenses that are not otherwise reimbursed under subdivisions (1) through (3) and are incurred by the person suffering loss to:
 - (A) have the person suffering loss or an employee or agent of that person file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) provide witnesses to testify in court proceedings related to the recovery of a judgment under this chapter.
- (5) A reasonable amount to compensate the person suffering loss for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A).
- (6) Actual direct and indirect expenses incurred by the person suffering loss to compensate employees and agents for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A).
- (7) All other reasonable costs of collection. *[P.L.1-1998, § 19; P.L.97-2011, § 3, eff. July 1, 2011; P.L.276-2019, § 1, effective July 1, 2019.]*

IC 34-24-3-2. Irrebuttable presumption as to retailer's damages — Indemnification and insurance prohibited.

(a) For purposes of determining the amount of damages recoverable under section 1(1) [IC 34-24-3-1(1)] of this chapter, there is an irrebuttable presumption that a retailer who brings a civil action under this chapter (or IC 34-4-30 before its repeal) as the result of a violation of IC 35-43-4-2 (theft) or IC 35-43-4-3 (conversion) suffers a pecuniary loss in the amount of:

- (1) one hundred dollars (\$100) regardless of whether:

(A) the property is returned to the retailer; or
(B) the actual retail value of the property is less than one hundred dollars (\$100);
or (2) the retailer's actual damages;
whichever is greater.

(b) An individual found liable in a civil action under this chapter (or IC 34-4-30 before its repeal) for violating IC 35-43-4-2 or IC 35-43-4-3 may not be indemnified or insured for any penalties, damages, or settlement arising from the violation. *[P.L.1-1998, § 19.]*

IC 34-24-3-3. Defendant subject to criminal prosecution — Punitive damages and treble damages not recoverable.

It is not a defense to an action for punitive damages that the defendant is subject to criminal prosecution for the act or omission that gave rise to the civil action. However, a person may not recover both:

- (1) punitive damages; and
- (2) the amounts provided for under section 1 or 1.5 [IC 34-24-3-1 or IC 34-24-3-1.5] of this chapter. *[P.L.1-1998, § 19; P.L.146-2007, § 17.]*

IC 35-42-3.5-3 Civil cause of action [Human and Sexual Trafficking]

(a) If a person is convicted of an offense under sections 1 through 1.4 of this chapter [Human and Sexual Trafficking], the victim of the offense:

- (1) has a civil cause of action against the person convicted of the offense; and
- (2) may recover the following from the person in the civil action:
 - (A) Actual damages.
 - (B) Court costs (including fees).
 - (C) Punitive damages, when determined to be appropriate by the court.
 - (D) Reasonable attorney's fees.

(b) An action under this section must be brought not more than two (2) years after the date the person is convicted of the offense under sections 1 through 1.4 of this chapter. *[As added by P.L.173-2006, SEC.52. Amended by P.L.106-2010, SEC.15; P.L.144-2018, SEC.26.]*

IC 35-45-13-7 Unauthorized use of telecommunications services

IC 35-45-13-8 Restitution; civil action to obtain relief

(a) The court may, in addition to any other sentence imposed for a conviction under this chapter, order a person convicted under this chapter to make restitution for the offense.

(b) A person or an entity that is the victim of an offense under this chapter may, in a civil action brought in the circuit or superior court in the county in which the person who committed the offense under this chapter was convicted, obtain appropriate relief, including preliminary and other equitable or declaratory relief, compensatory and punitive damages, reasonable investigation expense, court costs (including fees), and attorney's fees. *[As added by P.L.216-1996, SEC.23. Amended by P.L.106-2010, SEC.16.]*

VICTIM'S RIGHT TO NOTICE AND RIGHT TO BE HEARD -

(PLEA AGREEMENTS / VICTIM IMPACT STATEMENTS / SENTENCING / SENTENCE MODIFICATION / COMMUNITY TRANSITION)

IC 35-35-3-2. Notice of recommendation to victim.

(a) In making a recommendation on a felony charge, a prosecuting attorney must:

- (1) Inform the victim that he has entered into discussions with defense counsel or the court concerning a recommendation;
- (2) Inform the victim of the contents of the recommendation before it is filed; and
- (3) Notify the victim that the victim is entitled to be present and may address the court (in person or in writing) when the court considers the recommendation.

(b) A court may consider a recommendation on a felony charge only if the prosecuting attorney has complied with this section. *[As added by Acts 1981, P.L.298, § 4; P.L.126-1985, § 2.]*

IC 35-35-3-5. Certification of notification to victims — Statement by victim.

(a) As a part of the recommendation submitted to the court, the prosecuting attorney must certify that he has offered to show the proposed recommendation to the victims of the felony, if any, and that they have been offered an opportunity to present their opinion of the recommendation to the prosecuting attorney and the court.

(b) A victim present at sentencing in a felony or misdemeanor case shall be advised by the court of a victim's right to make a statement concerning the crime and the sentence. The court shall also offer the victim, if present, an opportunity to make a statement concerning the crime and the sentence. If unable to attend the hearing, the victim may mail a written statement to the court, which must be included in the presentence report made with respect to the defendant.

(c) However, this section gives no additional rights to the defendant. Failure to comply gives no grounds for postconviction relief. *[As added by Acts 1981, P.L.298, § 4; P.L.126-1985, § 3.]*

IC 35-35-3-6. Special victims — Procedure.

(a) If the victim is deceased or is under the age of eighteen (18) years, the prosecuting attorney shall certify that he has completed the procedure required by section 5 [IC 35-35-3-5] of this chapter with at least one (1) of the next of kin or the parent, guardian, or custodian of the victim. If the victim is a corporation, limited liability company, association, or governmental entity, the prosecuting attorney shall certify that he has completed the procedure with a responsible officer or agent of the entity. If the victim is a partnership, the prosecuting attorney shall certify that he has completed the procedure with at least one (1) partner.

(b) If there are more than three (3) victims, the prosecuting attorney shall complete the procedure required by section 5 of this chapter with the three (3) who he believes have suffered the most. *[As added by Acts 1981, P.L.298, § 4; 1982, P.L.204, § 28; P.L.8-1993, § 508.]*

IC 35-35-3-7. Failure to locate victim or next of kin — Certification to court.

If the prosecuting attorney is unable to make a certification required under section 5 or 6 [IC 35-35-3-5 or IC 35-35-3-6] of this chapter because he was unable, after a reasonable effort, to locate the victim or his next of kin, then he shall certify this fact to the court. He may then submit the recommendation, and the court may act upon it. *[As added by Acts 1981, P.L.298, § 4.]*

IC 35-38-1-2. Time for pronouncing sentence — Sentencing previously convicted persons to increased penalty — Imprisonment pending sentencing.

(a) As used in this chapter, “victim representative” means a person designated by a sentencing court who is:

(1) a spouse, parent, child, sibling, or other relative of; or

(2) a person who has had a close personal relationship with;

the victim of a felony who is deceased, incapacitated, or less than eighteen (18) years of age.

(b) Upon entering a conviction, the court shall set a date for sentencing within thirty (30) days, unless for good cause shown an extension is granted. If a presentence report is not required, the court may sentence the defendant at the time the judgment of conviction is entered. However, the court may not pronounce sentence at that time without:

(1) inquiring as to whether an adjournment is desired by the defendant; and

(2) informing the victim, if present, of a victim’s right to make a statement concerning the crime and the sentence.

When an adjournment is requested, the defendant shall state its purpose and the court may allow a reasonable time for adjournment.

(c) If:

(1) the state in the manner prescribed by IC 35-34-1-2.5 sought an increased penalty by alleging that the person was previously convicted of the offense; and

(2) the person was convicted of the subsequent offense in a jury trial;

the jury shall reconvene for the sentencing hearing. The person shall be sentenced to receive the increased penalty if the jury (or the court, if the trial is to the court alone) finds that the state has proved beyond a reasonable doubt that the person had a previous conviction for the offense.

(d) If the felony is nonsuspendible under IC 35-50-2-2 (before its repeal) or IC 35-50-2-2.2, the judge shall order the defendant, if the defendant has previously been released on bail or recognizance, to be imprisoned in the county or local penal facility pending sentencing.

(e) Upon entering a conviction for a felony, the court shall designate a victim representative if the victim is deceased, incapacitated, or less than eighteen (18) years of age. *[As added by P.L.311-1983, § 3; P.L.50-1984, § 8; P.L.131-1985, § 14; P.L.36-1990, § 11; P.L.168-2014, § 56, eff. July 1, 2014.]*

IC 35-38-1-8. Presentence report required — Victim’s right to make statement.

(a) Except as provided in subsection (c), a defendant convicted of a felony may not be sentenced before a written presentence report is prepared by a probation officer and considered by the sentencing court. Delay of sentence until a presentence report is prepared does not constitute an indefinite postponement or suspension of sentence.

(b) A victim present at sentencing in a felony or misdemeanor case shall be advised by the court of a victim’s right to make a statement concerning the crime and the sentence.

(c) A court may sentence a person convicted of a Level 6 felony without considering a written presentence report prepared by a probation officer. However, if a defendant is committed to the department of correction or a community corrections program under IC 35-38-2.6, the probation officer shall prepare a report that meets the requirements of section 9 [IC 35-38-1-9] of this chapter to be sent with the offender to the department in lieu of the presentence investigation report required by section 14 [IC 35-38-1-14] of this chapter. *[As added by P.L.311-1983, § 3; P.L.131-1985, § 16; P.L.240-1991(ss2), § 90; P.L.104-1997, § 6; P.L.158-2013, § 395, eff. July 1, 2014.]*

IC 35-38-1-8.5. Notification to victim of sentencing hearing — Victim impact statement included in presentence report.

(a) A probation officer who is conducting a presentence investigation shall send written notification of the following to each victim or each victim representative designated by the court under section 2(e) [IC 35-38-1-2(e)] of this chapter:

- (1) The date, time, and place of the sentencing hearing set by the court.
- (2) The right of the victim or victim representative to make an oral or written statement to the court at the sentencing hearing.
- (3) The right of the victim or victim representative to submit or refuse to submit to the probation officer a written or oral statement of the impact of the crime upon the victim for inclusion by the probation officer in a victim impact statement.

(b) The notification required by subsection (a) must be sent at least seven (7) days before the date of the sentencing hearing to the last known address of the victim or the victim representative.

(c) The probation officer shall prepare a victim impact statement for inclusion in the convicted person's presentence report. The victim impact statement consists of information about each victim and the consequences suffered by a victim or a victim's family as a result of the crime.

(d) Unless the probation officer certifies to the court under section 9 [IC 35-38-1-9] of this chapter that a victim or victim representative could not be contacted or elected not to submit a statement to the probation officer concerning the crime, the victim impact statement required under this section must include the following information about each victim:

- (1) A summary of the financial, emotional, and physical effects of the crime on the victim and the victim's family.
- (2) Personal information concerning the victim, excluding telephone numbers, place of employment, and residential address.
- (3) Any written statements submitted by a victim or victim representative to the probation officer.
- (4) If the victim desires restitution, the basis and amount of a request for victim restitution.

(e) A victim or victim representative is not required to submit a statement or to cooperate in the preparation of the victim impact statement required under this section.

[As added P.L.36-1990, § 12; P.L.216-1996, § 12.]

IC 35-38-1-9. Scope of presentence investigation and report — Solicitation of victim's statements.

(a) As used in this chapter, "recommendation" has the meaning set forth in IC 35-31.5-2-272, and "victim" has the meaning set forth in IC 35-31.5-2-348.

(b) The presentence investigation consists of the gathering of information with respect to:

- (1) the circumstances attending the commission of the offense;
- (2) the convicted person's history of delinquency or criminality, social history, employment history, family situation, economic status, education, and personal habits;
- (3) the impact of the crime upon the victim; and
- (4) whether the convicted person is:
 - (A) licensed or certified in a profession regulated by IC 25;
 - (B) licensed under IC 20-28-5; or
 - (C) employed, or was previously employed, as a teacher (as defined in IC

20-18-2-22(b)) in a school corporation, charter school, or nonpublic school.

(c) The presentence investigation may include any matter that the probation officer conducting the investigation believes is relevant to the question of sentence, and must include:

- (1) any matters the court directs to be included;
- (2) any written statements submitted to the prosecuting attorney by a victim under IC 35-35-3;
- (3) any written statements submitted to the probation officer by a victim; and
- (4) preparation of the victim impact statement required under section 8.5 [IC 35-38-1-8.5] of this chapter.

(d) If there are no written statements submitted to the probation officer, the probation officer shall certify to the court:

- (1) that the probation officer has attempted to contact the victim; and
- (2) that if the probation officer has contacted the victim, the probation officer has offered to accept the written statements of the victim or to reduce the victim's oral statements to writing, concerning the sentence, including the acceptance of any recommendation.

(e) A presentence investigation report prepared by a probation officer must include the information and comply with any other requirements established in the rules adopted under IC 11-13-1-8.

(f) The probation officer shall consult with a community corrections program officer or employee (if there is a community corrections program in the county) regarding services and programs available to the defendant while preparing the presentence investigation report. *[As added by P.L.311-1983, § 3; P.L.36-1990, § 13; P.L.240-1991(ss2), § 91; P.L.216-1996, § 13; P.L.155-2011, § 10; P.L.114-2012, § 77; P.L.179-2015, § 14; P.L.185-2017, § 8.]*

IC 35-31.5-2-272. Recommendation.

"Recommendation", for purposes of IC 35-35-3 and IC 35-38-1, means a proposal that is part of a plea agreement made to a court that:

- (1) a felony charge be dismissed; or
- (2) a defendant, if the defendant pleads guilty to a felony charge, receive less than the advisory sentence. *[As added by P.L.114-2012, § 67.]*

IC 35-31.5-2-348. Victim. [Effective July 1, 2020]

(a) "Victim", for purposes of IC 35-38-1-9 and IC 35-38-1-17, means a person who has suffered harm as a result of a crime.

(b) "Victim", for purposes of IC 35-37-6, has the meaning set forth in IC 35-37-6-3.

(c) "Victim", for purposes of IC 35-38-7, has the meaning set forth in IC 35-38-7-4.

(d) "Victim", for purposes of IC 35-40, has the meaning set forth in IC 35-40-4-8.

(e) "Victim", for purposes of IC 35-40.5 has the meaning set forth in IC 35-40.5-1-1.

(f) "Victim", for purposes of IC 35-45-10, has the meaning set forth in IC 35-45-10-4.

[As added by P.L.114-2012, § 67; P.L.58-2020, § 5.]

IC 35-38-1-10.6. Notification to victims that criminal carried HIV.

(a) The state department of health shall notify victims of an offense relating to a criminal sexual act or an offense relating to controlled substances if tests conducted under section 10.5 [IC

35-38-1-10.5] of this chapter or IC 16-41-8-5 confirm that the person tested had antibodies for the human immunodeficiency virus (HIV).

(b) The state department of health shall provide counseling to persons notified under this section. *[As added by P.L.123-1988, § 27; P.L.1-1990, § 348; P.L.2-1992, § 878; P.L.71-1998, § 3; P.L.125-2007, § 6, emergency eff. May 3, 2007; P.L.125-2009, § 6.]*

IC 35-38-1-12. Disclosure of presentence report.

(a) Before imposing sentence, the court shall:

(1) Advise the defendant or his counsel and the prosecuting attorney of the factual contents and conclusions of the presentence investigation; or

(2) Provide the defendant or his counsel and the prosecuting attorney with a copy of the presentence report.

The court also shall offer the victim, if present, an opportunity to make a statement concerning the crime and the sentence.

(b) The sources of confidential information need not be disclosed. The court shall furnish the factual contents of the presentence investigation or a copy of the presentence report sufficiently in advance of sentencing so that the defendant will be afforded a fair opportunity to controvert the material included. *[As added by P.L.311-1983, § 3; P.L.131-1985, § 17.]*

SENTENCE MODIFICATION

IC 35-38-1-17

At any time after sentencing, the court may reduce or suspend the sentence and impose a sentence that the court was authorized to impose at the time of sentencing. However, if the convicted person was sentenced under the terms of a plea agreement, the court may not, without the consent of the prosecuting attorney, reduce or suspend the sentence. If the court sets a hearing on a petition, the court must give notice to the prosecuting attorney and the prosecuting attorney must give notice to the victim.

IC 35-38-1-17 Sentence modification; conditions; not permitted for certain offenders

(a) Notwithstanding IC 1-1-5.5-21, this section applies to a person who: (1) commits an offense; or (2) is sentenced; before July 1, 2014.

(b) This section does not apply to a credit restricted felon.

(c) Except as provided in subsections (k) and (m), this section does not apply to a violent criminal.

(d) As used in this section, "violent criminal" means a person convicted of any of the following offenses:

(1) Murder (IC 35-42-1-1).

(2) Attempted murder (IC 35-41-5-1).

(3) Voluntary manslaughter (IC 35-42-1-3).

(4) Involuntary manslaughter (IC 35-42-1-4).

(5) Reckless homicide (IC 35-42-1-5).

(6) Aggravated battery (IC 35-42-2-1.5).

(7) Kidnapping (IC 35-42-3-2).

(8) Rape (IC 35-42-4-1).

(9) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

(10) Child molesting (IC 35-42-4-3).

(11) Sexual misconduct with a minor as a Class A felony under IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2) (for a crime committed before July 1, 2014) or sexual misconduct with a minor as a Level 1 felony under IC 35-42-4-9(a)(2) or a Level 2 felony under IC 35-42-4-9(b)(2) (for a crime committed after June 30, 2014).

(12) Robbery as a Class A felony or a Class B felony (IC 35-42-5-1) (for a crime committed before July 1, 2014) or robbery as a Level 2 felony or a Level 3 felony (IC 35-42-5-1) (for a crime committed after June 30, 2014).

(13) Burglary as Class A felony or a Class B felony (IC 35-43-2-1) (for a crime committed before July 1, 2014) or burglary as a Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony (IC 35-43-2-1) (for a crime committed after June 30, 2014).

(14) Unlawful possession of a firearm by a serious violent felon (IC 35-47-4-5).

(e) At any time after:

(1) a convicted person begins serving the person's sentence; and

(2) the court obtains a report from the department of correction concerning the convicted person's conduct while imprisoned;

the court may reduce or suspend the sentence and impose a sentence that the court was

authorized to impose at the time of sentencing. However, if the convicted person was sentenced under the terms of a plea agreement, the court may not, without the consent of the prosecuting attorney, reduce or suspend the sentence and impose a sentence not authorized by the plea agreement. The court must incorporate its reasons in the record.

(f) If the court sets a hearing on a petition under this section, the court must give notice to the prosecuting attorney and the prosecuting attorney must give notice to the victim (as defined in IC 35-31.5-2-348) of the crime for which the convicted person is serving the sentence.

(g) The court may suspend a sentence for a felony under this section only if suspension is permitted under IC 35-50-2-2.2.

(h) The court may deny a request to suspend or reduce a sentence under this section without making written findings and conclusions.

(i) The court is not required to conduct a hearing before reducing or suspending a sentence under this section if:

(1) the prosecuting attorney has filed with the court an agreement of the reduction or suspension of the sentence; and

(2) the convicted person has filed with the court a waiver of the right to be present when the order to reduce or suspend the sentence is considered.

(j) This subsection applies only to a convicted person who is not a violent criminal. A convicted person who is not a violent criminal may file a petition for sentence modification under this section:

(1) not more than one (1) time in any three hundred sixty-five (365) day period; and

(2) a maximum of two (2) times during any consecutive period of incarceration; without the consent of the prosecuting attorney.

(k) This subsection applies to a convicted person who is a violent criminal. A convicted person who is a violent criminal may, not later than three hundred sixty-five (365) days from the date of sentencing, file one (1) petition for sentence modification under this section without the consent of the prosecuting attorney. After the elapse of the three hundred sixty-five (365) day period, a violent criminal may not file a petition for sentence modification without the consent of the prosecuting attorney.

(l) A person may not waive the right to sentence modification under this section as part of a plea agreement. Any purported waiver of the right to sentence modification under this section in a plea agreement is invalid and unenforceable as against public policy. This subsection does not prohibit the finding of a waiver of the right to:

(1) have a court modify a sentence and impose a sentence not authorized by the plea agreement, as described under subsection (e); or

(2) sentence modification for any other reason, including failure to comply with the provisions of this section.

(m) Notwithstanding subsection (k), a person who commits an offense after June 30, 2014, and before May 15, 2015, may file one (1) petition for sentence modification without the consent of the prosecuting attorney, even if the person has previously filed a petition for sentence modification. *[As added by P.L.311-1983, SEC.3. Amended by P.L.317-1985, SEC.1; P.L.204-1986, SEC.1; P.L.240-1991(ss2), SEC.92; P.L.291-2001, SEC.224; P.L.2-2005, SEC.123; P.L.1-2010, SEC.141; P.L.114-2012, SEC.78; P.L.158-2013, SEC.396; P.L.168-2014, SEC.58; P.L.164-2015, SEC.2; P.L.13-2016, SEC.12; P.L.45-2018, SEC.2.]*

EARLY RELEASE TO COMMUNITY TRANSITION PROGRAM

IC 35-38-1-24

Inmate can be released by IDOC to a community transition program up to 180 days before scheduled release, unless court makes findings that doing so represents a substantial threat to safety. Notice to victim required. The court shall consider written statements of the victim and the offender. No hearing is required, but Court must enter written findings.

Community Transition Program Commencement Date

Most serious offense is Class D/Level 6	60 days before expected release date
Most serious offense is Class C/Level 5	90 days before expected release date
Most serious offense is Class C/Level 5 (all drug offenses and suspendable)	120 days before expected release date
Most serious offense is Class A,B/Level1-4	120 days before expected release date
Most serious offense is Class A,B/Level1-4 (all drug offenses and suspendable)	180 days before expected release date

IC 35-38-1-24 Community transition program; Level 5 or Level 6 felony

(a) This section applies to a person if the most serious offense for which the person is committed is a Class C or Class D felony (for a crime committed before July 1, 2014) or a Level 5 or Level 6 felony (for a crime committed after June 30, 2014).

(b) Not later than forty-five (45) days after receiving a notice under IC 11-10-11.5-2, the sentencing court may order the department of correction to retain control over a person until the person completes the person's fixed term of imprisonment, less the credit time the person has earned with respect to the term, if the court makes specific findings that support a determination:

(1) that placement of the person in a community transition program:

(A) places the person in danger of serious bodily injury or death; or

(B) represents a substantial threat to the safety of others; or

(2) of other good cause. If the court issues an order under this section, the department of correction may not assign a person to a community transition program.

(c) The court may make a determination under this section without a hearing. The court shall consider any written statement presented to the court by a victim of the offender's crime or by an offender under IC 11-10-11.5-4.5. The court in its discretion may consider statements submitted by a victim after the time allowed for the submission of statements under IC 11-10-11.5-4.5.

(d) The court shall make written findings for a determination under this section, whether or not a hearing was held.

(e) Not later than five (5) days after making a determination under this section, the court shall send a copy of the order to the: (1) prosecuting attorney where the person's case originated; and (2) department of correction. *[As added by P.L.273-1999, SEC.210. Amended by P.L.90-2000, SEC.17; P.L.158-2013, SEC.397.]*

IC 35-38-1-25 Community transition program; murder and Level 1 - Level 4 felony

(a) This section applies to a person if the most serious offense for which the person is committed is murder, a Class A felony, or a Class B felony (for a crime committed before July 1, 2014), or a Level 1, Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014).

(b) A sentencing court may sentence a person or modify the sentence of a person to assign the person to a community transition program for any period that begins after the person's community transition program commencement date (as defined in IC 11-8-1-5.6) and ends when the person completes the person's fixed term of imprisonment, less the credit time the person has earned with respect to the term, if the court makes specific findings of fact that support a determination that it is in the best interests of justice to make the assignment. The order may include any other condition that the court could impose if the court had placed the person on probation under IC 35-38-2 or in a community corrections program under IC 35-38-2.6.

(c) The court may make a determination under this section without a hearing. The court shall consider any written statement presented to the court by a victim of the offender's crime or by an offender under IC 11-10-11.5-4.5. The court in its discretion may consider statements submitted by a victim after the time allowed for the submission of statements under IC 11-10-11.5-4.5.

(d) The court shall make written findings for a determination under this section, whether or not a hearing was held.

(e) Not later than five (5) days after making a determination under this section, the court shall

send a copy of the order to the:

- (1) prosecuting attorney where the person's case originated; and
- (2) department of correction.

[As added by P.L.273-1999, SEC.211. Amended by P.L.90-2000, SEC.18; P.L.85-2004, SEC.39; P.L.158-2013, SEC.398.]

11-8-1-5.6. Community transition program commencement date.

(a) "Community transition program commencement date" means the following:

(1) Not earlier than sixty (60) days and not later than thirty (30) days before an offender's expected release date, if the most serious offense for which the person is committed is a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014).

(2) Not earlier than ninety (90) days and not later than thirty (30) days before an offender's expected release date, if the most serious offense for which the person is committed is a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014) and subdivision (3) does not apply.

(3) Not earlier than one hundred twenty (120) days and not later than thirty (30) days before an offender's expected release date, if:

(A) the most serious offense for which the person is committed is a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014);

(B) all of the offenses for which the person was concurrently or consecutively sentenced are offenses under IC 16-42-19 or IC 35-48-4; and

(C) none of the offenses for which the person was concurrently or consecutively sentenced are nonsuspendible under IC 35-50-2-2.2.

(4) Not earlier than one hundred twenty (120) days and not later than thirty (30) days before an offender's expected release date, if the most serious offense for which the person is committed is a Class A or Class B felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014) and subdivision (5) does not apply.

(5) Not earlier than one hundred eighty (180) days and not later than thirty (30) days before an offender's expected release date, if:

(A) the most serious offense for which the person is committed is a Class A or Class B felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014);

(B) all of the offenses for which the person was concurrently or consecutively sentenced are offenses under IC 16-42-19 or IC 35-48-4; and

(C) none of the offenses for which the person was concurrently or consecutively sentenced are nonsuspendible under IC 35-50-2-2.2.

(b) This subsection applies only to a person whose community transition program commencement date is less than forty-five (45) days after May 11, 2008, solely as a result of the amendment of subsection (a) by P.L.291-2001. The community transition program commencement date for a person described by this subsection is June 26, 2001. *[P.L.273-1999, § 206; P.L.291-2001, § 223; P.L.85-2004, § 30; P.L.220-2011, § 242; P.L.158-2013, § 170]*

11-10-11.5-4.5. Notice to victim and offender of right to submit written statement.

(a) Before the department may assign an offender to a minimum security classification and place the offender in a community transition program, the department shall notify:

(1) the offender and any victim of the offender's crime of the right to submit a written statement regarding the offender's assignment to the community transition program; and

(2) the offender of the right to submit a written statement objecting to the offender's placement in a community transition program;

to each court that sentenced the offender to a period of imprisonment that the offender is actively serving. If the name or address of a victim of the offender's crime changes after the offender is sentenced for the offense, and the offender's sentence may result in the offender's assignment to the community transition program, the victim is responsible for notifying the department of the name or address change.

(b) An offender or a victim of the offender's crime who wishes to submit a written statement under subsection (a)(1) must submit the statement to each court and the department not later than ten (10) working days after receiving notice from the department under subsection (a).

(c) An offender's written statement objecting to the offender's placement in a community transition program under subsection (a)(2) must be submitted to each court and the department:

(1) not later than ten (10) working days after receiving notice from the department under subsection (a); or

(2) before the offender is transported under section 7 [IC 11-10-11.5-7] of this chapter; whichever occurs first. [*P.L.90-2000, § 8; P.L.85-2004, § 33.*]

VICTIM'S RIGHT TO NOTICE OF DEFENDANT'S RELEASE FROM CUSTODY

IC 35-40-5-2 Release or escape from custody of perpetrator

(a) A victim has the right to be informed, upon request, when a person who is:

(1) accused of committing; or

(2) convicted of committing;

a crime perpetrated directly against the victim is released from custody or has escaped.

(b) Whenever a person accused or convicted of committing a crime is released or escapes from the custody of a mental health treatment agency or a hospital that is not operated by a county sheriff or the department of correction, the court committing the accused or convicted person to the mental health treatment agency or hospital shall carry out this section to inform the victim of the release or escape. The mental health treatment agency or hospital shall provide the court with sufficient information about the release or escape to allow the court to carry out this section. *[As added by P.L.139-1999, SEC.1.]*

IC 35-40-7-2 Notifying victim of a bond hearing, escape, death, or release

Upon request of a victim, the office of the prosecuting attorney having jurisdiction or a law enforcement agency having custody of a person accused of a crime against the victim shall notify the victim of the scheduling of a bond hearing, the escape or death of a person accused of committing a crime against the victim, release of a person convicted of a crime against the victim to a work release program, or any other type of postarrest release of a person convicted of a crime or charged with a crime against the victim. *[As added by P.L.139-1999, SEC.1. Amended by P.L.162-2011, SEC.56.]*

IC 35-40-9-1 Mental health treatment agency to notify victim

If the court described in IC 35-40-5-2 has received a request for notice from a victim and has communicated the request to a mental health treatment agency, the mental health treatment agency shall mail a notification to the court described in IC 35-40-5-2 not later than ten (10) days before the release or discharge of a person:

(1) accused or convicted of committing a criminal offense against the victim; and

(2) placed by court order with the mental health treatment agency.

[As added by P.L.139-1999, SEC.1.]

IC 35-40-9-2 Mental health treatment agency to notify court

A mental health treatment agency shall immediately notify the court described in IC 35-40-5-2 after the escape or subsequent readmission of a person:

(1) accused or convicted of committing a criminal offense against the victim; and

(2) placed by court order with the mental health treatment agency.

[As added by P.L.139-1999, SEC.1.]

IC 35-40-9-3 Court to give notice on behalf of mental health treatment agency

The court described in IC 35-40-5-2 shall give the notice required under IC 35-40-5-2 on behalf of the mental health treatment agency. *[As added by P.L.139-1999, SEC.1.]*

INDIANA DEPARTMENT OF CORRECTIONS
STATEWIDE AUTOMATED VICTIM INFORMATION & NOTIFICATION (SAVIN)

IC 11-8-7 Chapter 7. Victim Notification Services

IC 11-8-7-1 "Registered crime victim"

IC 11-8-7-2 Automated victim notification system

IC 11-8-7-3 System update; cause of action not established

IC 11-8-7-4 Funding sources for system

IC 11-8-7-5 Rules

IC 11-8-7-1 "Registered crime victim"

As used in the chapter, "registered crime victim" refers to a crime victim who registers to receive victim notification services under section 2(a)(3) of this chapter if the department establishes an automated victim notification system under this chapter. [As added by P.L.64-2005, SEC.4.]

IC 11-8-7-2 Automated victim notification system

(a) The department shall establish an automated victim notification system that must do the following:

(1) Automatically notify a registered crime victim when a committed offender who committed the crime against the victim:

(A) is assigned to a:

(i) department facility; or

(ii) county jail or any other facility not operated by the department;

(B) is transferred to a:

(i) department facility; or

(ii) county jail or any other facility not operated by the department;

(C) is given a different security classification;

(D) is released on temporary leave;

(E) is discharged;

(F) has escaped;

(G) has a change in the committed offender's expected date of release from incarceration;

(H) is scheduled to have a parole release hearing;

(I) has requested clemency or pardon consideration;

(J) is to be placed in a minimum security:

(i) facility; or

(ii) work release program;

or is permitted to participate in another minimum security assignment; or

(K) dies during the committed offender's period of incarceration.

(2) Allow a registered crime victim to receive the most recent status report for an offender by calling the automated victim notification system on a toll free telephone number.

(3) Allow a crime victim to register or update the victim's registration for the automated victim notification system by calling a toll free telephone number.

(b) For purposes of subsection (a), a sheriff responsible for the operation of a county jail shall immediately notify the department if a committed offender:

- (1) is transferred to another county jail or another facility not operated by the department of correction;
- (2) is released on temporary leave;
- (3) is discharged; or
- (4) has escaped.

Sheriffs and other law enforcement officers and prosecuting attorneys shall cooperate with the department in establishing and maintaining an automated victim notification system.

(c) An automated victim notification system may transmit information to a person by:

- (1) telephone;
- (2) electronic mail; or
- (3) another method as determined by the department.

(d) The department shall provide the opportunity for a registered crime victim to receive periodic status reports concerning the committed offender who committed the crime against the registered crime victim, including reports stating:

- (1) the committed offender's projected date of release from imprisonment;
- (2) the facility where the committed offender is imprisoned; and
- (3) the current security classification of the committed offender.

(e) A registered crime victim may choose to receive a status report described in subsection (d):

- (1) annually;
- (2) quarterly;
- (3) monthly; or
- (4) when triggered by an event described in subsection (a)(1).

[As added by P.L.64-2005, SEC.4. Amended by P.L.147-2012, SEC.1.]

IC 11-8-7-3 System update; cause of action not established

(a) The department must ensure that the offender information contained in an automated victim notification system is updated frequently enough to timely notify a registered crime victim that an offender has:

- (1) been released;
- (2) been discharged; or
- (3) escaped.

(b) The failure of an automated victim notification system to provide notice to the victim does not establish a separate cause of action by the victim against:

- (1) the state; or
- (2) the department. *[As added by P.L.64-2005, SEC.4.]*

IC 11-8-7-4 Funding sources for system

If the department establishes an automated victim notification system under this chapter, the department, in cooperation with the Indiana criminal justice institute:

- (1) may use money in the victim and witness assistance fund under IC 5-2-6-14(e); and
- (2) shall seek:
 - (A) federal grants; and
 - (B) other funding. *[As added by P.L.64-2005, SEC.4.]*



Call the Indiana Statewide Victim Information and Notification Service

TOLL FREE:

(866) 891-0330

<http://indianasavin.in.gov>



Provided by:
Indiana Department of Correction

**Write down the following information
and keep in a safe place:**

Offender name

Offender number

Case/Cause number



What is the Indiana SAVIN program?

Indiana SAVIN stands for Statewide Automated Victim Information and Notification. The Indiana SAVIN program is a free, automated service that provides crime victims with vital information and notification 24 hours a day, 365 days a year. This service will allow you to obtain offender information and to register for notification of a change in offender status, such as offender release.

**All registrations through Indiana SAVIN
are kept completely confidential.**

How do I use the service?

- Visit **<http://indianasavin.in.gov>** or call **(866) 891-0330** to register.
- You can register to be notified when an offender's status changes.
- To change your registration, you can either visit **<http://indianasavin.in.gov>** or call **(866) 891-0330**.

Provided by:

Indiana Department of Correction

This project was supported by grants awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department of Justice.

VICTIM SERVICES

**Indiana Criminal Justice Institute
Victim Compensation**
800-353-1484
www.in.gov/cji

Office of the Attorney General
800-258-0993
www.in.gov/attorneygeneral

Indiana Coalition Against Domestic Violence (ICADV)
800-332-7385
www.violenceresource.org

Indiana Coalition Against Sexual Assault (INCASA)
800-691-2272
www.incasa.org

Mothers Against Drunk Driving (MADD)
800-247-6233
www.madd.org

National Sexual Assault Hotline (RAINN)
800-656-4673
www.rainn.org

**An Abuse, Rape and Domestic Violence
Aid and Resource Collection (AARDVARC)**
www.aardvarc.org

**Indiana Department of Correction
Registration and Victim Services Division**
800-447-5604
www.in.gov/idoc

Notes:

VINE
VICTIM INFORMATION & NOTIFICATION EVERYDAY



**VICTIMS HAVE
THE RIGHT TO
KNOW**

**County VINE Service
for Indiana**
Access to Information & Notification for
Offender Custody Status

1-866-959-VINE
Toll-free 1-866-959-8463
TTY 1-866-847-1298
www.vinelink.com



A service provided by the:
Indiana Sheriffs' Association
in partnership with Appriss®

Appriss®

07/11

INDIANA VICTIM INFORMATION AND NOTIFICATION EVERYDAY

VINE is an automated service that lets you track the custody status of offenders in participating county jails. By calling the toll-free number or visiting www.vinelink.com, you can find out the custody status of an offender. You can also register to be notified by phone and e-mail if the custody status of an offender changes.


Information
Call 1-866-959-8463 or visit www.vinelink.com and follow the instructions to access custody information.

Registration
If the offender is in custody, you can register to receive notifications.
If registering a phone number, you will be asked to create a four-digit personal identification number (PIN) that will be used to confirm that the call was received. Make sure your PIN is easy to remember.

Notification
You will be notified about the following events:

- Release
- Transfer
- Escape
- Death

When VINE calls, listen to the message, then enter your PIN followed by the pound (#) key when asked. Entering the PIN lets VINE know that you received the call and will stop the service from calling you again.



- If you feel you are in danger, call 911 immediately.
- Since VINE calls automatically when an offender's custody status changes, you may get a call from VINE in the middle of the night.
- If you do not answer a notification call, VINE will leave a message. If there is no answer, VINE will continue calling back until you enter your PIN or until up to 48 hours have passed.
- Do not register a phone number that rings to a switchboard.
- You can register multiple phone numbers and e-mail addresses for notifications.
- If you forget your PIN, call the toll-free number and press zero. You will be transferred to an operator who can help you reset your PIN or cancel notification.
- Operators are available 24 hours a day, seven days a week to assist you.

1-866-959-VINE

Toll-Free 1-866-959-8463

Write down the following information,
tear off this panel,
and keep in a safe place:

Offender name _____

Offender number _____

Your four-digit PIN _____

USING VINE

Information
Call 1-866-959-8463 or visit www.vinelink.com and follow the instructions to access custody information.

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www.vinelink.com

Do not rely solely on VINE for your safety. If you feel that you may be at risk, take precautions as if the offender has already been released.



REQUEST FOR NOTIFICATION

I have been informed of my rights under the Victim Rights Act and request notification of the following information that I am entitled to in this case. I understand that I must keep the Clark County Prosecuting Attorney informed of current address and telephone number if I am to be notified.

NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

HOME PHONE: _____ WORK PHONE: _____

DEFENDANT: _____ FILE NUMBER: _____

NOTIFICATION CHECKLIST

1. NOTICE OF COURT DATES

You have a right to information about the court proceedings related to this case. Subpoenas will be issued for trial dates and other hearings when a victim's presence is required in court.

2. PLEA AGREEMENTS

You have a right to know if the defendant is going to plead guilty to the charge or if there is a plea agreement between the State and the defendant. If there is a plea agreement, you have the right to know the content of the agreement and to tell the judge, in person or in writing your feelings regarding that agreement.

3. RELEASE OF PROPERTY

You have the right to ask the police agency that is holding your recovered property as evidence to request the prosecutor's authorization to return it to you.

4. RESTITUTION

You have a right to ask the judge at the time of

sentencing, for an order requiring the defendant to pay restitution for property damages, medical expenses, lost earnings and/or burial expenses. Copies of receipts or estimates may be necessary to support your claim. Please complete the enclosed restitution form.

5. VICTIM IMPACT STATEMENT

You have a right to make a statement to the judge at the time of sentencing, either in person or in writing as to how you were affected by this crime physically, financially and emotionally.

6. SENTENCING

You have a right to know what sentence the defendant receives.

7. NOTICE OF APPEAL OF SENTENCE OR CONVICTION

You have a right to be notified if the defendant files for an appeal of their conviction or sentence.

8. NOTICE OF RELEASE FROM PRISON

You have a right to be notified by the Indiana Department of Correction of when the defendant will be released from their custody if the judge sentences the defendant to prison. Please make certain to notify Victim Assistance at 812-285-62624 with any change to your address or telephone number.

9. TRANSLATOR/INTERPRETER

You have a right to a translator or interpreter if you do not understand English.

10. DISABILITY ASSISTANCE

Disability and Requirements:

INDIANA DEPARTMENT OF CORRECTION

Incarcerated Search

Search by Incarcerated Name

Searches may be done by last name or by both first and last names. To narrow your results, searches should be done by both first and last names when known. If you know the incarcerated individual's DOC number, searching by this method eliminates one step in the process.

Last Name:Davidson

First Name:Latine

SEARCHRESET

Search by DOC Number

DOC Number:

SEARCHRESET

This database was last updated 07/18/2024

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Indiana Department of Correction
302 West Washington Street
IGCS, Room E334
Indianapolis, IN 46204

Indiana Department of Correction
Offender Search
<https://www.in.gov/apps/indcorrection/ofs/ofs>

INDIANA DEPARTMENT OF CORRECTION

Incarcerated Data

LATINE M DAVIDSON

DOC Number853797

First NameLATINE

Middle NameM

Last NameDAVIDSON

Suffix

Date of Birth06/1965

GenderFemale

RaceBlack

Facility/LocationRockville Correctional Facility

Earliest Possible Release Date*
*Incarcerated individuals scheduled for release on a Monday, Tuesday or Wednesday are released on Monday.
*Incarcerated individuals scheduled for release on a Thursday, Friday, Saturday or Sunday are released on Thursday.
*Incarcerated individuals whose release date falls on a Holiday are released on the first working day prior to the Holiday.

Indiana SAVIN: Click Here to register for notification on any changes to this offender's custody status.

Sentence Information

Date of Sentence12/02/1986

DescriptionMURDER

Term in Years / Months / Days6000000000

Type of ConvictionM

Indiana Citation Code35-42-1-1

Cause Number85-CR1-35

County of ConvictionCLARK

Projected Release Date07/03/2011

Sentence Information

Date of Sentence12/02/1986

DescriptionMURDER

Term in Years / Months / Days6000000000

Type of ConvictionM

Indiana Citation Code35-42-1-1

Cause Number85-CR1-35

County of ConvictionCLARK

Projected Release Date07/01/2041

Comments

Please note that offenses appearing on this record with the same cause numbers multiple times do not reflect multiple convictions for those offenses. They represent re-commitment to the Department of Correction for violations of probation or community correction.

This database was last updated 07/18/2024

Data Descriptions	
DOC Number	DOC Number refers to the identification number assigned to an individual upon incarceration.
Description	"Offense" refers to the crimes for which the incarcerated individual is, or was most recently, incarcerated. "ATT" indicates "attempted," "CON" indicates "conspiracy to commit," and "AID" indicates "Aiding". Duplicate entries indicate additional counts of the same crime.
County of Conviction	"Committing County" is the county in which the incarcerated individual was sentenced.
Date of Sentence	"Date of Sentence" is the date in which the sentence was issued by the court.

Any person, agency or entity, public or private, who reuses, publishes or communicates the information available from this server shall be solely liable and responsible for any claim or cause of action based upon or alleging an improper or inaccurate disclosure arising from such reuse, re-publication or communication, including but not limited to actions for defamation and invasion of privacy.

All complaints regarding the accuracy of information contained in these documents should be submitted, in writing, to the:
Indiana Department of Correction
302 West Washington Street
IGCS, Room E334
Indianapolis, IN 46204

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Indiana Attorney General Victim Services

The Indiana Attorney General's Victim Services and Outreach Division is committed to providing services and assistance to victims of crime. The Indiana Constitution guarantees victims of crime fairness, respect, and dignity. The office sustains that promise by supporting those affected directly, and indirectly, by crime in Indiana. The office provides support by administering the Address Confidentiality and Appellate Victim Programs.

Appellate Victim Notification Program

After defendants are convicted of crimes and sentenced, they can choose to appeal. When they do, the Attorney General's Office represents the state and works diligently to keep the criminals in jail or prison. The Appellate Victim Notification Program assists victims of crime during the appeals stage by helping them understand and cope with the process. It keeps victims informed and involved throughout the appellate proceedings and can also help provide referrals to other services.

The Attorney General's Appellate Victim Notification Program offers the following services:

- Notification
- Education
- Referrals

After offenders are convicted of crimes and sentenced, they can choose to appeal. When they do, the Attorney General's Office represents the state to uphold the conviction and sentence to keep the offenders in jail or prison. The Attorney General's Appellate Victim Notification Program works to keep victims and their families informed throughout the appellate process and provides them with resources and referrals to other victim service providers.

- ◆ The Appeals Process
- ◆ Frequently Asked Questions
- ◆ Glossary

<https://www.in.gov/attorneygeneral/about-the-office/appeals/victim-services/>

**IC 35-40.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2020]:**

ARTICLE 40.5. RIGHTS OF SEXUAL ASSAULT VICTIMS

IC 35-40.5-1-1 Definitions

The following definitions apply throughout this article:

- (1) "Law enforcement officer" means any of the following:
 - (A) A law enforcement officer (as defined in IC 35-31.5-2-185).
 - (B) A state educational institution police officer appointed under IC 21-39-4.
 - (C) A school corporation officer appointed under IC 20-26-16.
 - (D) A school resource officer (as defined in IC 20-26-18.2-1).
 - (E) A police officer of a private postsecondary educational institution whose governing board has appointed the police officer under IC 21-17-5-2.
- (2) "Provider" has the meaning set forth in IC 16-21-8-0.2.
- (3) "Relative" has the meaning set forth in IC 35-42-2-1(b).
- (4) "Sexual assault forensic evidence" means the results collected from a forensic medical examination of a victim by a provider.
- (5) "State sexual assault response team" means the statewide sexual assault response team coordinated by the Indiana prosecuting attorneys council and the Indiana criminal justice institute.
- (6) "Victim" means an individual:
 - (A) who is a victim of sexual assault (as defined in IC 5-26.5-1-8); or
 - (B) who:
 - (i) is a relative of or a person who has had a close personal relationship with the individual described under clause (A); and
 - (ii) is designated by the individual described under clause (A) as a representative. The term does not include an individual who is accused of committing an act of sexual assault (as defined in IC 5-26.5-1-8) against the individual described under clause (A).
- (7) "Victim advocate" has the meaning set forth in IC 35-37-6-3.5.

[[IC 35-37-6-3.5. "Victim advocate" defined.]]

 - (a) As used in this chapter, "victim advocate" means an individual employed or appointed by or who volunteers for:
 - (1) a victim services provider; or
 - (2) the student advocate office of a state educational institution or an approved post secondary educational institution, if the individual provides services to a victim.
 - (b) The term does not include:
 - (1) a law enforcement officer;
 - (2) an employee or agent of a law enforcement officer;
 - (3) a prosecuting attorney; or
 - (4) an employee or agent of a prosecuting attorney's office.
 - (c) The term includes an employee, an appointee, or a volunteer of a:
 - (1) victim services provider;
 - (2) domestic violence program;
 - (3) sexual assault program;
 - (4) rape crisis center;
 - (5) battered women's shelter;
 - (6) transitional housing program for victims of domestic violence; or
 - (7) program that has as one (1) of its primary purposes to provide services to an individual:
 - (A) against whom an act of:
 - (i) domestic or family violence;

- (ii) dating violence;
- (iii) sexual assault (as defined in IC 5-26.5-1-8);
- (iv) human and sexual trafficking (IC 35-42-3.5); or
- (v) stalking (IC 35-45-10-5);

is committed; or

(B) who:

- (i) is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and
- (ii) is a member of the family of an individual described in clause (A) other than a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5). [P.L.104-2008, § 11, emergency eff. July 1, 2008; P.L.70-2016, § 3, effective July 1, 2016.]

(8) "Victim service provider" has the meaning set forth in IC 35-37-6-5. *[As added by P.L.58-2020; Effective July 1, 2020].*

[[IC 35-37-6-5. "Victim service provider" defined.]]

As used in this chapter, "victim service provider" means a person:

(1) that is:

- (A) a public agency;
- (B) a unit of a public agency; or
- (C) an organization that is exempt from federal income taxation under Section 501 of the Internal Revenue Code;

(2) that is not affiliated with a law enforcement agency;

(3) that has, as one (1) of its primary purposes, to provide services for emotional and psychological conditions that occur to an individual:

(A) against whom an act of:

- (i) domestic or family violence;
- (ii) dating violence;
- (iii) sexual assault (as defined in IC 5-26.5-1-8);
- (iv) human and sexual trafficking (IC 35-42-3.5); or
- (v) stalking (IC 35-45-10-5);

is committed; or

(B) who:

- (i) is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and
- (ii) is a member of the family of an individual described in clause (A) other than a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5). [P.L.136-1987, § 5; P.L.104-2008, § 12, emergency eff. July 1, 2008.]

IC 35-40.5-2-1 When rights attach

The rights provided to victims under this article attach whenever a victim is subject to:

- (1) a forensic medical exam; or
- (2) an interview by a law enforcement officer; in relation to injuries, trauma, or an investigation resulting from an alleged sexual assault. *[As added by P.L.58-2020; Effective July 1, 2020].*

IC 35-40.5-2-2 Victim continuously retains rights

A victim continuously retains all the rights under this article regardless of whether the victim:

- (1) agrees to participate in any civil or criminal proceeding related to the alleged sexual assault; or
- (2) consents to a forensic medical exam to collect forensic evidence related to the alleged sexual assault. *[As added by P.L.58-2020; Effective July 1, 2020].*

IC 35-40.5-3-1 Right to a Victim Advocate or Victim Service Provider

A victim has the right to:

- (1) speak with a victim advocate or victim service provider during any hospital visit for the purpose of receiving a sexual assault examination; and
- (2) speak with a victim advocate or victim service provider during the course of the investigation. If a victim advocate or victim service provider is not available, a victim has the right to speak with victims assistance or a social worker. A victim retains these rights even if the victim has waived one (1) or more of these rights in a previous examination or interview. *[As added by P.L.58-2020; Effective July 1, 2020].*

IC 35-40.5-3-2 Certain communications inadmissible as evidence

A victim's communications with a victim advocate, victim service provider, victims assistance, or a social worker are not admissible into evidence for any purpose except with consent of the victim. *[As added by P.L.58-2020; Effective July 1, 2020].*

IC 35-40.5-4-1 Services provided to victim without charge

As described in IC 16-21-8-6, a provider shall provide forensic medical exams and additional forensic services to a victim without charge. *[As added by P.L.58-2020; Effective July 1, 2020].*

IC 35-40.5-4-2 Provider's duty to inform victim of certain rights

Before a provider commences a forensic medical examination, or as soon as possible, the provider shall inform the victim of the following:

- (1) The victim's rights under this article and other relevant law in a document to be developed by the state sexual assault response team, as described in IC 16-21-8-2, which shall be signed by the victim to confirm receipt, unless the victim has already been provided with the document under IC 35-40.5-5-1.
- (2) The victim's right to speak with a victim advocate or victim service provider. If a victim advocate or victim service provider is not available, a victim has the right to speak with victims assistance or a social worker. *[As added by P.L.58-2020; Effective July 1, 2020].*

IC 35-40.5-4-3 Provider to notify victim advocate

Before a provider commences a forensic medical examination, or as soon as possible, the provider shall notify a victim advocate or a victim service provider. If a victim advocate or victim service provider is not available, the provider shall notify victims assistance or a social worker. *[As added by P.L.58-2020; Effective July 1, 2020].*

IC 35-40.5-5-1 Law enforcement duty to inform

Before a law enforcement officer commences an interview of a victim, the law enforcement officer shall inform the victim of the following:

- (1) The victim's rights under this article and other relevant law in a document to be developed by the state sexual assault response team, as described in IC 16-21-8-2, which shall be signed by the victim to confirm receipt, unless the victim has already been provided with the document under IC 35-40.5-4-2.
- (2) The victim's right to speak with a victim advocate or victim service provider during the course of the investigation, and that the victim has the right to speak to victims assistance or a social worker if a victim advocate or victim service provider is not available. *[As added by P.L.58-2020; Effective July 1, 2020].*

IC 35-40.5-6-1 Defendant may not object to failure to comply

(a) A defendant or a person accused or convicted of a crime against a victim may not object to any failure in complying with this article.

(b) The failure to provide a right or notice to a victim under this section may not be used by a defendant to seek to have the conviction or sentence set aside. *[As added by P.L.58-2020; Effective July 1, 2020].*

IC 35-40.5-7-1 Duty of law enforcement to inform victim of rights

(a) Upon initial interaction with a victim, a law enforcement officer or provider shall provide the victim with a document developed by the state sexual assault response team as described in IC 16-21-8-2, that explains the rights of victims: (1) under this article and other relevant law; (2) in a format accessible to persons with visual disabilities; and (3) in English, Spanish, and German.

(b) The document described in subsection (a) shall include the following: (1) A clear statement that a victim is not required to receive a medical evidentiary or physical examination in order to retain the rights provided under this article or any other relevant law. (2) Information concerning state and federal victim compensation funds for medical and other costs associated with the sexual assault. *[As added by P.L.58-2020; Effective July 1, 2020].*








RIGHTS OF VICTIMS OF SEXUAL ASSAULT

The following rights of victims of sexual assault attach whenever a victim is subject to a forensic medical examination or an interview by a law enforcement officer in relation to injuries, trauma, or an investigation resulting from an alleged sexual assault.

You retain these rights regardless of whether you agree to participate in any civil or criminal proceeding related to the assault, and regardless of whether you consent to a forensic medical examination to collect forensic evidence related to the alleged sexual assault.

You have the right to be informed of your rights as a victim under Indiana law before the commencement of any forensic medical examination or an interview by a law enforcement officer. Those rights include:

-  You have the right to speak with a victim advocate or victim service provider during any hospital visit for the purpose of receiving a sexual assault examination. If a victim advocate or victim service provider is not available, you have the right to speak with victim's assistance or a social worker. You retain these rights even if you have waived one or more of these rights in a previous examination or interview.
-  You have the right to be treated with fairness, dignity and respect and free from intimidation, harassment and abuse throughout the criminal justice process.
-  Your private communications with a victim advocate, victim service provider, victim's assistance, or a social worker are not admissible into evidence for any purpose except with your consent.
-  You have the right to speak with a victim advocate or victim service provider during the course of the investigation. If a victim advocate or victim service provider is not available, you have the right to speak with victim's assistance or a social worker. You retain these rights even if you have waived one or more of these rights in a previous examination or interview.
-  You have the right to be provided with a forensic medical exam and additional forensic services without charge. You can ask the person administering your exam whether they have been trained to do so. You have the right to decline any part of the sexual assault examination. You have the right to a shower at the medical facility after the examination.

BROCHURE - RIGHTS OF VICTIMS OF SEXUAL ASSAULT (ENGLISH)
<https://www.in.gov/cji/victim-compensation/rights-of-victims-of-sexual-assault/>

WHAT EXPENSES ARE COVERED BY CJI?

For victims of sexual assault, ICJI administers payment for certain costs associated with a forensic medical exam. These costs include (not limited to): a forensic medical exam, mental health counseling, certain diagnostic testing, initial pregnancy and follow-up pregnancy testing, certain laboratory testing for STDs, alcohol, drugs, suturing and care of wounds and other limited outpatient services. The approved costs will be paid by ICJI to the provider, pending certain conditions are met.

Additionally, ICJI may also provide payment for: one follow-up pregnancy test, STD testing up to (30) days following the initial treatment, one syphilis test up to (90) days following the initial visit and mental health treatment up to \$3,000. Services must be provided by a licensed mental health provider.

HOW DO I TRACK THE STATUS OF MY SEXUAL ASSAULT KIT?

In order to track the status of your sexual assault kit, please follow these instructions:

1. Visit the Indiana Sexual Assault Tracking System website at:
sak.cji.in.gov/Public/Home.aspx
2. Select the Sexual Assault Kit tracking module.
3. Enter your sexual assault kit serial number and assigned pin.

Sexual Assault Kit _____

PIN _____



CONTACT US

317.232.1233
www.cji.in.gov/2333.htm

402 W. Washington St., Room W469 | Indianapolis, IN 46204

RIGHTS OF VICTIMS OF SEXUAL ASSAULT

Helping victims of sexual assault better understand their rights.



CONOZCA SUS DERECHOS

DERECHOS DE LA VÍCTIMA DE AGRESIÓN SEXUAL

Los siguientes derechos se otorgan a la víctima cuando se someta a un examen médico forense o a una entrevista por parte de un agente de la ley en relación a lesiones, traumas o una investigación producto de una presunta agresión sexual.

Usted conserva estos derechos, independientemente de que acepte participar o no en cualquier procedimiento civil o penal relacionado con la agresión y de que acepte someterse a un examen médico forense para recopilar evidencia relacionada con la presunta agresión sexual.

Como víctima, tiene derecho a que le informen sus derechos según la ley de Indiana antes de cualquier examen médico forense o de una entrevista por parte de un agente de la ley. Esos derechos comprenden:

⦿ Tiene derecho a hablar con un abogado o un proveedor de servicios durante cualquier consulta en el hospital con el fin de realizarse un examen de agresión sexual. Si no dispone de ninguno de los dos, tiene derecho a hablar con algún funcionario de asistencia a la víctima o con un trabajador social. Usted conserva estos derechos incluso si ha renunciado a uno o más de estos en un examen o entrevista anterior.

⦿ Tiene derecho a que se le trate con equidad, dignidad y respeto, sin intimidación, acoso ni maltrato durante todo el proceso de justicia penal.

⦿ Sus comunicaciones privadas con un abogado, un proveedor de servicios, un funcionario de asistencia a la víctima o un trabajador social no se admitirán como prueba para ningún propósito, a no ser que usted lo consienta.

⦿ Tiene derecho a hablar con un abogado o un proveedor de servicios en el transcurso de la investigación. Si no dispone de ninguno de los dos, tiene derecho a hablar con un funcionario de asistencia a la víctima o con un trabajador social. Usted conserva estos derechos incluso si ha renunciado a uno o más de estos en un examen o entrevista anterior.

⦿ Tiene derecho a que le realicen un examen médico forense y presten otros servicios forenses sin cargo alguno. Puede preguntar al examinador si ha recibido capacitación para llevar a cabo esta tarea. Tiene derecho a declinar realizarse cualquier parte del examen de agresión sexual. Tiene derecho a ducharse en el centro médico después del examen.

BROCHURE - RIGHTS OF VICTIMS OF SEXUAL ASSAULT (SPANISH)
<https://www.in.gov/cji/victim-compensation/rights-of-victims-of-sexual-assault/>

¿QUÉ GASTOS CUBRE EL CJI?

Para las víctimas de agresión sexual, el Instituto de Justicia Penal de Indiana (Indiana Criminal Justice Institute, ICJI), administra el pago de ciertos costos asociados al examen médico forense. Estos costos incluyen (entre otros): examen médico forense, consulta de salud mental, ciertas pruebas de diagnóstico, pruebas iniciales y de seguimiento de embarazo, ciertas pruebas de laboratorio para enfermedades de transmisión sexual (sexually transmitted diseases, STD), alcohol, medicamentos, sutura y cuidado de heridas, y otros tantos servicios ambulatorios. EL ICJI pagará los costos aprobados al proveedor, siempre que se cumplan ciertas condiciones.

Adicionalmente, el ICJI puede pagar: una prueba de embarazo de seguimiento, pruebas de STD hasta (30) días después del tratamiento inicial, una prueba de sífilis hasta (90) días después de la consulta inicial y un tratamiento de salud mental de hasta \$ 3,000. Los servicios los debe prestar un proveedor de salud mental con licencia.

¿CÓMO HAGO SEGUIMIENTO AL ESTADO DE MI KIT DE AGRESIÓN SEXUAL?

Para seguir el estado de su kit, siga estas instrucciones:

1. Visite el seguimiento de agresiones sexuales de Indiana Sitio web del sistema en: sak.cji.in.gov/Public/Home.aspx
2. Seleccione el módulo de seguimiento del kit de agresión sexual.
3. Ingrese el número de serie del kit y el pin que se le asignó.

Kit de agresión sexual _____

PIN _____



CONTÁCTENOS

317.232.1233
www.cji.in.gov/2333.htm

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DERECHOS DE LA VÍCTIMA DE AGRESIÓN SEXUAL

Ayudar a la víctima de agresión sexual a comprender mejor sus derechos.





WAS SIE ÜBER IHRE RECHTE WISSEN SOLLTEN

RECHTE DER OPFER VON SEXUELLEN ÜBERGRIFFEN

Die folgenden Rechte der Opfer von sexuellen Übergriffen kommen immer dann zum Tragen, wenn ein Opfer einer medizinischen kriminaltechnischen Untersuchung oder durch einen Strafverfolgungsbeamten einer Befragung hinsichtlich Verletzungen und Traumata unterzogen wird oder Gegenstand einer Ermittlung ist, die infolge eines mutmaßlichen sexuellen Übergriffs eingeleitet wurde.

Sie behalten diese Rechte, unabhängig davon, ob Sie sich damit einverstanden erklären, an einem Zivil- oder Strafverfahren, verbunden mit dem sexuellen Übergriff, teilzunehmen oder nicht, und unabhängig davon, ob Sie einer medizinischen kriminaltechnischen Untersuchung, um kriminaltechnisches Beweismaterial im Zusammenhang mit dem mutmaßlichen sexuellen Übergriff zu sammeln, zustimmen oder nicht.

Sie haben gemäß dem Gesetz von Indiana das Recht, über Ihre Rechte als Opfer vor dem Beginn irgendeiner medizinischen kriminaltechnischen Untersuchung oder einer Befragung durch einen Strafverfolgungsbeamten informiert zu werden. Zu diesen Rechten gehören:



Sie haben das Recht, bei jedem Krankenhausbesuch zwecks Untersuchung wegen sexuellen Übergriffs mit einem Opferanwalt (victim advocate) oder mit einem Opferbetreuer (victim service provider) zu sprechen. Sollte kein Opferanwalt oder kein Opferbetreuer verfügbar sein, haben Sie das Recht, mit der Opferhilfe oder einem Sozialarbeiter zu sprechen. Sie behalten diese Rechte auch, wenn Sie auf eines oder mehrere dieser Rechte bei einer früheren Untersuchung oder Befragung verzichtet haben.



Sie haben das Recht, während des strafrechtlichen Verfahrens mit Fairness, Würde und Respekt behandelt zu werden, ohne Einschüchterungen, Belästigungen und Beleidigungen.



Ihre private Kommunikation mit einem Opferanwalt oder einem Opferbetreuer, mit der Opferhilfe oder einem Sozialarbeiter ist zu keinem Zweck für die Aufnahme in die Beweismittel zulässig, es sei denn, Sie haben die Erlaubnis dazu erteilt.



Sie haben das Recht, im Laufe der Ermittlungen mit einem Opferanwalt oder einem Opferbetreuer zu sprechen. Sollte kein Opferanwalt oder kein Opferbetreuer verfügbar sein, haben Sie das Recht, mit der Opferhilfe oder einem Sozialarbeiter zu sprechen. Sie behalten diese Rechte auch, wenn Sie auf eines oder mehrere dieser Rechte bei einer früheren Untersuchung oder Befragung verzichtet haben.



Sie haben das Recht, sich kostenlos einer medizinischen kriminaltechnischen Untersuchung unterziehen zu lassen und zusätzliche kriminaltechnische Dienste in Anspruch zu nehmen. Sie können die Person, die Sie untersucht, fragen, ob sie über die hierfür notwendige Ausbildung verfügt. Sie haben das Recht, jedweden Teil der Untersuchung wegen sexuellem Übergriff abzulehnen. Sie haben das Recht, nach der Untersuchung in der medizinischen Einrichtung zu duschen.

BROCHURE - RIGHTS OF VICTIMS OF SEXUAL ASSAULT (GERMAN)

<https://www.in.gov/cji/victim-compensation/rights-of-victims-of-sexual-assault/>

WELCHE KOSTEN WERDEN VOM CJI ÜBERNOMMEN?

Das ICJI (Indiana Criminal Justice Institute) verwaltet die Erstattung von bestimmten, mit einer medizinischen kriminaltechnischen Untersuchung verbundenen Kosten an Opfer von sexuellen Übergriffen. In diesen Kosten ist unter anderem enthalten: eine medizinische kriminaltechnische Untersuchung, psychologische Beratung, bestimmte diagnostische Tests, Erstuntersuchung und Folgeuntersuchungen in der Schwangerschaft, bestimmte Labortests zum Nachweis von Geschlechtskrankheiten, Alkohol oder Drogen, Nahtversorgung und Wundpflege und andere eingeschränkte ambulante Dienste. Die genehmigten Kosten werden dem Leistungserbringer vom ICJI erstattet, sofern gewisse Bedingungen erfüllt sind.

Zusätzlich kann das ICJI auch die Zahlung übernehmen für: eine Folgeuntersuchung in der Schwangerschaft, Test zum Nachweis von Geschlechtskrankheiten bis zu (30) Tage nach der Erstbehandlung, einen Syphilistest bis zu (90) Tage nach dem Erstbesuch und psychologische Behandlung in einer Höhe von bis zu 3.000 USD. Die Dienste müssen von einem lizenzierten Psychiater oder Psychologen erbracht werden.

WIE KANN ICH DEN STATUS MEINES SEXUAL ASSAULT KIT VERFOLGEN?

Um den Status Ihres Sexual Assault Kit zu verfolgen, befolgen Sie bitte diese Anweisungen:

1. Besuchen Sie das Indiana Sexual Assault Tracking System-Website unter:
sak.cji.in.gov/Public/Home.aspx
2. Wählen Sie das Modul zur Verfolgung des Sexual Assault Kit
3. Geben Sie die Seriennummer und den zugewiesenen Pin-Code Ihres Sexual Assault Kit ein.

Sexual Assault Kit _____

PIN CODE _____



KONTAKTIEREN SIE UNS

317.232.1233
www.cji.in.gov/2333.htm

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RECHTE DER OPFER VON SEXUELLEN ÜBERGRIFFEN

Informiert die Opfer von sexuellen Übergriffen über ihre Rechte



Acknowledgement of Receipt of Rights of Victims of Sexual Assault Information

By signing below, I am indicating that I have received a copy of the "Rights of Victims of Sexual Assault" brochure as required by IC 35-40.5.

Name of person receiving the brochure (First, Last)

Signature

Witness

Date

If the victim is visually impaired, please fill out the bottom portion of this form only:

By signing below, I am indicating that I read the "Rights of Victims of Sexual Assault" brochure out loud to the victim.

Name of person receiving the brochure (First, Last)

Signature

Witness

Date

State Form version of this document is pending

An electronic copy of the this form and the brochure as well as the link for access to the sexual assault kit tracking system may be found at www.in.gov/cji/2333.htm.

If you have additional questions related to the payment of the medical forensic exam or additional forensic services you may contact the Indiana Criminal Justice Institute at 1-800-353-1484.

IC 16-21-8 Chapter 8. Emergency Services to Sex Crime Victims

IC 16-21-8-0.2 Definitions

IC 16-21-8-1 Forensic medical exams and services; rules; enumeration of sex crimes

IC 16-21-8-1.1 Forensic medical examinations without consent of the examinee

IC 16-21-8-1.5 Appointment of a sexual assault response team

IC 16-21-8-1.8 Sexual assault response team advisory council

IC 16-21-8-2 County or regional sexual response team; duties

IC 16-21-8-3 Forensic medical exams and additional forensic services; consent

IC 16-21-8-4 Assistance in development and operation of forensic medical exams

IC 16-21-8-5 Payment of forensic medical exams; requirements; suspension

IC 16-21-8-6 Services without charge; reimbursement

IC 16-21-8-7 Abortion services not required

IC 16-21-8-9 Duties of a provider; delayed implementation

IC 16-21-8-9.5 Shower after forensic medical examination

IC 16-21-8-10 Law enforcement duty to transport a sample to secured storage; victim notification; county plans; destruction of samples

IC 16-21-8-11 Confidentiality of sexual assault examination kits

IC 16-21-8-12 Sexual assault examination kit tracking, status, and storage

IC 16-21-8-0.2 Definitions

The following definitions apply throughout this chapter:

(1) **"Division"** refers to the victim services division of the Indiana criminal justice institute established by IC 5-2-6-8(a).

(2) **"Evidence"** means the results collected from a forensic medical examination of a victim by a provider.

(3) **"Personal information"** has the meaning set forth in IC 9-14-6-6.

(4) **"Provider"** means a hospital or licensed medical services provider that provides forensic medical exams and additional forensic services to a victim.

(5) **"Sample"** means the result collected from a forensic medical examination of the victim by a provider, when the victim has not yet reported the sex crime to law enforcement.

(6) **"Secured storage"** means a method of storing a sample that will adequately safeguard the integrity and viability of the sample.

(7) **"Sexual assault examination kit"** means the standard medical forensic examination kit for victims of sexual assault developed by the state police department under IC 10-11-2-33.

(8) **"Sexual assault nurse examiner"** means a registered nurse who:

(A) has received training to provide comprehensive care to sexual assault survivors; and

(B) can:

(i) conduct a forensic medical examination; and

(ii) collect evidence from a sexual assault victim.

[As added by P.L.161-2014, SEC.11. Amended by P.L.36-2019, SEC.2.]

IC 16-21-8-0.3 Repealed

[As added by P.L.41-2007, SEC.7. Repealed by P.L.161-2014, SEC.12].

IC 16-21-8-0.5 Repealed

[As added by P.L.90-2005, SEC.4. Amended by P.L.41-2007, SEC.8. Repealed by P.L.161-2014, SEC.13.]

IC 16-21-8-0.6 Repealed

[As added by P.L.90-2005, SEC.5. Amended by P.L.121-2006, SEC.22; P.L.41-2007, SEC.9. Repealed by P.L.161-2014, SEC.14.]

IC 16-21-8-0.7 Repealed

[As added by P.L.90-2005, SEC.6. Amended by P.L.41-2007, SEC.10. Repealed by P.L.161-2014, SEC.15.]

IC 16-21-8-0.8 Repealed

[As added by P.L.41-2007, SEC.11. Repealed by P.L.161-2014, SEC.16.]

IC 16-21-8-0.9 Repealed

[As added by P.L.41-2007, SEC.12. Repealed by P.L.161-2014, SEC.17.]

IC 16-21-8-1 Forensic medical exams and additional forensic services; sex crimes

(a) A hospital licensed under IC 16-21-2 that provides general medical and surgical hospital services shall provide forensic medical exams and additional forensic services to all alleged sex crime victims who apply for forensic medical exams and additional forensic services in relation to injuries or trauma resulting from the alleged sex crime. To the extent practicable, the hospital shall use a sexual assault examination kit to conduct forensic exams and provide forensic services. The provision of services may not be dependent on a victim's reporting to, or cooperating with, law enforcement.

(b) For the purposes of this chapter, the following crimes are considered sex crimes:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) (repealed).
- (3) Child molesting (IC 35-42-4-3).
- (4) Vicarious sexual gratification (IC 35-42-4-5).
- (5) Sexual battery (IC 35-42-4-8).
- (6) Sexual misconduct with a minor (IC 35-42-4-9).
- (7) Child solicitation (IC 35-42-4-6).
- (8) Child seduction (IC 35-42-4-7).
- (9) Incest (IC 35-46-1-3).

(c) Payment for services under this section shall be processed in accordance with rules adopted by the victim services division of the Indiana criminal justice institute.

[Pre-1993 Recodification Citation: 16-10-1.5-1.] [As added by P.L.2-1993, SEC.4. Amended by P.L.47-1993, SEC.7; P.L.36-1997, SEC.7; P.L.121-2006, SEC.23; P.L.41-2007, SEC.13; P.L.158-2013, SEC.228; P.L.214-2013, SEC.15; P.L.161-2014, SEC.18.]

IC 16-21-8-1.1 Forensic medical examinations without consent of the examinee

(a) A provider may conduct a forensic medical examination without the consent of the person who is the subject of the examination, or the consent of another person authorized to give consent under IC 16-36-1-5, if the following conditions are met:

(1) The person:

(A) does not have the capacity to provide informed consent under IC 16-36-1; and

(B) is, based on the medical opinion of the health care provider, incapable of providing consent within the time for evidence to be collected through a forensic medical examination.

(2) The provider has a reasonable suspicion that the person may be the victim of a sex crime.

(3) A person authorized to give consent under IC 16-36-1-5 is:

(A) not reasonably available; or

(B) the suspected perpetrator of the sex crime.

(b) A provider is immune from civil liability for conducting a forensic medical examination without consent in accordance with this section unless performance of the forensic medical examination constitutes gross negligence or willful or wanton misconduct. *[As added by P.L.161-2014, SEC.19.]*

IC 16-21-8-1.5 Appointment of a sexual assault response team

If a sexual assault response team has not been established in a county, the prosecuting attorney shall appoint a sexual assault response team in that county, or the county shall join with one (1) or more other counties to create a regional team, to comply with duties assigned to sexual assault response teams under this chapter. *[As added by P.L.41-2007, SEC.14.]*

IC 16-21-8-1.8 Sexual assault response team advisory council

(a) As used in this section, "kit" means the standard medical forensic examination kit for victims of a sex crime developed by the state police department under IC 10-11-2-33(a).

(b) The statewide sexual assault response team advisory council shall prepare, not later than December 1, 2018, a report regarding the following issues:

(1) The feasibility of creating a tracking system to monitor the:

(A) number; and

(B) testing status;

of kits submitted for testing.

(2) The resources and training needed to create, manage, and maintain the tracking system described in subdivision (1).

(3) The amount of money needed to create, manage, and maintain the tracking system described in subdivision (1).

(4) Possible sources of funding for:

(A) the tracking system described in subdivision (1); and

(B) all associated expenses related to the creation, management, and maintenance of the tracking system described in subdivision (1).

(5) A recommendation concerning the identity of the supervising agency or entity responsible for creating, operating, managing, and maintaining the tracking system

described in subdivision (1).

(c) The report described in subsection (b) must be presented to the legislative council in an electronic format under IC 5-14-6.

(d) This section expires December 31, 2019. *[As added by P.L.97-2018, SEC.3.]*

IC 16-21-8-2 County or regional sexual assault response team; duties

(a) Each county or regional sexual assault response team shall develop a plan that establishes the protocol for sexual assault victim response and treatment, including the:

- (1) collection;
- (2) preservation;
- (3) secured storage; and
- (4) destruction;

of samples.

(b) The plan under subsection (a) shall address the following regarding an alleged sexual assault victim who is at least eighteen (18) years of age and who either reports a sexual assault or elects not to report a sexual assault to law enforcement:

- (1) The method of maintaining the confidentiality of the alleged sexual assault victim regarding the chain of custody and secured storage of a sample.
- (2) The development of a victim notification form that notifies an alleged sexual assault victim of his or her rights under the law.
- (3) How a victim will receive the victim notification form.
- (4) Identification of law enforcement agencies that will be responsible to transport samples.
- (5) Agreements between medical providers and law enforcement agencies to pick up and store samples.
- (6) Maintaining samples in secured storage.
- (7) Procedures to destroy a sample following applicable statute of limitations.

[Pre-1993 Recodification Citations: 16-10-1.5-2; 16-10-1.5-3.] [As added by P.L.2-1993, SEC.4. Amended by P.L.121-2006, SEC.24; P.L.41-2007, SEC.15.]

IC 16-21-8-3 Forensic medical exams and additional forensic services; consent

A physician or sexual assault nurse examiner who provides forensic medical exams and additional forensic services shall provide the forensic medical exams and additional forensic services to an alleged sex crime victim under this chapter with the consent of the alleged sex crime victim. *[Pre-1993 Recodification Citation: 16-10-1.5-4.] [As added by P.L.2-1993, SEC.4. Amended by P.L.121-2006, SEC.25; P.L.41-2007, SEC.16.]*

IC 16-21-8-4 Assistance in development and operation of forensic medical exams and additional forensic services

The victim services division of the Indiana criminal justice institute shall assist in the development and operation of programs that provide forensic medical exams and additional forensic services to alleged sex crime victims, and if necessary, provide grants to hospitals for this purpose. *[Pre-1993 Recodification Citation: 16-10-1.5-5.] [As added by P.L.2-1993, SEC.4. Amended by P.L.47-1993, SEC.8; P.L.121-2006, SEC.26.]*

IC 16-21-8-5 Payment of forensic medical exams; requirements; suspension

(a) The division shall award compensation or reimbursement under this chapter for forensic medical exams.

(b) The division is not required to award compensation or reimbursement under this chapter for additional forensic services unless the following conditions are met:

(1) The victim is at least eighteen (18) years of age.

(2) If the victim is less than eighteen (18) years of age, a report of the sex crime must be made to child protective services or a law enforcement officer.

(3) The sex crime occurred in Indiana.

(4) The provider has initiated the claim for reimbursement in the division's designated web based claims reimbursement and sexual assault examination kit tracking system.

If the division finds a compelling reason for failure to comply with the requirements of this section, the division may suspend the requirements of this section.

(c) A claim filed for services provided at a time before the provision of the forensic medical exams and additional forensic services for which an application for reimbursement is filed is not covered under this chapter. *[Pre-1993 Recodification Citation: 16-10-1.5-6.]*

[As added by P.L.2-1993, SEC.4. Amended by P.L.47-1993, SEC.9; P.L.90-2005, SEC.7; P.L.121-2006, SEC.27; P.L.41-2007, SEC.17; P.L.36-2019, SEC.3.]

IC 16-21-8-6 Services without charge; reimbursement

(a) When a provider provides forensic medical exams and additional forensic services under this chapter to a victim, the provider shall furnish the services without charge.

(b) When a provider provides additional forensic services under section 5(b) and 5(c) of this chapter, the provider shall furnish the services without charge.

(c) The division shall reimburse a provider for the cost for providing services and shall adopt rules and procedures to provide for reimbursement.

(d) The application for reimbursement must be filed not more than one hundred eighty (180) days after the date the service was provided.

(e) The division shall approve or deny an application for reimbursement filed under subsection (b) not more than one hundred twenty (120) days after receipt of the application for reimbursement.

(f) A provider may not charge the victim for services required under this chapter despite delays in reimbursement from the division. *[Pre-1993 Recodification Citation: 16-10-1.5-7.]*

[As added by P.L.2-1993, SEC.4. Amended by P.L.47-1993, SEC.10; P.L.36-1997, SEC.8; P.L.90-2005, SEC.8; P.L.121-2006, SEC.28.]

IC 16-21-8-7 Abortion services not required

This chapter does not require a hospital to provide a service related to an abortion.

[Pre-1993 Recodification Citation: 16-10-1.5-8.] [As added by P.L.2-1993, SEC.4.]

IC 16-21-8-9 Duties of a provider; delayed implementation

(a) Prior to the discharge of a victim from the hospital, a provider shall:

(1) require the victim to sign a form that notifies the victim of his or her rights under this chapter;

- (2) provide a copy of the signed form to the victim; and
- (3) inform law enforcement that the sample is available.

(b) The director of the Indiana criminal justice institute may delay the implementation of this section until the earlier of the following:

- (1) A date set by the director.
- (2) The date funding becomes available by a grant through the criminal justice institute or by an appropriation from the general assembly.

If the director of the criminal justice institute delays implementation of this section, the director shall notify the prosecuting attorney of each county of the director's action and when funding become available to implement this section. *[As added by P.L.41-2007, SEC.18.]*

IC 16-21-8-9.5 Shower after forensic medical examination

After a forensic medical examination, an alleged sex crime victim may shower at the facility where the examination was conducted, if available, without charge. *[As added by P.L.36-2019, SEC.4.]*

IC 16-21-8-10 Law enforcement duty to transport a sample to secured storage; victim notification; county plans; destruction of samples

(a) Law enforcement shall:

- (1) obtain the sample within forty-eight (48) hours after receiving a provider's notification; and
- (2) transport the sample to secured storage.

(b) Law enforcement shall keep the sample in secured storage until the earlier of the following:

- (1) At least one (1) year after the date the sample is placed in secured storage.
- (2) The victim reports the sex crime to law enforcement and the sample is transported to a crime lab.

(c) Notification of sample destruction may be provided by the division through the web based claims reimbursement and sexual assault examination kit tracking system. Law enforcement agencies and prosecuting attorneys shall cooperate with the division by providing storage updates to the division via the web based claims reimbursement and sexual assault examination kit tracking system.

(d) A victim may register for notification through the web based claims reimbursement and sexual assault examination kit tracking system.

(e) Each county shall develop and implement a plan for the secured storage and destruction of samples.

(f) The director of the Indiana criminal justice institute may delay the implementation of this section until the earlier of the following:

- (1) A date set by the director.
- (2) The date funding becomes available by a grant through the criminal justice institute or by an appropriation from the general assembly.

If the director of the criminal justice institute delays implementation of this section, the director shall notify the prosecuting attorney of each county of the director's action and when funding becomes available to implement this section.

(g) The failure to comply with:

- (1) this chapter;
- (2) a plan adopted by a county; or
- (3) a protocol adopted by a sexual assault response team;

does not, standing alone, affect the admissibility of a sample as evidence in a criminal or civil proceeding. *[As added by P.L.41-2007, SEC.19. Amended by P.L.36-2019, SEC.5.]*

IC 16-21-8-11 Confidentiality of sexual assault examination kits

(a) Information entered into the web based claims reimbursement and sexual assault examination kit tracking system for the purposes of reimbursement to a provider for a forensic medical exam or the location of a sexual assault examination kit is confidential until the later of the following:

- (1) The sexual assault examination kit is destroyed in accordance with section 10 of this chapter.
- (2) The conclusion of a case filed by a prosecuting attorney with appropriate jurisdiction.

(b) A victim's:

- (1) personal information; and
- (2) medical records;

are confidential. *[As added by P.L.36-2019, SEC.6.]*

IC 16-21-8-12 Sexual assault examination kit tracking, status, and storage

The following persons or entities shall provide status and storage updates, as applicable, to the division's web based claims reimbursement and sexual assault examination kit tracking system as necessary:

- (1) A crime lab responsible for examining or testing a sexual assault examination kit.
- (2) A law enforcement agency responsible for the collection or storage of a sexual assault examination kit.
- (3) A prosecuting attorney responsible for a criminal prosecution that involves the examination, use, or testing of a sexual assault examination kit.
- (4) A provider. *[As added by P.L.36-2019, SEC.7.]*

Indiana Statewide Sexual Assault Kit Tracking System (Tracking, Transportation, Processing, Storage, and Inventory)

The Indiana Criminal Justice Institute (ICJI), in coordination with the Indiana State Police and the Indiana Prosecuting Attorney's Council (IPAC) is implementing the sexual assault kit (SAK) tracking system. Under IN. Code § 16-21-8-1.8(b), (ICJI) implements this system to track standard medical forensic examination kits for victims of a sex crime. The medical-forensic exam and sexual assault evidence collection refers to standardizing sexual assault kits and the process used to perform the exam and collect samples. Transparency and accountability of law enforcement for these kits lays out the expectation for the tracking, transportation, processing, storage, and inventory of each kit, including the best practice of medical service providers, law enforcement, and laboratories using Indiana Statewide Sexual Assault Kit Tracking System.

This website offers victims of sexual assault a secure, confidential space where they can obtain information regarding the status of their sexual assault evidence collection kits and additional assistance. Medical professionals and law enforcement can also use this site to update the status of those sexual assault kits for which they are responsible.

<https://sak.cji.in.gov/Public/Home.aspx>

RAPE SHIELD LAW

Indiana Rules of Evidence 412

Indiana Code 35-37-4-4

Testimony about the prior sexual activity or disposition of a victim/witness is not admissible. Exceptions limited. One exception is to allow such testimony in a sex crimes case relating to prior sexual activity between the defendant and the victim, where the defense of consent is raised. To be admissible, must give notice 10 days before trial to State, Defendant and victim.

SEX CRIME VICTIMS AND POLYGRAPH EXAMINATIONS

Indiana Code 35-37-4.5

A law enforcement officer may not require a sex crime victim to submit to a polygraph or other truth telling device examination.

A law enforcement officer may not refuse to investigate, charge, or prosecute a sex crime solely because the victim does not submit.

POTENTIALLY DISEASE TRANSMITTING OFFENSES

Indiana Code 16-41-8

Upon victim request, Prosecuting Attorney shall file Petition to require screening to determine whether Defendant is infected with dangerous disease (HIV, STD, TB). Victim entitled to attend hearing and entitled to results of screening.

SEX AND VIOLENT OFFENDER REGISTRATION

Indiana Code 11-8-8

Those convicted of the following crimes: Murder, Voluntary Manslaughter, Kidnapping, Confinement, or any felony sex offense, are required to register with the Sheriff in the county where they reside, work, and are enrolled in school. Failure to register is a Level 6 Felony.

A website is available to the public which shows the address and info of all registrants.

<https://www.icrimewatch.net/indiana.php>

RAPE SHIELD LAW

- ▶ Testimony about the prior sexual activity or sexual disposition of a victim/witness is not admissible.
- ▶ Exceptions limited. One exception is to allow such testimony in a sex crimes case to show prior sexual activity between the defendant and the victim, where the defense of consent is raised. To be admissible, must give notice 10 days before trial to State, Defendant and victim.

INDIANA RULES OF EVIDENCE - Rule 412.

Sex-Offense Cases: The Victim's or Witness's Sexual Behavior or Predisposition

(a) Prohibited Uses. The following evidence is not admissible in a civil or criminal proceeding involving alleged sexual misconduct:

- (1) evidence offered to prove that a victim or witness engaged in other sexual behavior;
or
- (2) evidence offered to prove a victim's or witness's sexual predisposition.

(b) Exceptions.

(1) Criminal Cases. The court may admit the following evidence in a criminal case:

- (A) evidence of specific instances of a victim's or witness's sexual behavior, if offered to prove that someone other than the defendant was the source of semen, injury, or other physical evidence;
- (B) evidence of specific instances of a victim's or witness's sexual behavior with respect to the person accused of the sexual misconduct, if offered by the defendant to prove consent or if offered by the prosecutor; and
- (C) evidence whose exclusion would violate the defendant's constitutional rights.

(2) Civil Cases. In a civil case, the court may admit evidence offered to prove a victim's sexual behavior or sexual predisposition if its probative value substantially outweighs the danger of harm to any victim and of unfair prejudice to any party. The court may admit evidence of a victim's reputation only if the victim has placed it in controversy.

(c) Procedure to Determine Admissibility.

(1) Motion. If a party intends to offer evidence under Rule 412(b), the party must:

- (A) file a motion that specifically describes the evidence and states the purpose for which it is to be offered;
- (B) do so at least ten (10) days before trial unless the court, for good cause, sets a different time;
- (C) serve the motion on all parties; and
- (D) notify the victim or, when appropriate, the victim's guardian or representative.

(2) Hearing. Before admitting evidence under this rule, the court must conduct an in camera hearing and give the victim and parties a right to attend and be heard. Unless the court orders otherwise, the motion, related materials, and the record of the hearing is confidential and excluded from public access in accordance with the Rules on Access to Court Records.

(d) Definition of "Victim." In this rule, "victim" includes an alleged victim.

Indiana Code 35-37-4-4

Sex crimes; admissibility of evidence of past sexual conduct; procedure

(a) In a prosecution for an offense described in IC 11-8-8-4.5(a):

- (1) evidence of the victim's past sexual conduct;
- (2) evidence of the past sexual conduct of a witness other than the accused;
- (3) opinion evidence of the victim's past sexual conduct;
- (4) opinion evidence of the past sexual conduct of a witness other than the accused;
- (5) reputation evidence of the victim's past sexual conduct; and
- (6) reputation evidence of the past sexual conduct of a witness other than the accused;

may not be admitted, nor may reference be made to this evidence in the presence of the jury, except as provided in this chapter.

(b) Notwithstanding subsection (a), evidence:

- (1) of the victim's or a witness's past sexual conduct with the defendant;
- (2) which in a specific instance of sexual activity shows that some person other than the defendant committed the act upon which the prosecution is founded; or
- (3) that the victim's pregnancy at the time of trial was not caused by the defendant;

may be introduced if the judge finds, under the procedure provided in subsection (c), that it is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

(c) If the defendant or the state proposes to offer evidence described in subsection (b), the following procedure must be followed:

- (1) The defendant or the state shall file a written motion not less than ten (10) days before trial stating that it has an offer of proof concerning evidence described in subsection (b) and its relevancy to the case. This motion shall be accompanied by an affidavit in which the offer of proof is stated.
- (2) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, and at the hearing allow the questioning of the victim or witness regarding the offer of proof made by the defendant or the state.

At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant or the state regarding the sexual conduct of the victim or witness is admissible under subsection (b), the court shall make an order stating what evidence may be introduced by the defendant or the state and the nature of the questions to be permitted. The defendant or the state may then offer evidence under the order of the court.

(d) If new information is discovered within ten (10) days before trial or during the course of the trial that might make evidence described in subsection (b) admissible, the judge shall order a hearing out of the presence of the jury to determine whether the proposed evidence is admissible under this chapter.

(e) This section does not limit the right of either the state or the accused to impeach credibility by a showing of prior felony convictions.

(f) If:

- (1) a defendant files a motion under subsection (c)(1) concerning evidence described in subsection (b)(3); and
- (2) the state acknowledges that the victim's pregnancy is not due to the conduct of the defendant;

the court shall instruct the jury that the victim's pregnancy is not due to the conduct of the defendant. However, other evidence concerning the pregnancy may not be admitted, and further reference to the pregnancy may not be made in the presence of the jury. *[As added by Acts 1981, P.L.298, SEC.6. Amended by P.L.322-1983, SEC.1; P.L.144-2018, SEC.17.]*

SEX CRIME VICTIMS AND POLYGRAPH EXAMINATIONS

Indiana Code 35-37-4.5

- ▶ A law enforcement officer may not require a sex crime victim to submit to a polygraph or other truth telling device examination.
- ▶ A law enforcement officer may not refuse to investigate, charge, or prosecute a sex crime solely because the victim does not submit.

Indiana Code 35-37-4.5

Chapter 4.5. Sex Crimes Victims and Polygraph Examinations

35-37-4.5-1 "Polygraph"

35-37-4.5-2 Prohibition against requiring sex crime victim to submit to polygraph

35-37-4.5-3 Polygraph refusal; duties of law enforcement officers

35-37-4.5-4 Voluntary submission to polygraph examination

IC 35-37-4.5-1 "Polygraph"

As used in this chapter, "polygraph" means a device that permanently and simultaneously records, at a minimum, an individual's:

- (1) cardiovascular and respiratory patterns; and
- (2) galvanic skin responses;

in order to determine truthfulness. *[As added by P.L.41-2007, SEC.20.]*

IC 35-37-4.5-2 Prohibition against requiring sex crime victim to submit to polygraph

A law enforcement officer may not require an alleged victim of an offense described in IC 35-42-4 to submit to a polygraph or other truth telling device examination. *[As added by P.L.41-2007, SEC.20.]*

IC 35-37-4.5-3 Polygraph refusal; duties of law enforcement officers

A law enforcement officer may not refuse to investigate, charge, or prosecute an offense under IC 35-42-4 solely because the alleged victim of the offense has not submitted to a polygraph or other truth telling device examination. *[As added by P.L.41-2007, SEC.20.]*

IC 35-37-4.5-4 Voluntary submission to polygraph examination

This chapter does not prohibit an alleged victim of an offense under IC 35-42-4 from voluntarily submitting to a polygraph or other truth telling device examination. *[As added by P.L.41-2007, SEC.20.]*

POTENTIALLY DISEASE TRANSMITTING OFFENSES

Indiana Code 16-41-8

- ▶ Upon victim request, Prosecuting Attorney shall file Petition to require screening to determine whether Defendant is infected with dangerous disease (HIV, STD, TB). Victim entitled to attend hearing and entitled to results of screening.

Indiana Code 16-41-8

Chapter 8. Communicable Disease: Confidentiality Requirements

16-41-8-1 "Potentially disease transmitting offense"

16-41-8-2 Voluntary contact notification program information; use as evidence; release

16-41-8-3 Violations

16-41-8-4 Procedure for obtaining medical information concerning a person charged

16-41-8-5 Medical screening of a person charged with certain offenses

16-41-8-6 Right of victim to require certain defendants to undergo HIV testing; procedures

IC 16-41-8-1 "Potentially disease transmitting offense"

(a) As used in this chapter, "potentially disease transmitting offense" means any of the following:

- (1) Battery (IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3) involving placing a bodily fluid or waste on another person.
- (2) An offense relating to a criminal sexual act (as defined in IC 35-31.5-2-216), if sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) occurred.

The term includes an attempt to commit an offense, if sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) occurred, and a delinquent act that would be a crime if committed by an adult.

(b) Except as provided in this chapter, a person may not disclose or be compelled to disclose medical or epidemiological information involving a communicable disease or other serious disease (as set forth in the list published under IC 16-41-2-1). This information may not be released or made public upon subpoena or otherwise, except under the following circumstances:

- (1) Release may be made of medical or epidemiologic information for statistical purposes if done in a manner that does not identify an individual.
- (2) Release may be made of medical or epidemiologic information with the written consent of all individuals identified in the information released.
- (3) Release may be made of medical or epidemiologic information to the extent necessary to enforce public health laws, laws described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9 through IC 31-37-19-10, IC 31-37-19-12 through IC 31-37-19-23, IC 35-38-1-7.1, and IC 35-45-21-1 or to protect the health or life of a named party.
- (4) Release may be made of the medical information of a person in accordance with this chapter.

(c) Except as provided in this chapter, a person responsible for recording, reporting, or maintaining information required to be reported under IC 16-41-2 who recklessly, knowingly, or

intentionally discloses or fails to protect medical or epidemiologic information classified as confidential under this section commits a Class A misdemeanor.

(d) In addition to subsection (c), a public employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.

(e) Release shall be made of the medical records concerning an individual to:

- (1) the individual;
- (2) a person authorized in writing by the individual to receive the medical records; or
- (3) a coroner under IC 36-2-14-21.

(f) An individual may voluntarily disclose information about the individual's communicable disease.

(g) The provisions of this section regarding confidentiality apply to information obtained under IC 16-41-1 through IC 16-41-16.

[As added by P.L.2-1993, SEC.24. Amended by P.L.181-1993, SEC.1; P.L.1-1997, SEC.99; P.L.28-2002, SEC.2; P.L.99-2002, SEC.7; P.L.135-2005, SEC.2; P.L.125-2009, SEC.1; P.L.114-2012, SEC.41; P.L.158-2013, SEC.241; P.L.149-2016, SEC.48; P.L.65-2016, SEC.7; P.L.218-2019, SEC.8; P.L.112-2020, SEC.29.]

IC 16-41-8-2 Voluntary contact notification program; use as evidence; release

(a) Identifying information voluntarily given to the health officer or an agent of the health officer through a voluntary contact notification program may not be used as evidence in a court proceeding to determine noncompliant behavior under IC 16-41-1 through IC 16-41-16.

(b) A court may release to:

- (1) an individual; or
- (2) a representative designated in writing by the individual;

information or records relating to the individual's medical condition if the individual is a party in a pending action involving restriction of the individual's actions under IC 16-41-1 through IC 16-41-16. A person who obtains information under this subsection is subject to section 1 of this chapter. *[Pre-1993 Recodification Citation: 16-1-10.5-21(a), (c).] [As added by P.L.2-1993, SEC.24.]*

IC 16-41-8-3 Violations

(a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

[Pre-1993 Recodification Citation: 16-1-35-1.] [As added by P.L.2-1993, SEC.24.]

IC 16-41-8-4 Procedure for obtaining medical information on a person charged

(a) This section applies to the release of medical information that may be relevant to the prosecution or defense of a person who has been charged with a potentially disease transmitting offense.

(b) A:

- (1) prosecuting attorney may seek to obtain access to a defendant's medical information if the defendant has been charged with a potentially disease transmitting offense; and

(2) defendant who has been charged with a potentially disease transmitting offense may seek access to the medical information of another person if the medical information would be relevant to the defendant's defense;

by filing a verified petition for the release of medical information with the court.

(c) The prosecuting attorney or defendant who files a petition under subsection (b) shall serve a copy of the petition on:

- (1) the person whose medical information is sought;
- (2) the guardian, guardian ad litem, or court appointed special advocate appointed for a minor, parent, or custodian of a person who is incompetent, if applicable; and
- (3) the provider that maintains the record, or the attorney general if the provider is a state agency;

at the time of filing in accordance with Indiana Trial Rule 4.

(d) The court shall set the matter for hearing not later than twenty (20) days after the date of filing.

(e) If, following a hearing for release of a person's medical information, the court finds probable cause to believe that the medical information may be relevant to the prosecution or defense of a person who has been charged with a potentially disease transmitting offense, the court shall order the person having custody of the person's medical information to release the medical information to the court.

(f) The court shall examine the person's medical information in camera. If, after examining the medical information in camera and considering the evidence presented at the hearing, the court finds probable cause to believe that the medical information is relevant to the prosecution or defense of a person who has been charged with a potentially disease transmitting offense, the court may order the release of a person's medical information to the petitioner.

(g) In an order issued under subsection (f), the court shall:

- (1) permit the disclosure of only those parts of the person's medical information that are essential to fulfill the objective of the order;
- (2) restrict access to the medical information to those persons whose need for the information is the basis of the order; and
- (3) include in its order any other appropriate measures to limit disclosure of the medical information to protect the right to privacy of the person who is the subject of the medical information.

(h) A hearing for the release of a person's medical information may be closed to the public. The transcript of the hearing, the court's order, and all documents filed in connection with the hearing are confidential. In addition, if a person's medical information is disclosed in a legal proceeding, the court shall order the record or transcript of the testimony to be preserved as a confidential court record.

(i) This section does not prohibit the application to medical information of any law concerning medical information that is not addressed by this section. *[As added by P.L.125-2009, SEC.2. Amended by P.L.1-2010, SEC.72.]*

IC 16-41-8-5 Medical screening of a person charged with certain offenses

(a) This section does not apply to medical testing of an individual for whom an indictment or information is filed for a sex crime and for whom a request to have the individual tested under section 6 of this chapter is filed.

(b) The following definitions apply throughout this section:

(1) "Bodily fluid" means blood, human waste, or any other bodily fluid.

(2) "Serious disease" means any of the following:

(A) Chancroid.

(B) Chlamydia.

(C) Gonorrhea.

(D) Hepatitis.

(E) Human immunodeficiency virus (HIV).

(F) Lymphogranuloma venereum.

(G) Syphilis.

(H) Tuberculosis.

(3) "Offense involving the transmission of a bodily fluid" means any offense (including a delinquent act that would be a crime if committed by an adult) in which a bodily fluid is transmitted from the defendant to the victim in connection with the commission of the offense.

(c) This subsection applies only to a defendant who has been charged with a potentially disease transmitting offense. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of a potentially disease transmitting offense to submit to a screening test to determine whether the defendant is infected with a serious disease. In the petition, the prosecuting attorney must set forth information demonstrating that the defendant has committed a potentially disease transmitting offense. The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed a potentially disease transmitting offense, the court may order the defendant to submit to a screening test for one (1) or more serious diseases. If the defendant is charged with battery (IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3) involving placing a bodily fluid or waste on another person, the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.

(d) This subsection applies only to a defendant who has been charged with an offense involving the transmission of a bodily fluid. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of an offense involving the transmission of a bodily fluid to submit to a screening test to determine whether the defendant is infected with a serious disease. In the petition, the prosecuting attorney must set forth information demonstrating that:

- (1) the defendant has committed an offense; and
- (2) a bodily fluid was transmitted from the defendant to the victim in connection with the commission of the offense.

The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed an offense and that a bodily fluid was transmitted from the defendant to the alleged victim in connection with the commission of the offense, the court may order the defendant to submit to a screening test for one (1) or more serious diseases. If the defendant is charged with battery (IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3) involving placing bodily fluid or waste on another person, the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.

(e) The testimonial privileges applying to communication between a husband and wife and between a health care provider and the health care provider's patient are not sufficient grounds for not testifying or providing other information at a hearing conducted in accordance with this section.

(f) A health care provider (as defined in IC 16-18-2-163) who discloses information that must be disclosed to comply with this section is immune from civil and criminal liability under Indiana statutes that protect patient privacy and confidentiality.

(g) The results of a screening test conducted under this section shall be kept confidential if the defendant ordered to submit to the screening test under this section has not been convicted of the potentially disease transmitting offense or offense involving the transmission of a bodily fluid with which the defendant is charged. The results may not be made available to any person or public or private agency other than the following:

- (1) The defendant and the defendant's counsel.
- (2) The prosecuting attorney.
- (3) The department of correction or the penal facility, juvenile detention facility, or secure private facility where the defendant is housed.
- (4) The alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the alleged victim's counsel.

The results of a screening test conducted under this section may not be admitted against a defendant in a criminal proceeding or against a child in a juvenile delinquency proceeding.

(h) As soon as practicable after a screening test ordered under this section has been conducted, the alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the victim's counsel shall be notified of the results of the test.

(i) An alleged victim may disclose the results of a screening test to which a defendant is ordered to submit under this section to an individual or organization to protect the health and safety of or to seek compensation for:

- (1) the alleged victim;
- (2) the alleged victim's sexual partner; or
- (3) the alleged victim's family.

(j) The court shall order a petition filed and any order entered under this section sealed.

(k) A person that knowingly or intentionally:

- (1) receives notification or disclosure of the results of a screening test under this section; and
- (2) discloses the results of the screening test in violation of this section;

commits a Class B misdemeanor.

[As added by P.L.125-2009, SEC.3. Amended by P.L.94-2010, SEC.5; P.L.158-2013, SEC.242; P.L.149-2016, SEC.49; P.L.65-2016, SEC.8; P.L.112-2020, SEC.30.]

IC 16-41-8-6 Right of victim to require certain defendants to undergo HIV testing

(a) If an indictment or information alleges that the defendant compelled another person to engage in sexual activity by force or threat of force, the alleged victim of the offense described in the indictment or information may request that the defendant against whom the indictment or information is filed be tested for the human immunodeficiency virus (HIV).

(b) Not later than forty-eight (48) hours after an alleged victim described in subsection (a) requests that the defendant be tested for the human immunodeficiency virus (HIV), the defendant must be tested for the human immunodeficiency virus (HIV).

(c) As soon as practicable, the results of a test for the human immunodeficiency virus (HIV) conducted under subsection (b) shall be sent to:

- (1) the alleged victim;
- (2) the parent or guardian of the alleged victim, if the alleged victim is less than eighteen (18) years of age; and
- (3) the defendant.

(d) If follow-up testing of the defendant for the human immunodeficiency virus (HIV) is necessary, the results of follow-up testing of the defendant shall be sent to:

- (1) the alleged victim;
- (2) the parent or guardian of the alleged victim if the alleged victim is less than eighteen (18) years of age; and
- (3) the defendant. *[As added by P.L.94-2010, SEC.6.]*

IC 35-38-2-2.3(a)(17)

- Upon conviction for a sex offense, or controlled substance offense involving a contaminated needle, all or part of a sentence may be suspended and probated. A term of probation may include a requirement that the Defendant submit to regular testing for HIV.

IC 35-38-2-2.3(a)(17) Conditions of probation; HIV Testing

(a) As a condition of probation, the court may require a person to do a combination of the following:

(17) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:

(A) the person had been convicted of an offense relating to a criminal sexual act and the offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); or

(B) the person had been convicted of an offense relating to a controlled substance and the offense involved:

(i) the delivery by any person to another person; or

(ii) the use by any person on another person;

of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact.

[As added by P.L.1-1991, SEC.198. Amended by P.L.2-1992, SEC.879; P.L.23-1994, SEC.16; P.L.1-1995, SEC.75; P.L.293-1995, SEC.1; P.L.76-2002, SEC.1; P.L.2-2003, SEC.91; P.L.60-2006, SEC.9; P.L.140-2006, SEC.24 and P.L.173-2006, SEC.24; P.L.1-2007, SEC.227; P.L.125-2007, SEC.8; P.L.234-2007, SEC.170; P.L.3-2008, SEC.249; P.L.111-2009, SEC.8; P.L.40-2012, SEC.20; P.L.147-2012, SEC.9; P.L.13-2013, SEC.138; P.L.74-2015, SEC.20; P.L.187-2015, SEC.47; P.L.209-2015, SEC.23; P.L.111-2017, SEC.10; P.L.161-2018, SEC.123.]

SEX AND VIOLENT OFFENDER REGISTRATION

Indiana Code 11-8-8

- ▶ Those convicted of the following crimes: Murder, Voluntary Manslaughter, Kidnapping, Confinement, or any felony sex offense, are required to register with the Sheriff in the county where they reside, work, and are enrolled in school. Failure to register is a Level 6 Felony.
- ▶ A website is available to the public which shows the address and info of all registrants:
<https://www.icrimewatch.net/indiana.php>

INDIANA CODE 11-8-8

Chapter 8. Sex and Violent Offender Registration

11-8-8-0.2 Application of certain amendments to prior law

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11-8-8-4.5 "Sex offender"

11-8-8-5 "Sex or violent offender"

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(IC 35-38-1-7.5 Sexually violent predators)

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11-8-8-20 Interstate agreements; department to determine status of out-of-state offenders

11-8-8-21 Sex and violent offender fund

11-8-8-22 Procedure for retroactive application of ameliorative statutes

11-8-8-23 Law enforcement to notify a victim of an offender name change

IC 11-8-8-0.2 Application of certain amendments to prior law

The amendments made to IC 5-2-12-4, IC 5-2-12-9, and IC 5-2-12-12 (before their repeal) by P.L.33-1996 apply to a child who is adjudicated a delinquent child after June 30, 1996, for an act that would be an offense described in IC 5-2-12-4(1) (before its repeal), as amended by P.L.33-1996. *[As added by P.L.220-2011, SEC.245. Amended by P.L.63-2012, SEC.16.]*

IC 11-8-8-1 "Correctional facility"

As used in this chapter, "correctional facility" has the meaning set forth in IC 5-1.2-2. *[As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.189-2018, SEC.105.]*

IC 11-8-8-1.2 "Electronic chat room username"

As used in this chapter, "electronic chat room username" means an identifier that allows a person to communicate over the Internet in real time using typed text. *[As added by P.L.119-2008, SEC.1.]*

IC 11-8-8-1.4 "Electronic mail address"

As used in this chapter, "electronic mail address" means a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered. *[As added by P.L.119-2008, SEC.2.]*

IC 11-8-8-1.6 "Instant messaging username"

As used in this chapter, "instant messaging username" means an identifier that allows a person to communicate over the Internet in real time using typed text. *[As added by P.L.119-2008, SEC.3.]*

IC 11-8-8-1.8 "Social networking web site username"

As used in this chapter, "social networking web site username" means an identifier or profile that allows a person to create, use, or modify a social networking web site, as defined in IC 35-31.5-2-307. *[As added by P.L.119-2008, SEC.4. Amended by P.L.85-2017, SEC.43.]*

IC 11-8-8-2 "Local law enforcement authority"

As used in this chapter, "local law enforcement authority" means the:

- (1) chief of police of a consolidated city; or
- (2) sheriff of a county that does not contain a consolidated city.

[As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13.]

IC 11-8-8-3 "Principal residence"

As used in this chapter, "principal residence" means the residence where a sex or violent offender spends the most time. The term includes a residence owned or leased by another person if the sex or violent offender:

- (1) does not own or lease a residence; or

(2) spends more time at the residence owned or leased by the other person than at the residence owned or leased by the sex or violent offender. *[As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.10.]*

IC 11-8-8-4 "Register"

As used in this chapter, "register" means to report in person to a local law enforcement authority and provide the information required under section 8 of this chapter. *[As added by P.L. 140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.11.]*

IC 11-8-8-4.5 "Sex offender"

(a) Except as provided in section 22 of this chapter, as used in this chapter, "sex offender" means a person convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
- (5) Vicarious sexual gratification (including performing sexual conduct in the presence of minor) (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A, Class B, or Class C felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a crime committed after June 30, 2014), unless:
 - (A) the person is convicted of sexual misconduct with a minor as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014);
 - (B) the person is not more than:
 - (i) four (4) years older than the victim if the offense was committed after June 30, 2007; or
 - (ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and
 - (C) the sentencing court finds that the person should not be required to register as a sex offender.
- (9) Incest (IC 35-46-1-3).
- (10) Sexual battery (IC 35-42-4-8).
- (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.
- (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.
- (13) Possession of child pornography (IC 35-42-4-4(d) or IC 35-42-4-4(e)).
- (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony (for a crime committed before July 1, 2014) or a Level 4 felony (for a crime committed after June 30, 2014).
- (15) Promotion of human sexual trafficking under IC 35-42-3.5-1.1.
- (16) Promotion of child sexual trafficking under IC 35-42-3.5-1.2(a).
- (17) Promotion of sexual trafficking of a younger child (IC 35-42-3.5-1.2(c)).
- (18) Child sexual trafficking (IC 35-42-3.5-1.3).
- (19) Human trafficking under IC 35-42-3.5-1.4 if the victim is less than eighteen (18) years of age.

(20) Sexual misconduct by a service provider with a detained or supervised child (IC 35-44.1-3-10(c)).

(b) The term includes:

(1) a person who is required to register as a sex offender in any jurisdiction; and

(2) a child who has committed a delinquent act, or a person prosecuted under IC 31-30-1-4(d) for an offense described in subsection (a) committed when the person was less than eighteen (18) years of age, but who was at least twenty-one (21) years of age when the charge was filed, and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(d) A person ordered to register under subsection (b)(2) may petition the court to reconsider the order at any time after completing court ordered sex offender treatment. The court shall consider expert testimony concerning whether a child or person is likely to repeat an offense described in subsection (a) or an act that would be an offense described in subsection (a) if committed by an adult.

[As added by P.L.216-2007, SEC.12. Amended by P.L.1-2012, SEC.2; P.L.72-2012, SEC.1; P.L.13-2013, SEC.41; P.L.214-2013, SEC.4; P.L.158-2013, SEC.171; P.L.185-2014, SEC.2; P.L.168-2014, SEC.20; P.L.75-2016, SEC.1; P.L.13-2016, SEC.4; P.L.144-2018, SEC.3; P.L.142-2020, SEC.12; P.L.115-2023, SEC.1.]

IC 11-8-8-5 "Sex or violent offender"

(a) Except as provided in section 22 of this chapter, as used in this chapter, "sex or violent offender" means a person convicted of any of the following offenses:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).

(5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A, Class B, or Class C felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a crime committed after June 30, 2014), unless:

(A) the person is convicted of sexual misconduct with a minor as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime

committed after June 30, 2014);

(B) the person is not more than:

(i) four (4) years older than the victim if the offense was committed after June 30, 2007; or

(ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and

(C) the sentencing court finds that the person should not be required to register as a sex offender.

(9) Incest (IC 35-46-1-3).

(10) Sexual battery (IC 35-42-4-8).

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.

(13) Possession of child pornography (IC 35-42-4-4(d) or IC 35-42-4-4(e)).

(14) Promoting prostitution (IC 35-45-4-4) as a Class B felony (for a crime committed before July 1, 2014) or a Level 4 felony (for a crime committed after June 30, 2014).

(15) Promotion of human sexual trafficking under IC 35-42-3.5-1.1.

(16) Promotion of child sexual trafficking under IC 35-42-3.5-1.2(a).

(17) Promotion of sexual trafficking of a younger child (IC 35-42-3.5-1.2(c)).

(18) Child sexual trafficking (IC 35-42-3.5-1.3).

(19) Human trafficking under IC 35-42-3.5-1.4 if the victim is less than eighteen (18) years of age.

(20) Murder (IC 35-42-1-1).

(21) Voluntary manslaughter (IC 35-42-1-3).

(22) Sexual misconduct by a service provider with a detained or supervised child (IC 35-44.1-3-10(c)).

(b) The term includes:

(1) a person who is required to register as a sex or violent offender in any jurisdiction; and

(2) a child who has committed a delinquent act, or a person prosecuted under IC 31-30-1-4(d) for an offense described in subsection (a) committed when the person was less than eighteen (18) years of age, but who was at least twenty-one (21) years of age when the charge was filed, and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(d) A person ordered to register under subsection (b)(2) may petition the court to reconsider the order at any time after completing court ordered sex offender treatment. The court shall consider expert testimony concerning whether a child or person is likely to repeat an offense described in subsection (a) or an act that would be an offense described in subsection (a) if committed by an adult.

[As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.13; P.L.1-2012, SEC.3; P.L.72-2012, SEC.2; P.L.13-2013, SEC.42; P.L.214-2013, SEC.5; P.L.158-2013, SEC.172; P.L.185-2014, SEC.3; P.L.168-2014, SEC.21; P.L.75-2016, SEC.2; P.L.13-2016, SEC.5; P.L.144-2018, SEC.4; P.L.142-2020, SEC.13; P.L.115-2023, SEC.2.]

IC 11-8-8-5.2 "Sex offense"

As used in this chapter, "sex offense" means an offense listed in section 4.5(a) of this chapter.
[As added by P.L.216-2007, SEC.14.]

IC 11-8-8-6 "Sexually violent predator"

As used in this chapter, "sexually violent predator" has the meaning set forth in IC 35-38-1-7.5.
[As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13.]

IC 35-38-1-7.5 Sexually violent predators

(a) As used in this section, "sexually violent predator" means a person who suffers from a mental abnormality or personality disorder that makes the individual likely to repeatedly commit a sex offense (as defined in IC 11-8-8-5.2). The term includes a person convicted in another jurisdiction who is identified as a sexually violent predator under IC 11-8-8-20. The term does not include a person no longer considered a sexually violent predator under subsection (g).

(b) A person who:

(1) being at least eighteen (18) years of age, commits an offense described in:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2 (before its repeal);

(C) IC 35-42-4-3 as a Class A or Class B felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014);

(D) IC 35-42-4-5(a)(1);

(E) IC 35-42-4-5(a)(2);

(F) IC 35-42-4-5(a)(3) (before that provision was redesignated by P.L.158-2013, SECTION 441);

(G) IC 35-42-4-5(b)(1) as a Class A or Class B felony (for a crime committed before July 1, 2014) or Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014);

(H) IC 35-42-4-5(b)(2);

(I) IC 35-42-4-5(b)(3) as a Class A or Class B felony (for a crime committed before July 1, 2014) or a Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014);

(J) an attempt or conspiracy to commit a crime listed in clauses (A) through (I); or
(K) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (J);

(2) commits a sex offense (as defined in IC 11-8-8-5.2) while having a previous unrelated

conviction for a sex offense for which the person is required to register as a sex or violent offender under IC 11-8-8;

(3) commits a sex offense (as defined in IC 11-8-8-5.2) while having had a previous unrelated adjudication as a delinquent child for an act that would be a sex offense if committed by an adult, if, after considering expert testimony, a court finds by clear and convincing evidence that the person is likely to commit an additional sex offense; or

(4) commits a sex offense (as defined in IC 11-8-8-5.2) while having had a previous unrelated adjudication as a delinquent child for an act that would be a sex offense if committed by an adult, if the person was required to register as a sex or violent offender under IC 11-8-8-5(b)(2);

is a sexually violent predator. Except as provided in subsection (g) or (h), a person is a sexually violent predator by operation of law if an offense committed by the person satisfies the conditions set forth in subdivision (1) or (2) and the person was released from incarceration, secure detention, probation, or parole for the offense after June 30, 1994.

(c) This section applies whenever a court sentences a person or a juvenile court issues a dispositional decree for a sex offense (as defined in IC 11-8-8-5.2) for which the person is required to register with the local law enforcement authority under IC 11-8-8.

(d) At the sentencing hearing, the court shall indicate on the record whether the person has been convicted of an offense that makes the person a sexually violent predator under subsection (b).

(e) If a person is not a sexually violent predator under subsection (b), the prosecuting attorney may request the court to conduct a hearing to determine whether the person (including a child adjudicated to be a delinquent child) is a sexually violent predator under subsection (a). If the court grants the motion, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person is a sexually violent predator under subsection (a). A hearing conducted under this subsection may be combined with the person's sentencing hearing.

(f) If a person is a sexually violent predator:

(1) the person is required to register with the local law enforcement authority as provided in IC 11-8-8; and

(2) the court shall send notice to the department of correction.

(g) This subsection does not apply to a person who has two (2) or more unrelated convictions for an offense described in IC 11-8-8-4.5 for which the person is required to register under IC 11-8-8. A person who is a sexually violent predator may petition the court to consider whether the person should no longer be considered a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after:

(1) the sentencing court or juvenile court makes its determination under subsection (e); or

(2) the person is released from incarceration or secure detention.

A person may file a petition under this subsection not more than one (1) time per year. A court may dismiss a petition filed under this subsection or conduct a hearing to determine if the person should no longer be considered a sexually violent predator. If the court conducts a hearing, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and

considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person should no longer be considered a sexually violent predator under subsection (a). If a court finds that the person should no longer be considered a sexually violent predator, the court shall send notice to the department of correction that the person is no longer considered a sexually violent predator or an offender against children. Notwithstanding any other law, a condition imposed on a person due to the person's status as a sexually violent predator, including lifetime parole or GPS monitoring, does not apply to a person no longer considered a sexually violent predator.

(h) A person is not a sexually violent predator by operation of law under subsection (b)(1) if all of the following conditions are met:

- (1) The victim was not less than twelve (12) years of age at the time the offense was committed.
- (2) The person is not more than four (4) years older than the victim.
- (3) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.
- (4) The offense committed by the person was not any of the following:
 - (A) Rape (IC 35-42-4-1).
 - (B) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 - (C) An offense committed by using or threatening the use of deadly force or while armed with a deadly weapon.
 - (D) An offense that results in serious bodily injury.
 - (E) An offense that is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.
- (5) The person has not committed another sex offense (as defined in IC 11-8-8-5.2) (including a delinquent act that would be a sex offense if committed by an adult) against any other person.
- (6) The person did not have a position of authority or substantial influence over the victim.
- (7) The court finds that the person should not be considered a sexually violent predator.

[As added by P.L.56-1998, SEC.17. Amended by P.L.1-1999, SEC.77; P.L.238-2001, SEC.18; P.L.116-2002, SEC.20; P.L.6-2006, SEC.5; P.L.140-2006, SEC.21 and P.L.173-2006, SEC.21; P.L.216-2007, SEC.37; P.L.214-2013, SEC.33; P.L.158-2013, SEC.394; P.L.168-2014, SEC.57; P.L.86-2018, SEC.332.]

IC 11-8-8-7 Persons required to register; registration locations; time limits; photographs; duties of local law enforcement

(a) Subject to section 19 of this chapter, the following persons must register under this chapter:

- (1) A sex or violent offender who resides in Indiana. A sex or violent offender resides in Indiana if either of the following applies:
 - (A) The sex or violent offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.
 - (B) The sex or violent offender owns real property in Indiana and returns to Indiana

at any time.

(2) A sex or violent offender who works or carries on a vocation or intends to work or carry on a vocation full time or part time for a period:

(A) exceeding seven (7) consecutive days; or

(B) for a total period exceeding fourteen (14) days;

during any calendar year in Indiana regardless of whether the sex or violent offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) A sex or violent offender who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or postsecondary educational institution.

(b) Except as provided in subsection (e), a sex or violent offender who resides in Indiana shall register with the local law enforcement authority in the county where the sex or violent offender resides. If a sex or violent offender resides in more than one (1) county, the sex or violent offender shall register with the local law enforcement authority in each county in which the sex or violent offender resides. If the sex or violent offender is also required to register under subsection (a)(2) or (a)(3), the sex or violent offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (c) or (d).

(c) A sex or violent offender described in subsection (a)(2) shall register with the local law enforcement authority in the county where the sex or violent offender is or intends to be employed or carry on a vocation. If a sex or violent offender is or intends to be employed or carry on a vocation in more than one (1) county, the sex or violent offender shall register with the local law enforcement authority in each county. If the sex or violent offender is also required to register under subsection (a)(1) or (a)(3), the sex or violent offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (d).

(d) A sex or violent offender described in subsection (a)(3) shall register with the local law enforcement authority in the county where the sex or violent offender is enrolled or intends to be enrolled as a student. If the sex or violent offender is also required to register under subsection (a)(1) or (a)(2), the sex or violent offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (c).

(e) A sex or violent offender described in subsection (a)(1)(B) shall register with the local law enforcement authority in the county in which the real property is located. If the sex or violent offender is also required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex or violent offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b), (c), or (d).

(f) A sex or violent offender committed to the department shall register with the department before the sex or violent offender is placed in a community transition program, placed in a work release program, or released from incarceration, whichever occurs first. The department shall forward the sex or violent offender's registration information to the local law enforcement authority of every county in which the sex or violent offender is required to register. If a sex or violent offender released from the department under this subsection:

(1) informs the department of the offender's intended location of residence upon release; and

(2) does not move to this location upon release;

the offender shall, not later than seventy-two (72) hours after the date on which the offender is released, report in person to the local law enforcement authority having jurisdiction over the offender's current address or location.

(g) This subsection does not apply to a sex or violent offender who is a sexually violent predator. A sex or violent offender not committed to the department shall register not more than seven (7) days after the sex or violent offender:

- (1) is released from a penal facility (as defined in IC 35-31.5-2-232);
- (2) is released from a secure private facility (as defined in IC 31-9-2-115);
- (3) is released from a juvenile detention facility;
- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or
- (8) arrives at the place where the sex or violent offender is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex or violent offender required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the sex or violent offender's arrival in that county or acquisition of real estate in that county.

(h) This subsection applies to a sex or violent offender who is a sexually violent predator. A sex or violent offender who is a sexually violent predator shall register not more than seventy-two (72) hours after the sex or violent offender:

- (1) is released from a penal facility (as defined in IC 35-31.5-2-232);
- (2) is released from a secure private facility (as defined in IC 31-9-2-115);
- (3) is released from a juvenile detention facility;
- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or
- (8) arrives at the place where the sexually violent predator is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex or violent offender who is a sexually violent predator required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the offender's arrival in that county or acquisition of real estate in that county.

(i) The local law enforcement authority with whom a sex or violent offender registers under this section shall make and publish a photograph of the sex or violent offender on the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5. The local law enforcement authority shall make a photograph of the sex or violent offender that complies with the requirements of IC 36-2-13-5.5 at least once per year. The sheriff of a county containing a consolidated city shall provide the police chief of the consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex or violent offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the

county's financial obligation for the establishment and maintenance of the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5.

- (j) When a sex or violent offender registers, the local law enforcement authority shall:
 - (1) immediately update the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5;
 - (2) notify every law enforcement agency having jurisdiction in the county where the sex or violent offender resides; and
 - (3) update the National Crime Information Center National Sex Offender Registry data base via the Indiana data and communications system (IDACS).

When a sex or violent offender from a jurisdiction outside Indiana registers a change of address, electronic mail address, instant messaging username, electronic chat room username, social networking web site username, employment, vocation, or enrollment in Indiana, the local law enforcement authority shall provide the department with the information provided by the sex or violent offender during registration. *[As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.2-2007, SEC.151; P.L.216-2007, SEC.15; P.L.119-2008, SEC.5; P.L.114-2012, SEC.24; P.L.214-2013, SEC.6].*

IC 11-8-8-8 Required registration information; consent to computer search

- (a) The registration required under this chapter must include the following information:
 - (1) The sex or violent offender's full name, alias, any name by which the sex or violent offender was previously known, date of birth, sex, race, height, weight, hair color, eye color, any scars, marks, or tattoos, Social Security number, driver's license number or state identification card number, vehicle description, vehicle plate number, and vehicle identification number for any vehicle the sex or violent offender owns or operates on a regular basis, principal residence address, other address where the sex or violent offender spends more than seven (7) nights in a fourteen (14) day period, and mailing address, if different from the sex or violent offender's principal residence address.
 - (2) A description of the offense for which the sex or violent offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.
 - (3) If the person is required to register under section 7(a)(2) or 7(a)(3) of this chapter, the name and address of each of the sex or violent offender's employers in Indiana, the name and address of each campus or location where the sex or violent offender is enrolled in school in Indiana, and the address where the sex or violent offender stays or intends to stay while in Indiana.
 - (4) A recent photograph of the sex or violent offender.
 - (5) If the sex or violent offender is a sexually violent predator, that the sex or violent offender is a sexually violent predator.
 - (6) If the sex or violent offender is required to register for life, that the sex or violent offender is required to register for life.
 - (7) Any electronic mail address, instant messaging username, electronic chat room username, or social networking web site username that the sex or violent offender uses or intends to use.
 - (8) Any other information required by the department.
- (b) If a sex or violent offender on probation or parole registers any information under

subsection (a)(7), the offender shall sign a consent form authorizing the:

- (1) search of the sex or violent offender's personal computer or device with Internet capability, at any time; and
- (2) installation on the sex or violent offender's personal computer or device with Internet capability, at the sex or violent offender's expense, of hardware or software to monitor the sex or violent offender's Internet usage.

(c) If the information described in subsection (a) changes, the sex or violent offender shall report in person to the local law enforcement authority having jurisdiction over the sex or violent offender's principal address not later than seventy-two (72) hours after the change and submit the new information to the local law enforcement authority. Upon request of the local law enforcement authority, the sex or violent offender shall permit a new photograph of the sex or violent offender to be made. *[As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.16; P.L.119-2008, SEC.6; P.L.214-2013, SEC.7.]*

IC 11-8-8-9 Informing of duty to register; registration time limits

(a) Not more than seven (7) days before an Indiana sex or violent offender who is required to register under this chapter is scheduled to be released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

- (1) Orally inform the sex or violent offender of the sex or violent offender's duty to register under this chapter and require the sex or violent offender to sign a written statement that the sex or violent offender was orally informed or, if the sex or violent offender refuses to sign the statement, certify that the sex or violent offender was orally informed of the duty to register.
- (2) Deliver a form advising the sex or violent offender of the sex or violent offender's duty to register under this chapter and require the sex or violent offender to sign a written statement that the sex or violent offender received the written notice or, if the sex or violent offender refuses to sign the statement, certify that the sex or violent offender was given the written notice of the duty to register.
- (3) Obtain the address where the sex or violent offender expects to reside after the sex or violent offender's release.
- (4) Transmit to the local law enforcement authority in the county where the sex or violent offender expects to reside the sex or violent offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the sex or violent offender.

(b) Not more than seventy-two (72) hours after a sex or violent offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall transmit to the state police the following:

- (1) The sex or violent offender's fingerprints, photograph, and identification factors.
- (2) The address where the sex or violent offender expects to reside after the sex or violent offender's release.
- (3) The complete criminal history data (as defined in IC 10-13-3-5) or, if the sex or violent offender committed a delinquent act, juvenile history data (as defined in IC 10-13-4-4) of the sex or violent offender.
- (4) Information regarding the sex or violent offender's past treatment for mental disorders.
- (5) Information as to whether the sex or violent offender has been determined to be a

sexually violent predator.

(c) This subsection applies if a sex or violent offender is placed on probation or in a community corrections program without being confined in a penal facility. The probation office serving the court in which the sex or violent offender is sentenced shall perform the duties required under subsections (a) and (b).

(d) For any sex or violent offender who is not committed to the department, the probation office of the sentencing court shall transmit to the department a copy of:

(1) the sex or violent offender's:

(A) sentencing order; and

(B) presentence investigation; and

(2) any other information required by the department to make a determination concerning sex or violent offender registration. *[As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.17; P.L.3-2008, SEC.87.]*

IC 11-8-8-10 Duty to transmit fingerprints to Federal Bureau of Investigation

Notwithstanding any other law, upon receiving a sex or violent offender's fingerprints from a correctional facility, the state police shall immediately send the fingerprints to the Federal Bureau of Investigation. *[As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.18.]*

IC 11-8-8-11 Change in registration location or status; duty to register or notify

(a) If a sex or violent offender who is required to register under this chapter changes:

(1) principal residence address; or

(2) if section 7(a)(2) or 7(a)(3) of this chapter applies, the place where the sex or violent offender stays in Indiana;

the sex or violent offender shall report in person to the local law enforcement authority having jurisdiction over the sex or violent offender's current principal address or location and, if the offender moves to a new county in Indiana, to the local law enforcement authority having jurisdiction over the sex or violent offender's new principal address or location not more than seventy-two (72) hours after the address change.

(b) If a sex or violent offender moves to a new county in Indiana, the local law enforcement authority where the sex or violent offender's current principal residence address is located shall inform the local law enforcement authority in the new county in Indiana of the sex or violent offender's residence and forward all relevant registration information concerning the sex or violent offender to the local law enforcement authority in the new county. The local law enforcement authority receiving notice under this subsection shall verify the address of the sex or violent offender under section 13 of this chapter not more than seven (7) days after receiving the notice.

(c) If a sex or violent offender who is required to register under section 7(a)(2) or 7(a)(3) of this chapter changes the sex or violent offender's principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school, the sex or violent offender shall report in person:

(1) to the local law enforcement authority having jurisdiction over the sex or violent offender's current principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school; and

(2) if the sex or violent offender changes the sex or violent offender's place of employment, vocation, or enrollment to a new county in Indiana, to the local law enforcement authority having jurisdiction over the sex or violent offender's new principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school;

not more than seventy-two (72) hours after the change.

(d) If a sex or violent offender moves the sex or violent offender's place of employment, vocation, or enrollment to a new county in Indiana, the local law enforcement authority having jurisdiction over the sex or violent offender's current principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school shall inform the local law enforcement authority in the new county of the sex or violent offender's new principal place of employment, vocation, or enrollment by forwarding relevant registration information to the local law enforcement authority in the new county.

(e) If a sex or violent offender moves the sex or violent offender's residence, place of employment, vocation, or enrollment to a new state, the local law enforcement authority shall inform the state police in the new state of the sex or violent offender's new place of residence, employment, vocation, or enrollment.

(f) If a sex or violent offender who is required to register under this chapter changes or obtains a new:

- (1) electronic mail address;
- (2) instant messaging username;
- (3) electronic chat room username; or
- (4) social networking web site username;

the sex or violent offender shall report in person to the local law enforcement authority having jurisdiction over the sex or violent offender's current principal address or location and shall provide the local law enforcement authority with the new address or username not more than seventy-two (72) hours after the change or creation of the address or username.

(g) A local law enforcement authority shall make registration information, including information concerning the duty to register and the penalty for failing to register, available to a sex or violent offender.

(h) A local law enforcement authority who is notified of a change under subsection (a), (c), or (f) shall:

- (1) immediately update the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5;
- (2) update the National Crime Information Center National Sex Offender Registry data base via the Indiana data and communications system (IDACS); and
- (3) notify the department.

(i) If a sex or violent offender who is registered with a local law enforcement authority becomes incarcerated, the local law enforcement authority shall transmit a copy of the information provided by the sex or violent offender during registration to the department.

(j) If a sex or violent offender is no longer required to register due to the expiration of the registration period, or if a court grants a petition under section 22 of this chapter that removes the offender's duty to register under this chapter, the local law enforcement authority shall:

- (1) ensure the offender's information is no longer published to the public portal of the sex and violent offender registry Internet web site established under IC 36-2-13-5.5; and

(2) transmit a copy of the information provided by the sex or violent offender during registration to the department.

(k) This subsection applies only to a sex or violent offender who has:

(1) informed the local law enforcement authority of the offender's intention to move the offender's residence to a new location; and

(2) not moved the offender's residence to the new location.

Not later than seventy-two (72) hours after the date on which a sex or violent offender to whom this subsection applies was scheduled to move (according to information the offender provided to the local law enforcement authority before the move), the sex or violent offender shall report in person to the local law enforcement authority having jurisdiction over the offender's current address or location, even if the offender's address has not changed. An offender who fails to report as provided in this subsection may be prosecuted in the offender's original county of residence, in the county to which the offender intended to move, or in the offender's current county of residence. *[As added by P.L. 140-2006, SEC.13 and P.L. 173-2006, SEC.13. Amended by P.L. 1-2007, SEC.100; P.L. 216-2007, SEC.19; P.L. 119-2008, SEC.7; P.L. 214-2013, SEC.8.]*

IC 11-8-8-12 Temporary residence

(a) As used in this section, "temporary residence" means a residence:

(1) that is established to provide transitional housing for a person without another residence; and

(2) in which a person is not typically permitted to reside for more than thirty (30) days in a sixty (60) day period.

(b) This section applies only to a sex or violent offender who resides in a temporary residence. In addition to the other requirements of this chapter, a sex or violent offender who resides in a temporary residence shall register in person with the local law enforcement authority in which the temporary residence is located:

(1) not more than seventy-two (72) hours after the sex or violent offender moves into the temporary residence; and

(2) during the period in which the sex or violent offender resides in a temporary residence, at least once every seven (7) days following the sex or violent offender's initial registration under subdivision (1).

(c) A sex or violent offender who does not have a principal residence or temporary residence shall report in person to the local law enforcement authority in the county where the sex or violent offender resides at least once every seven (7) days to report an address for the location where the sex or violent offender will stay during the time in which the sex or violent offender lacks a principal address or temporary residence.

(d) A sex or violent offender's obligation to register in person once every seven (7) days terminates when the sex or violent offender no longer resides in the temporary residence or location described in subsection (c). However, all other requirements imposed on a sex or violent offender by this chapter continue in force, including the requirement that a sex or violent offender register the sex or violent offender's new address with the local law enforcement authority. *[As added by P.L. 140-2006, SEC.13 and P.L. 173-2006, SEC.13. Amended by P.L. 216-2007, SEC.20.]*

IC 11-8-8-13 Verification of current residences

(a) To verify a sex or violent offender's current residence, the local law enforcement authority having jurisdiction over the area of the sex or violent offender's current principal address or location shall do the following:

- (1) Contact each offender in a manner approved or prescribed by the department at least one (1) time per year.
- (2) Contact each offender who is designated a sexually violent predator in a manner approved or prescribed by the department at least once every ninety (90) days.
- (3) Personally visit each sex or violent offender in the county at the sex or violent offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex or violent offender is:
 - (A) released from a penal facility (as defined in IC 35-31.5-2-232), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
 - (B) placed in a community transition program;
 - (C) placed in a community corrections program;
 - (D) placed on parole; or
 - (E) placed on probation;

whichever occurs first.

(4) Personally visit each sex or violent offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex or violent offender is:

- (A) released from a penal facility (as defined in IC 35-31.5-2-232), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
- (B) placed in a community transition program;
- (C) placed in a community corrections program;
- (D) placed on parole; or
- (E) placed on probation;

whichever occurs first.

(b) If a sex or violent offender appears not to reside at the sex or violent offender's listed address, the local law enforcement authority shall immediately notify the department and the prosecuting attorney. *[As added by P.L. 140-2006, SEC.13 and P.L. 173-2006, SEC.13. Amended by P.L. 216-2007, SEC.21; P.L. 114-2012, SEC.25; P.L. 214-2013, SEC.9.]*

IC 11-8-8-14 Annual reporting; quarterly reporting for sexually violent predators

(a) This subsection does not apply to a sex or violent offender who is a sexually violent predator. In addition to the other requirements of this chapter, a sex or violent offender who is required to register under this chapter shall, at least one (1) time every three hundred sixty-five (365) days:

- (1) report in person to the local law enforcement authority;
- (2) register; and
- (3) be photographed by the local law enforcement authority;

in each location where the offender is required to register.

(b) This subsection applies to a sex or violent offender who is a sexually violent predator. In addition to the other requirements of this chapter, a sex or violent offender who is a sexually violent predator under IC 35-38-1-7.5 shall:

- (1) report in person to the local law enforcement authority;
- (2) register; and
- (3) be photographed by the local law enforcement authority in each location where the sex or violent offender is required to register;

every ninety (90) days.

(c) Each time a sex or violent offender who claims to be working or attending school registers in person, the sex or violent offender shall provide documentation to the local law enforcement authority providing evidence that the sex or violent offender is still working or attending school at the registered location. *[As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.22; P.L.214-2013, SEC.10.]*

IC 11-8-8-15 Possession of valid Indiana driver's license or ID card required

(a) A sex or violent offender who is a resident of Indiana shall obtain and keep in the sex or violent offender's possession:

- (1) a valid Indiana driver's license; or
- (2) a valid Indiana identification card (as described in IC 9-24-16) or a photo exempt identification card (as described in IC 9-24-16.5);

that contains the offender's current address and current physical description.

(b) A sex or violent offender required to register in Indiana who is not a resident of Indiana shall obtain and keep in the sex or violent offender's possession:

- (1) a valid driver's license issued by the state in which the sex or violent offender resides; or
- (2) a valid state issued identification card issued by the state in which the sex or violent offender resides;

that contains the offender's current address and current physical description.

(c) A person who knowingly or intentionally violates this section commits failure of a sex or violent offender to possess identification, a Class A misdemeanor. However, the offense is a Level 6 felony if the person:

- (1) is a sexually violent predator; or
- (2) has a prior unrelated conviction:
 - (A) under this section; or
 - (B) based on the person's failure to comply with any requirement imposed on an offender under this chapter.

(d) It is a defense to a prosecution under this section that:

- (1) the person has been unable to obtain a valid driver's license, state issued identification card, or photo exempt identification card because less than thirty (30) days have passed since the person's release from incarceration;
- (2) the person possesses a driver's license, state issued identification card, or photo exempt identification card that expired not more than thirty (30) days before the date the person violated subsection (a) or (b); or
- (3) the person possesses a valid driver's license, state issued identification card, or photo exempt identification card, but the card does not reflect the person's current address or

current physical description because fewer than thirty (30) days have passed since the person changed the person's current address or physical characteristics. *[As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.23; P.L.214-2013, SEC.11; P.L.158-2013, SEC.173; P.L.168-2014, SEC.22; P.L.197-2015, SEC.14.]*

IC 11-8-8-16 Name changes

(a) A sex or violent offender who is required to register under this chapter may not petition for a change of name under IC 34-28-2.

(b) If a sex or violent offender who is required to register under this chapter changes the sex or violent offender's name due to marriage, the sex or violent offender must register with the local law enforcement authority not more than seven (7) days after the name change. *[As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.24.]*

IC 11-8-8-17 Registration violations; penalty

(a) A sex or violent offender who knowingly or intentionally:

- (1) fails to register when required to register under this chapter;
- (2) fails to register in every location where the sex or violent offender is required to register under this chapter;
- (3) makes a material misstatement or omission while registering as a sex or violent offender under this chapter;
- (4) fails to register in person as required under this chapter; or
- (5) does not reside at the sex or violent offender's registered address or location; commits a Level 6 felony.

(b) The offense described in subsection (a) is a Level 5 felony if the sex or violent offender has a prior unrelated conviction for an offense:

- (1) under this section;
- (2) based on the person's failure to comply with any requirement imposed on a sex or violent offender under this chapter or under IC 5-2-12 before its repeal; or
- (3) that is based on the person's failure to comply with a requirement imposed on the person that is the same or substantially similar to a requirement imposed on a sex or violent offender under this chapter or under IC 5-2-12 before its repeal.

(c) It is not a defense to a prosecution under this section that the sex or violent offender was unable to pay the sex or violent offender registration fee or the sex or violent offender address change fee described under IC 36-2-13-5.6. *[As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.25; P.L.158-2013, SEC.174; P.L.44-2018, SEC.1; P.L.142-2020, SEC.14.]*

IC 11-8-8-18 Sexually violent predator; duty to notify

(a) A sexually violent predator who will be absent from the sexually violent predator's principal residence for more than seventy-two (72) hours shall inform the local law enforcement authority in the county where the sexually violent predator's principal address is located, in person, of the following:

- (1) That the sexually violent predator will be absent from the sexually violent predator's

principal residence for more than seventy-two (72) hours.

(2) The location where the sexually violent predator will be located during the absence from the sexually violent predator's principal residence.

(3) The length of time the sexually violent predator will be absent from the sexually violent predator's principal residence.

(b) A sexually violent predator who will spend more than seventy-two (72) hours in a county in which the sexually violent predator is not required to register shall inform the local law enforcement authority in the county in which the sexually violent predator is not required to register, in person, of the following:

(1) That the sexually violent predator will spend more than (72) hours in the county.

(2) The location where the sexually violent predator will be located while spending time in the county.

(3) The length of time the sexually violent predator will remain in the county.

Upon request of the local law enforcement authority of the county in which the sexually violent predator is not required to register, the sexually violent predator shall provide the local law enforcement authority with any additional information that will assist the local law enforcement authority in determining the sexually violent predator's whereabouts during the sexually violent predator's stay in the county.

(c) A sexually violent predator who knowingly or intentionally violates this section commits failure to notify, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated conviction under this section based on the person's failure to comply with any requirement imposed on a sex or violent offender under this chapter. *[As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.26; P.L.158-2013, SEC.175.]*

IC 11-8-8-19 Expiration of duty; lifetime registration; out-of-state registrants

(a) Except as provided in subsections (b) through (f), a sex or violent offender is required to register under this chapter until the expiration of ten (10) years after the date the sex or violent offender:

(1) is released from a penal facility (as defined in IC 35-31.5-2-232) or a secure juvenile detention facility of a state or another jurisdiction;

(2) is placed in a community transition program;

(3) is placed in a community corrections program;

(4) is placed on parole; or

(5) is placed on probation;

for the sex or violent offense requiring registration, whichever occurs last. The registration period is tolled during any period that the sex or violent offender is incarcerated. The registration period does not restart if the offender is convicted of a subsequent offense. However, if the subsequent offense is a sex or violent offense, or an offense under IC 11-8-8-17, a new registration period may be imposed in accordance with this chapter. The department shall ensure that an offender who is no longer required to register as a sex or violent offender is notified that the obligation to register has expired, and shall ensure that the offender's information is no longer published to the public portal of the sex and violent offender registry Internet web site established under IC 36-2-13-5.5.

(b) A sex or violent offender who is a sexually violent predator is required to register for life.

(c) A sex or violent offender who is convicted of at least one (1) offense under section 5(a) of this chapter that the sex or violent offender committed:

(1) when the person was at least eighteen (18) years of age; and

(2) against a victim who was less than twelve (12) years of age at the time of the crime; is required to register for life.

(d) A sex or violent offender who is convicted of at least one (1) offense under section 5(a) of this chapter in which the sex offender:

(1) proximately caused serious bodily injury or death to the victim;

(2) used force or the threat of force against the victim or a member of the victim's family, unless the offense is sexual battery as a Class D felony (for an offense committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014); or

(3) rendered the victim unconscious or otherwise incapable of giving voluntary consent; is required to register for life.

(e) A sex or violent offender who is convicted of at least two (2) unrelated offenses under section 5(a) of this chapter is required to register for life.

(f) A person who is required to register as a sex or violent offender in any jurisdiction shall register for the period required by the other jurisdiction or the period described in this section, whichever is longer. *[As added by P.L. 140-2006, SEC.13 and P.L. 173-2006, SEC.13. Amended by P.L.216-2007, SEC.27; P.L.119-2008, SEC.8; P.L.114-2012, SEC.26; P.L.214-2013, SEC.12; P.L.158-2013, SEC.176; P.L.168-2014, SEC.23; P.L.5-2015, SEC.33; P.L.40-2019, SEC.1.]*

IC 11-8-8-20 Interstate agreements; Dept to determine status of out-of-state offenders

(a) The department may enter into a compact or agreement with one (1) or more jurisdictions outside Indiana to exchange notifications concerning the change of address, employment, vocation, or enrollment of a sex or violent offender between Indiana and the other jurisdiction or the other jurisdiction and Indiana.

(b) If the department receives information that a sex or violent offender has relocated to Indiana to reside, engage in employment or a vocation, or enroll in school, or that a sex or violent offender has been convicted in Indiana but not sentenced to the department, the department shall determine:

(1) whether the person is defined as a:

(A) sex offender under IC 11-8-8-4.5; or

(B) sex or violent offender under IC 11-8-8-5;

(2) whether the person is a sexually violent predator under IC 35-38-1-7.5;

(3) the period for which the person will be required to register as a sex or violent offender in Indiana; and

(4) any other matter required by law to make a registration determination.

(c) After the department has made a determination under subsection (b), the department shall update the sex and violent offender registry web site and transmit the department's determination to the local law enforcement authority having jurisdiction over the county where the sex or violent offender resides, is employed, and attends school. The department shall transmit:

(1) the sex or violent offender's name, date of relocation, and new address (if applicable), the offense or delinquent act committed by the sex or violent offender, and any other available descriptive information;

(2) whether the sex or violent offender is a sexually violent predator;

(3) the period for which the sex or violent offender will be required to register in Indiana;

and

(4) anything else required by law to make a registration determination.

[As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.28; P.L.3-2008, SEC.88.]

IC 11-8-8-21 Sex and violent offender fund

(a) The state sex and violent offender administration fund is established to assist the department in carrying out its duties under IC 11-8-2-12.4 concerning the Indiana sex and violent offender registry. The fund shall be administered by the department.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The fund consists of:

(1) grants;

(2) donations;

(3) appropriations;

(4) money from the annual sex or violent offender registration fee (IC 36-2-13-5.6(a)(1)(A));
and

(5) money from the sex or violent offender address change fee (IC 36-2-13-5.6(a)(1)(B)).

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(e) Money in the fund is continually appropriated to carry out the purposes of the fund.

[As added by P.L.216-2007, SEC.29.]

IC 11-8-8-22 Procedure for retroactive application of ameliorative statutes

(a) As used in this section, "offender" means a sex offender (as defined in section 4.5 of this chapter) and a sex or violent offender (as defined in section 5 of this chapter).

(b) Subsection (g) applies to an offender required to register under this chapter if, due to a change in federal or state law after June 30, 2007, an individual who engaged in the same conduct as the offender:

(1) would not be required to register under this chapter; or

(2) would be required to register under this chapter but under less restrictive conditions than the offender is required to meet.

(c) A person to whom this section applies may petition a court to:

(1) remove the person's designation as an offender and order the department to remove all information regarding the person from the public portal of the sex and violent offender registry Internet web site established under IC 36-2-13-5.5; or

(2) require the person to register under less restrictive conditions.

(d) A petition under this section shall be filed in the circuit or superior court of the county in which the offender resides. If the offender resides in more than one (1) county, the petition shall be filed in the circuit or superior court of the county in which the offender resides the greatest time. If the offender does not reside in Indiana, the petition shall be filed in the circuit or superior court of the county where the offender is employed the greatest time. If the offender does not reside or work in Indiana, but is a student in Indiana, the petition shall be filed in the circuit or superior court of the county where the offender is a student. If the offender is not a student in Indiana and does not reside or work in Indiana, the petition shall be filed in the county where the offender was

most recently convicted of a crime listed in section 5 of this chapter.

(e) After receiving a petition under this section, the court may:

(1) summarily dismiss the petition; or

(2) give notice to:

(A) the department;

(B) the attorney general;

(C) the prosecuting attorney of:

(i) the county where the petition was filed;

(ii) the county where offender was most recently convicted of an offense listed in section 5 of this chapter; and

(iii) the county where the offender resides; and

(D) the sheriff of the county where the offender resides;

and set the matter for hearing. The date set for a hearing must not be less than sixty (60) days after the court gives notice under this subsection.

(f) If a court sets a matter for a hearing under this section, the prosecuting attorney of the county in which the action is pending shall appear and respond, unless the prosecuting attorney requests the attorney general to appear and respond and the attorney general agrees to represent the interests of the state in the matter. If the attorney general agrees to appear, the attorney general shall give notice to:

(1) the prosecuting attorney; and

(2) the court.

(g) A court may grant a petition under this section if, following a hearing, the court makes the following findings:

(1) The law requiring the petitioner to register as an offender has changed since the date on which the petitioner was initially required to register.

(2) If the petitioner who was required to register as an offender before the change in law engaged in the same conduct after the change in law occurred, the petitioner would:

(A) not be required to register as an offender; or

(B) be required to register as an offender, but under less restrictive conditions.

(3) If the petitioner seeks relief under this section because a change in law makes a previously unavailable defense available to the petitioner, that the petitioner has proved the defense.

The court has the discretion to deny a petition under this section, even if the court makes the findings under this subsection.

(h) The petitioner has the burden of proof in a hearing under this section.

(i) If the court grants a petition under this section, the court shall notify:

(1) the victim of the offense, if applicable;

(2) the department of correction; and

(3) the local law enforcement authority of every county in which the petitioner is currently required to register.

(j) An offender may base a petition filed under this section on a claim that the application or registration requirements constitute ex post facto punishment.

(k) A petition filed under this section must:

(1) be submitted under the penalties of perjury;

(2) list each of the offender's criminal convictions and state for each conviction:

- (A) the date of the judgment of conviction;
- (B) the court that entered the judgment of conviction;
- (C) the crime that the offender pled guilty to or was convicted of; and
- (D) whether the offender was convicted of the crime in a trial or pled guilty to the criminal charges; and

(3) list each jurisdiction in which the offender is required to register as a sex offender or a violent offender.

(l) The attorney general may initiate an appeal from any order granting an offender relief under this section. *[As added by P.L.216-2007, SEC.30. Amended by P.L.103-2010, SEC.2; P.L.214-2013, SEC.13.]*

IC 11-8-8-23 Law enforcement to notify a victim of an offender name change

(a) This section applies to the local law enforcement authority in the county of conviction who has received notice that a lifetime sex or violent offender (as defined in IC 34-28-2-1.5) has changed the offender's name under:

- (1) IC 31-11-4-11 (marriage);
- (2) IC 31-15-2-19 (dissolution of marriage);
- (3) IC 31-19-2-1.1 (adult adoption); or
- (4) IC 34-28-21-5 (an action for name change).

(b) A local law enforcement authority to which this section applies shall take reasonable steps, including consulting with the prosecuting attorney or a victim assistance program in the county of conviction, to notify the victim (or the spouse or immediate family member of a deceased victim):

- (1) that the lifetime sex or violent offender has changed the offender's name;
- (2) of the reason for the name change; and
- (3) of the lifetime sex or violent offender's new name.

[As added by P.L.244-2019, SEC.1.]



Offender Search

In your area | **Name** | **City** | **Non-compliant** | **Internet Names/Email** | **Phone Number**

Use this search to view all published offenders within a specified radius of your home, business, school or other desired address. > [How searches work](#)

Address: 5304 new chapel road *

City: jeffersonville *

State: IN *

Zip: 47130 *

Zip Plus:

Offender Address Type: ☒ Home Addresses ☒ Work/Volunteer Addresses ☒ School Addresses ☒ Other Addresses ☒ Secondary Addresses

Search **Reset** * Denotes required field

Other Search Options

> [Click here](#) to search by name or other options.

Receive Email Alerts

Click [here](#) to register to receive an email alert whenever a published offender registers within the selected radius of your desired addresses.

Experiencing Problems?

Click [here](#) if you are experiencing technical problems or need assistance using this site.

Details | Other Known Addresses | Warrants

Name: TRACEYLEA JOEANNE RODMAN Registration #: 361484

Aliases: TRACY RODMAN
TRACEYLEA RODMAN

Level: Sexually Violent Predator

Status: Active

Registration Start Date: 09/17/2009

Registration End Date:

Lifetime Registration: Yes

Physical Description

• **Age:** 58 • **Height:** 5'07"

• **Sex:** F • **Weight:** 180lbs

• **Race:** White • **Eyes:** Blue

• **Hair:** Brown

• **Scars/Tattoos:** Tattoo on L_Hand (DOT)

Address

3407 Justinian Drive, Jeffersonville, IN 47130, Clark County



Other Known Addresses

Offenses

• **Description:** 35-42-4-3 - Child Molesting

• **Date Convicted:** 08/20/2007

• **Conviction State:**

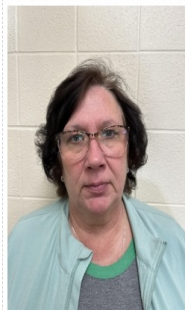
• **Release Date:** 09/17/2009

• **Details:**

• **County of Conviction:** JENNINGS

• **Case Number:** 40C01-0512-FA-269

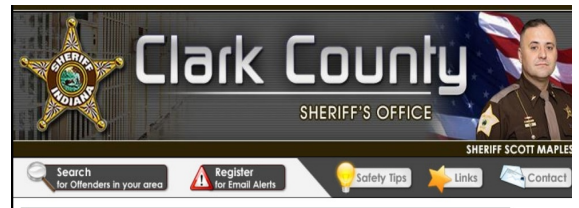
• **Sentence:** 8 YEARS WITH 2 YEARS SUSPENDED



TRACEYLEA JOEANNE RODMAN

[Submit a tip or correction for this offender](#)

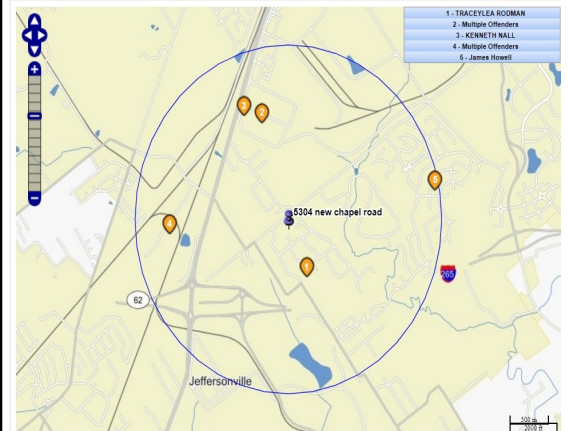
[Register to track this offender](#)



Offender Search: Results

[Print Page](#)

Found 7 offenders in 5 locations Search Address: 5304 new chapel road jeffersonville, IN 47130 Radius: 1 mile



Found 7 offenders in 5 locations Radius: 1 mile

Displaying: <input checked="" type="checkbox"/> Home Addresses <input checked="" type="checkbox"/> Work/Volunteer Addresses <input checked="" type="checkbox"/> School Addresses <input checked="" type="checkbox"/> Other Addresses <input checked="" type="checkbox"/> Secondary Addresses Update							
#	Alert	Name	Address	City	Zip	Type	View Details
1		TRACEYLEA ROOMAN Level: Sexually Violent Predator	3407 Justinian Drive	Jeffersonville	47130	Home Address	View Details
2		John Der Jr Level: Offender Against Children	121 RIVER RIDGE CIR	JEFFERSONVILLE	47130	Work Address	View Details
2		Tyler Tschewlin Level: Sex Offender	121 RIVER RIDGE CIR	JEFFERSONVILLE	47130	Work Address	View Details
3		KENNETH NALL Level: Sex Offender	100 RIVER RIDGE CIR	JEFFERSONVILLE	47130	Work Address	View Details
4		Brandon Henson Level: Violent Offender	4900 Keystone Blvd	Jeffersonville	47130	Work Address	View Details
4		CORY MCGLAUGHLIN Level: Sex Offender	4885 Keystone blvd	Jeffersonville	47130	Work Address	View Details
5		James Howell Level: Sexually Violent Predator	3129 Timberlake Ct	JEFFERSONVILLE	47130	Home Address	View Details

SEX OFFENDER RESIDENCY RESTRICTIONS /
PROBATION AND PAROLE CONDITIONS

IC 35-42-4-11. Sex offender residency offense.

(a) As used in this section, and except as provided in subsection (d), "offender against children" means a person required to register as a sex or violent offender under IC 11-8-8 who has been:

- (1) found to be a sexually violent predator under IC 35-38-1-7.5; or
- (2) convicted of one (1) or more of the following offenses:
 - (A) Child molesting (IC 35-42-4-3).
 - (B) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
 - (C) Child solicitation (IC 35-42-4-6).
 - (D) Child seduction (IC 35-42-4-7).
 - (E) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person is not the child's parent or guardian.

A person is an offender against children by operation of law if the person meets the conditions described in subdivision (1) or (2) at any time.

(b) As used in this section, "reside" means to spend more than three (3) nights in:

- (1) a residence; or
- (2) if the person does not reside in a residence, a particular location;

in any thirty (30) day period.

(c) An offender against children who knowingly or intentionally:

- (1) resides within one thousand (1,000) feet of:
 - (A) school property, not including property of an institution providing post-secondary education;
 - (B) a youth program center;
 - (C) a public park; or
 - (D) a day care center licensed under IC 12-17.2;
- (2) establishes a residence within one (1) mile of the residence of the victim of the offender's sex offense; or
- (3) resides in a residence where a child care provider (as defined by IC 31-33-26-1) provides child care services;

commits a sex offender residency offense, a Level 6 felony.

(d) This subsection does not apply to an offender against children who has two (2) or more unrelated convictions for an offense described in subsection (a). A person who is an offender against children may petition the court to consider whether the person should no longer be considered an offender against children. The person may file a petition under this subsection not earlier than ten (10) years after the person is released from incarceration or parole, whichever occurs last (or, if the person is not incarcerated, not earlier than ten (10) years after the person is released from probation). A person may file a petition under this subsection not more than one (1) time per year. A court may dismiss a petition filed under this subsection or conduct a hearing to determine if the person should no longer be considered an offender against children. If the court conducts a hearing, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists,

the court shall determine whether the person should no longer be considered an offender against children. If a court finds that the person should no longer be considered an offender against children, the court shall send notice to the department of correction that the person is no longer considered an offender against children.

[As added by P.L.6-2006, SEC.8. Amended by P.L.140-2006, SEC.32 and P.L.173-2006, SEC.32; P.L.216-2007, SEC.47; P.L.214-2013, SEC.39; P.L.158-2013, SEC.447; P.L.168-2014, SEC.72; P.L.13-2016, SEC.16; P.L.220-2019, SEC.4; P.L.142-2020, SEC.66.]

IC 35-38-2-2.2. Registration of sex and violent offender — Residence within 1,000 feet of school property.

- (a) As a condition of probation for a sex offender (as defined in IC 11-8-8-4.5), the court shall:
 - (1) require the sex offender to register with the local law enforcement authority under IC 11-8-8;
 - (2) prohibit the sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-31.5-2-285), as measured from the property line of the sex offender's residence to the property line of the school property, for the period of probation, unless the sex offender obtains written approval from the court;
 - (3) require the sex offender to consent:
 - (A) to the search of the sex offender's personal computer at any time; and
 - (B) to the installation on the sex offender's personal computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage; and
 - (4) prohibit the sex offender from:
 - (A) accessing or using certain web sites, chat rooms, or instant messaging programs frequented by children; and
 - (B) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by clause (A).

If the court allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order. However, a court may not allow a sex offender who is a sexually violent predator (as defined in IC 35-38-1-7.5) or an offender against children under IC 35-42-4-11 to reside within one thousand (1,000) feet of school property.

(b) As a condition of probation for a sex offender who is a sexually violent predator under IC 35-38-1-7.5 or an offender against children under IC 35-42-4-11, the court may:

- (1) subject to subdivision (2), prohibit the sex offender from having any:
 - (A) unsupervised contact; or (B) contact;with a person less than sixteen (16) years of age; and
- (2) if the court finds it is in the best interests of the child, prohibit the sex offender from having any:
 - (A) unsupervised contact; or
 - (B) contact;with a child or stepchild of the sex offender, if the child or stepchild is less than sixteen (16) years of age. [P.L.11-1994, § 14; P.L.214-1999, § 3; P.L.238-2001, § 19; P.L.116-2002, § 21; P.L.140-2006, § 23; P.L.173-2006, § 23; P.L.216-2007, § 40, emergency eff. May 10, 2007; P.L.119-2008, § 16; P.L.114-2012, § 79; P.L.220-2019, § 1.]

IC 35-38-2-2.4. Treatment programs — Avoiding contact with certain persons.

As a condition of probation, the court may require a sex offender (as defined in IC 11-8-8-4.5) to:

- (1) participate in a treatment program for sex offenders approved by the court; and
- (2) avoid contact with any person who is less than sixteen (16) years of age unless the probationer:
 - (A) receives the court's approval; or
 - (B) successfully completes the treatment program referred to in subdivision (1).

[P.L. 11-1994, § 15; P.L. 238-2001, § 20; P.L. 116-2002, § 22; P.L. 140-2006, § 25; P.L. 173-2006, § 25; P.L. 1-2010, § 142, emergency eff. March 12, 2010.]

IC 35-38-2-2.5

- ▶ Upon conviction for a felony sex offense, all or part of a sentence may be suspended and probated. Upon release from a term of imprisonment in the Indiana Department of Corrections, an inmate shall be released to the sentencing court to serve a term of probation, or shall be placed on state parole for two years. A condition of remaining on probation or parole after conviction for a sex offense is that the offender not reside within one (1) mile of the residence of the victim of the offender's sex offense. May be waived by the court only after a hearing and good cause shown.

IC 35-38-2-2.5 Residency requirements for certain offenders

- (a) As used in this section, "offender" means an individual convicted of a sex offense.
- (b) As used in this section, "sex offense" means any of the following:
 - (1) Rape (IC 35-42-4-1).
 - (2) Criminal deviate conduct (IC 35-42-4-2) (repealed).
 - (3) Child molesting (IC 35-42-4-3).
 - (4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
 - (5) Vicarious sexual gratification (IC 35-42-4-5).
 - (6) Child solicitation (IC 35-42-4-6).
 - (7) Child seduction (IC 35-42-4-7).
 - (8) Sexual battery (IC 35-42-4-8).
 - (9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
 - (10) Incest (IC 35-46-1-3).
- (c) A condition of remaining on probation or parole after conviction for a sex offense is that the offender not reside within one (1) mile of the residence of the victim of the offender's sex offense.
- (d) An offender:
 - (1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the offender intends to reside during the period of probation:
 - (A) at the time of sentencing if the offender will be placed on probation without first being incarcerated; or
 - (B) before the offender's release from incarceration if the offender will be placed on probation after completing a term of incarceration; or
 - (2) who will be placed on parole shall provide the parole board with the address where the offender intends to reside during the period of parole.
- (e) An offender, while on probation or parole, may not establish a new residence within one

(1) mile of the residence of the victim of the offender's sex offense unless the offender first obtains a waiver from the:

(1) court, if the offender is placed on probation; or

(2) parole board, if the offender is placed on parole;

for the change of address under subsection (f).

(f) The court or parole board may waive the requirement set forth in subsection (c) only if the court or parole board, at a hearing at which the offender is present and of which the prosecuting attorney has been notified, determines that:

(1) the offender has successfully completed a sex offender treatment program during the period of probation or parole;

(2) the offender is in compliance with all terms of the offender's probation or parole; and

(3) good cause exists to allow the offender to reside within one (1) mile of the residence of the victim of the offender's sex offense.

However, the court or parole board may not grant a waiver under this subsection if the offender is a sexually violent predator under IC 35-38-1-7.5 or if the offender is an offender against children under IC 35-42-4-11.

(g) If the court or parole board grants a waiver under subsection (f), the court or parole board shall state in writing the reasons for granting the waiver. The court's written statement of its reasons shall be incorporated into the record.

(h) The address of the victim of the offender's sex offense is confidential even if the court or parole board grants a waiver under subsection (f). As added by P.L.116-2002, SEC.23. Amended by P.L.6-2006, SEC.6; P.L.139-2006, SEC.4, P.L.140-2006, SEC.26, and P.L.173-2006, SEC.26; P.L.216-2007, SEC.41; P.L.158-2013, SEC.399; P.L.214-2013, SEC.34; P.L.13-2016, SEC.13.]

IC 35-38-2-2.6

- ▶ Upon conviction for a stalking offense, all or part of a sentence may be suspended and probated. Upon release from a term of imprisonment in the Indiana Department of Corrections, an inmate shall be released to the sentencing court to serve a term of probation, or shall be placed on state parole for two years. A condition of remaining on probation or parole after conviction for a stalking offense, if ordered by the court, is that the offender not reside within one (1) mile of the residence of the victim of the offender's stalking offense for up to five years. May be waived by the court only after a hearing and good cause shown.

IC 35-38-2-2.6 Conditions of probation or parole for persons convicted of stalking

(a) As a condition of remaining on probation or parole after a conviction for stalking (IC 35-45-10-5), a court may prohibit a person from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

(b) A person:

(1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the person intends to reside during the period of probation:

(A) at the time of sentencing if the person will be placed on probation without first being incarcerated; or

(B) before the person's release from incarceration if the person will be placed on

probation after completing a term of incarceration; or

(2) who will be placed on parole shall provide the parole board with the address where the person intends to reside during the period of parole.

(c) A person, while on probation or parole, may not reside within one thousand (1,000) feet of the residence of the victim of the stalking unless the person first obtains a waiver under subsection (d) from the:

(1) court, if the person is placed on probation; or

(2) parole board, if the person is placed on parole.

(d) The court or parole board may waive the requirement set forth in subsection (c) only if the court or parole board, at a hearing at which the person is present and of which the prosecuting attorney has been notified, determines that:

(1) the person is in compliance with all terms of the person's probation or parole; and

(2) good cause exists to allow the person to reside within one thousand (1,000) feet of the residence of the victim of the stalking.

(e) If the court or parole board grants a waiver under subsection (d), the court or parole board shall state in writing the reasons for granting the waiver. The court's written statement of its reasons shall be incorporated into the record.

(f) The address of the victim of the stalking is confidential even if the court or parole board grants a waiver under subsection (d). [As added by P.L.140-2006, SEC.27 and P.L.173-2006, SEC.27.]

IC 35-38-2-2.7 Prohibition on use of social media, instant messaging, or chat rooms

As a condition of probation or parole after conviction for a sex offense (as defined in IC 11-8-8-5.2), the court shall prohibit the convicted person from using a social networking web site or an instant messaging or chat room program to communicate with a child less than sixteen (16) years of age. However, the court may permit the offender to communicate using a social networking web site or an instant messaging or chat room program with:

(1) the offender's own child, stepchild, or sibling; or

(2) another relative of the offender specifically named in the court's order.

[As added by P.L.247-2013, SEC.4. Amended by P.L.5-2022, SEC.3.]

35-38-2-2.9. Duty to inform an offender against children of residency restrictions.

As a condition of probation, the court shall inform an offender against children (as described in IC 35-42-4-11) of the residency restrictions described in IC 35-42-4-11(c)(1).

[P.L.220-2019, § 2, effective July 1, 2019.]

CRIME VICTIMS IN COURT AND TESTIFYING

IC 35-37-4-11. Safe “waiting areas” for victim during court proceedings

(a) During court proceedings a court shall provide safeguards necessary to minimize the contact of the victim of an offense or delinquent act with:

- (1) A defendant accused of the offense or a juvenile accused of committing the delinquent act; and
- (2) The relatives and friends of:
 - (A) A defendant accused of the offense; or
 - (B) A juvenile accused of committing the delinquent act.

(b) The safeguards required under subsection (a) may include courthouse waiting areas for victims that are separated from those waiting areas specified for defendants, juveniles alleged to be delinquent children, and the relatives and friends of accused persons.

(c) A county is not required under this section, or by mandate of a court, to expend any funds to change the physical configuration of a courthouse in the county to meet the requirements of this section. *[P.L.36-1990, § 10.]*

IC 35-37-4-12. Disclosure of personal information by victim during sworn testimony.

(a) If the physical safety of a victim or the victim’s immediate family is in danger, a victim may not be required to give personal information during the course of sworn testimony regarding the following:

- (1) Telephone numbers.
- (2) Place of employment.
- (3) Residential address.

(b) In any hearing to determine the introduction into evidence of the personal information specified in subsection (a), the court, if the court finds an actual danger to the victim or the victim’s immediate family exists, may require the party possessing the personal information to disclose the personal information to the court for in camera review.

[P.L.1-1991, § 193.]

IC 35-37-6-2.5 "Personally identifying information"

(a) As used in this chapter, "personally identifying information" means information that identifies a victim or the location where domestic violence, dating violence, sexual assault, or stalking occurred, including the victim's:

- (1) name;
- (2) mailing and physical address;
- (3) electronic mail address;
- (4) Internet protocol address;
- (5) telephone numbers, including facsimile numbers;
- (6) Social Security number;
- (7) date of birth;
- (8) racial or ethnic background; and
- (9) religious affiliation.

(b) The term includes any other information that, in combination with other nonpersonally identifying information, would identify an individual.

[As added by P.L.104-2008, SEC.9.]

IC 35-38-2-2.7 Prohibition on use of social media, instant messaging, or chat rooms

As a condition of probation or parole after conviction for a sex offense (as defined in IC 11-8-8-5.2), the court shall prohibit the convicted person from using a social networking web site or an instant messaging or chat room program to communicate with a child less than sixteen (16) years of age. However, the court may permit the offender to communicate using a social networking web site or an instant messaging or chat room program with:

- (1) the offender's own child, stepchild, or sibling; or
- (2) another relative of the offender specifically named in the court's order.

[As added by P.L.247-2013, SEC.4. Amended by P.L.5-2022, SEC.3.]

Indiana Rules on Access to Court Records Rule 5(C). Records Excluded From Public Access.

* * *

(C) Personal Information of Litigants, Witnesses, and Children:

(1) Unless necessary to the disposition of the case, the following information shall be redacted, and no notice of exclusion from Public Access is required:

- (a) Complete Social Security Numbers of living persons;
- (b) Complete account numbers, personal identification numbers, and passwords.

If the information is necessary to the disposition of the case, the document containing the confidential information shall be filed on green paper (if paper filing) or filed as a confidential document (if e-filed). A separate document with the confidential information redacted shall be filed on white paper (if paper filing) or filed as a public document (if e-filing). A separate ACR Form identifying the information excluded from public access and the Rule 5 grounds for exclusion shall also be filed.

(2) The names of child witnesses in cases involving sex offenses shall be excluded from public access, and any references shall be replaced with initials or similar designation that ensures their anonymity, with no notice of exclusion from Public Access required. Names shall not be redacted in protection order cases or on no contact orders.

(3) Addresses (mail or email), dates of birth, and phone numbers of natural persons who are witnesses or victims in criminal, juvenile, or civil protection order proceedings shall be excluded from public access. The document containing the confidential information shall be filed on green paper (if paper filing) or filed as a confidential document (if e-filed). A separate document with the confidential information redacted shall be filed on white paper (if paper filing) or filed as a public document (if e-filing). A separate ACR Form identifying the information excluded from public access and the Rule 5 grounds for exclusion shall also be filed.

* * *

COMMENTARY RULE 5 (C)

As noted previously, these Rules start from the presumption of open Public Access to Court Records. To address those limited circumstances where federal statute, state statute, or court rule has declared Court Records to be confidential, this section provides the mechanism by which these confidential Court Records are to be excluded from Public Access.

A court cannot exclude records otherwise accessible to the public because the parties agree to do so or because the parties have entered into a Trial Rule 26(C) protective order. A court has

only two ways to exclude otherwise accessible records from Public Access: sealing the records pursuant to Indiana Access to Public Records Act; or entering an Order Excluding Court Records from Public Access pursuant to the specific requirements in Rule 6.

Rule 5(A) begins by recognizing that, in some instances, an entire case shall be excluded from Public Access because all Court Records have been declared confidential, but Rules 5 (B), (C), (D) and (E) make clear that in most instances it is only individual Case or Administrative Records that have been declared confidential. A court may take judicial notice of records that are excluded from Public Access, including records in cases where all Court Records have been declared confidential, such as juvenile cases. Ind. Evid. Rule 201(b)(5).

Rule 5(C)(1) allows a party or person to redact Social Security Numbers, account numbers, Personal Identification Numbers, and passwords without filing a separate, written notice of exclusion, as long as the court does not need the information to dispose of the case.

When Rule 5(C)(1) requires both a Public Access Version and a Non-Public Access Version, the party must file a Public Access Version and Non-Public Access Version. The Public Access Version is filed with the confidential information redacted (if it is only part of a page) or omitted (if it is a whole page). If a whole page is omitted, some type of notation shall be made at the precise place in the Public Access version indicating where the omission occurred. The Non-Public Access version is to be “locked” and shall contain the confidential material redacted or omitted from the Public Access version. The party or person submitting the confidential record is required to provide separate, written notice identifying the grounds upon which the exclusion is based. See ACR Form.

Non-Public Access documents containing Court Records that are excluded from Public Access must be identified with a header, label, or stamp that states, “CONFIDENTIAL PER ACCESS TO COURT RECORDS RULE 5” or “EXCLUDED FROM PUBLIC ACCESS PER ACCESS TO COURT RECORDS RULE 5.” As an example, when a subpoena is returned after service, the return will contain the victim’s full name and address. This heading notifies individuals who are processing the document to “lock” the document and maintain its exclusion from Public Access.

Rule 5(C)(2) allows a party or person to replace the name of child witnesses in cases involving sex offenses with initials or other identifiers without filing a written Notice of Exclusion. In some cases, using initials will identify the child victim, and so the Rule gives flexibility to craft a method to protect the child’s identity.

In Rule 5(C)(3) the term “juvenile” refers to juvenile delinquency, status, and miscellaneous case types. This subsection does not affect CHINS or TPR case types because those cases are confidential in their entirety under Rule 5(A)(1). Juvenile paternity cases created between July 1, 1941 and July 1, 2014 are confidential under Rule 5(A)(6). *[Effective January 1, 2024.]*

CHILD VICTIMS

IC 35-40-5-12 Designation of certain victims in public documents

(a) The following shall be identified by means of a designation omitting the victim's name, such as "Victim 1", in court documents open to the public:

(1) A victim of a sex crime under IC 35-42-4.

(2) A child victim of a crime of violence (as defined in IC 35-50-1-2).

(b) The state shall provide to the court a confidential document identifying the victims named in the court documents. *[As added by P.L.40-2019, SEC.5.]*

35-40-5-13. Comfort item or animal allowed in courtroom during child's testimony.

When a child less than sixteen (16) years of age is summoned as a witness to any hearing in any criminal matter, including a preliminary hearing, a comfort item or comfort animal shall be allowed to remain in the courtroom with the child during the child's testimony unless the court finds that the defendant's constitutional right to a fair trial will be unduly prejudiced. [*P.L.40-2019, § 6, effective July 1, 2019.*]

IC 35-40-5-11.5 Deposition of child victims of sex crimes

- After at least 5 Indiana Court of Appeals opinions were handed down holding this statute unconstitutional as a violation of the Defendant's right to confrontation and contrary to the Indiana Supreme Courts procedural rules relating to depositions, in 2022 the Indiana Supreme Court unequivocally held the statute to be constitutional, recognizing that the right to depositions in criminal cases is not an absolute or constitutional right. Church v. State, 189 N.E.3d 580 (Ind. June 23, 2022) (Only 7 states allow criminal defendants to depose prosecution witnesses.)

IC 35-40-5-11.5 Deposition of child victims of sex crimes

(a) This section applies only to a criminal case involving a child less than sixteen (16) years of age who is the victim or alleged victim of a sex offense.

(b) The following definitions apply throughout this section:

(1) "Accused" or "the accused" means a person charged with committing a sex offense against a child victim. The term does not include an attorney who represents the accused.

(2) "Child victim" means a child less than sixteen (16) years of age who is the victim or alleged victim of a sex offense.

(3) "Defendant" means a person charged with committing a sex offense against a child victim and an attorney who represents the defendant.

(4) "Deposition" or "depone" means a deposition or taking a deposition pursuant to Indiana Trial Rule 30 or Indiana Trial Rule 31, or any other formal or informal statement or interview.

(5) "Sex offense" has the meaning set forth in IC 11-8-8-5.2.

(c) A defendant may depose a child victim only in accordance with this section.

(d) A defendant may not take the deposition of a child victim unless the defendant contacts the prosecuting attorney before contacting the child, and one (1) or more of the following apply:

(1) The prosecuting attorney agrees to the deposition. The prosecuting attorney may condition the prosecuting attorney's agreement to the deposition upon the defendant's acceptance of the manner in which the deposition shall be conducted.

(2) The court authorizes the deposition after finding, following a hearing under subsection (f), that there is a reasonable likelihood that the child victim will be unavailable for trial and the deposition is necessary to preserve the child victim's testimony.

(3) The court authorizes the deposition after finding, following a hearing under subsection (g), that the deposition is necessary:

(A) due to the existence of extraordinary circumstances; and

(B) in the interest of justice.

(e) If the prosecuting attorney does not agree to the deposition, the defendant may petition the court for authorization to depose the child victim under subsection (d)(2), (d)(3), or both

subsection (d)(2) and (d)(3). Upon receipt of the petition, the court shall notify the prosecuting attorney and set a hearing to determine whether to authorize a deposition of the child victim, and, if applicable, to determine the manner in which the deposition shall be conducted.

(f) The court shall authorize the deposition of a child victim under subsection (d)(2) if the defendant proves by a preponderance of the evidence that there is a reasonable likelihood that the child victim will be unavailable for trial and the deposition is necessary to preserve the child victim's testimony.

(g) The court may not authorize the deposition of a child victim under subsection (d)(3) unless the defendant establishes by a preponderance of the evidence that the deposition is necessary:

- (1) due to the existence of extraordinary circumstances; and
- (2) in the interest of justice.

(h) If the court authorizes the deposition of a child victim under subsection (f) or (g), the court shall determine the manner in which the deposition shall be conducted, after considering:

- (1) the age of the child;
- (2) the rights of the victim under IC 35-40-5-1; and
- (3) any other relevant factors or special considerations.

(i) If the court denies a petition to depose a child victim, the court shall issue a written order describing the reason for the denial.

(j) If the court grants a request to depose a child victim, the court shall issue a written order describing the reason for granting the petition and setting forth the manner in which the deposition shall be conducted. The order shall:

- (1) expressly prohibit the accused from deposing or being present at the deposition of the child victim unless:
 - (A) there is a reasonable likelihood that the child victim will be unavailable for trial;
 - (B) the deposition is necessary to preserve the child victim's testimony; and
 - (C) the presence of the accused is necessary to preserve the constitutional rights of the accused under the Sixth Amendment of the Constitution of the United States or Article 1, Section 13 of the Constitution of the State of Indiana;
- (2) describe the manner in which the deposition shall be conducted; and
- (3) if applicable, issue a protective order under Indiana Trial Rule 26(C).

[As added by P.L.62-2020, SEC.8. Amended by P.L.42-2023, SEC.3.]

IC 11-8-8-5.2 "Sex offense"

As used in this chapter, "sex offense" means an offense listed in section 4.5(a) of this chapter.

[As added by P.L.216-2007, SEC.14.]

IC 11-8-8-4.5 "Sex offender"

(a) Except as provided in section 22 of this chapter, as used in this chapter, "sex offender" means a person convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
- (5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).

- (6) Child solicitation (IC 35-42-4-6).
 - (7) Child seduction (IC 35-42-4-7).
 - (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A, Class B, or Class C felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a crime committed after June 30, 2014), unless:
 - (A) the person is convicted of sexual misconduct with a minor as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014);
 - (B) the person is not more than:
 - (i) four (4) years older than the victim if the offense was committed after June 30, 2007; or
 - (ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and
 - (C) the sentencing court finds that the person should not be required to register as a sex offender.
 - (9) Incest (IC 35-46-1-3).
 - (10) Sexual battery (IC 35-42-4-8).
 - (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.
 - (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.
 - (13) Possession of child pornography (IC 35-42-4-4(d) or IC 35-42-4-4(e)).
 - (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony (for a crime committed before July 1, 2014) or a Level 4 felony (for a crime committed after June 30, 2014).
 - (15) Promotion of human sexual trafficking under IC 35-42-3.5-1.1.
 - (16) Promotion of child sexual trafficking under IC 35-42-3.5-1.2(a).
 - (17) Promotion of sexual trafficking of a younger child (IC 35-42-3.5-1.2(c)).
 - (18) Child sexual trafficking (IC 35-42-3.5-1.3).
 - (19) Human trafficking under IC 35-42-3.5-1.4 if the victim is less than eighteen (18) years of age.
 - (20) Sexual misconduct by a service provider with a detained or supervised child (IC 35-44.1-3-10(c)).
- (b) The term includes:
- (1) a person who is required to register as a sex offender in any jurisdiction; and
 - (2) a child who has committed a delinquent act, or a person prosecuted under IC 31-30-1-4(d) for an offense described in subsection (a) committed when the person was less than eighteen (18) years of age, but who was at least twenty-one (21) years of age when the charge was filed, and who:
 - (A) is at least fourteen (14) years of age;
 - (B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(d) A person ordered to register under subsection (b)(2) may petition the court to reconsider the order at any time after completing court ordered sex offender treatment. The court shall consider expert testimony concerning whether a child or person is likely to repeat an offense described in subsection (a) or an act that would be an offense described in subsection (a) if committed by an adult.

[As added by P.L.216-2007, SEC.12. Amended by P.L.1-2012, SEC.2; P.L.72-2012, SEC.1; P.L.13-2013, SEC.41; P.L.214-2013, SEC.4; P.L.158-2013, SEC.171; P.L.185-2014, SEC.2; P.L.168-2014, SEC.20; P.L.75-2016, SEC.1; P.L.13-2016, SEC.4; P.L.144-2018, SEC.3; P.L.142-2020, SEC.12; P.L.115-2023, SEC.1.]

35-37-4-6. Admissibility of statement or videotape of protected person in criminal actions.

(a) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(1) or (c)(2):

- (1) Sex crimes (IC 35-42-4).
- (2) A battery offense included in IC 35-42-2 upon a child less than fourteen (14) years of age.
- (3) Kidnapping and confinement (IC 35-42-3).
- (4) Incest (IC 35-46-1-3).
- (5) Neglect of a dependent (IC 35-46-1-4).
- (6) Human and sexual trafficking crimes (IC 35-42-3.5).

(b) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(3):

- (1) Exploitation of a dependent or endangered adult (IC 35-46-1-12).
- (2) A sex crime (IC 35-42-4).
- (3) A battery offense included in IC 35-42-2.
- (4) Kidnapping, confinement, or interference with custody (IC 35-42-3).
- (5) Home improvement fraud (IC 35-43-6).
- (6) Fraud (IC 35-43-5).
- (7) Identity deception (IC 35-43-5-3.5).
- (8) Synthetic identity deception (IC 35-43-5-3.8) (before its repeal).
- (9) Theft (IC 35-43-4-2).
- (10) Conversion (IC 35-43-4-3).
- (11) Neglect of a dependent (IC 35-46-1-4).
- (12) Human and sexual trafficking crimes (IC 35-42-3.5).

(c) As used in this section, "protected person" means:

- (1) a child who is less than fourteen (14) years of age at the time of the offense but less than eighteen (18) years of age at the time of trial;
- (2) an individual with a mental disability who has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:
 - (A) is manifested before the individual is eighteen (18) years of age;

- (B) is likely to continue indefinitely;
- (C) constitutes a substantial impairment of the individual's ability to function normally in society; and
- (D) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; or

(3) an individual who is:

- (A) at least eighteen (18) years of age; and
- (B) incapable by reason of mental illness, intellectual disability, dementia, or other physical or mental incapacity of:
 - (i) managing or directing the management of the individual's property; or
 - (ii) providing or directing the provision of self-care.

(d) As used in this section, "provider" means:

- (1) a psychiatrist or physician licensed under IC 25-22.5;
- (2) a psychologist licensed under IC 25-33;
- (3) a marriage and family therapist licensed under IC 25-23.6-8;
- (4) an advanced practice registered nurse (APRN) with a certification as a psychiatric mental health nurse practitioner licensed under IC 25-23; or
- (5) a physician assistant specialized in psychiatry and mental health licensed under IC 25-27.5.

(e) A statement or videotape that:

- (1) is made by a person who at the time of trial is a protected person, as defined in subsection (c);
- (2) concerns an act that is a material element of an offense listed in subsection (a) or (b) that was allegedly committed against the person; and
- (3) is not otherwise admissible in evidence;

is admissible in evidence in a criminal action for an offense listed in subsection (a) or (b) if the requirements of subsection (f) are met.

(f) A statement or videotape described in subsection (e) is admissible in evidence in a criminal action listed in subsection (a) or (b) if, after notice to the defendant of a hearing and of the defendant's right to be present, all of the following conditions are met:

- (1) The court finds, in a hearing:
 - (A) conducted outside the presence of the jury; and
 - (B) attended by the protected person in person or by using closed circuit television testimony as described in section 8(f) and 8(g) of this chapter;
 that the time, content, and circumstances of the statement or videotape provide sufficient indications of reliability.
- (2) The protected person:
 - (A) testifies at the trial; or
 - (B) is found by the court to be unavailable as a witness for one (1) of the following reasons:
 - (i) From the testimony of a provider, and other evidence, if any, the court finds that the protected person's testifying in the physical presence of the defendant will cause the protected person to suffer serious emotional distress such that the protected person cannot reasonably communicate.

- (ii) The protected person cannot participate in the trial for medical reasons.
- (iii) The court has determined that the protected person is incapable of understanding the nature and obligation of an oath.
- (g) If a protected person is unavailable to testify at the trial for a reason listed in subsection (f)(2)(B), a statement or videotape may be admitted in evidence under this section only if the protected person was available for cross-examination:
 - (1) at the hearing described in subsection (f)(1); or
 - (2) when the statement or videotape was made.
- (h) A statement or videotape may not be admitted in evidence under this section unless the prosecuting attorney informs the defendant and the defendant's attorney at least ten (10) days before the trial of:
 - (1) the prosecuting attorney's intention to introduce the statement or videotape in evidence; and
 - (2) the content of the statement or videotape.
- (i) If a statement or videotape is admitted in evidence under this section, the court shall instruct the jury that it is for the jury to determine the weight and credit to be given the statement or videotape and that, in making that determination, the jury shall consider the following:
 - (1) The mental and physical age of the person making the statement or videotape.
 - (2) The nature of the statement or videotape.
 - (3) The circumstances under which the statement or videotape was made.
 - (4) Other relevant factors.
- (j) If a statement or videotape described in subsection (e) is admitted into evidence under this section, a defendant may introduce a:
 - (1) transcript; or
 - (2) videotape;

of the hearing held under subsection (f)(1) into evidence at trial.

[As added by P.L.180-1984, SEC.1. Amended by P.L.316-1985, SEC.1; P.L.37-1990, SEC.22; P.L.23-1993, SEC.161; P.L.142-1994, SEC.7; P.L.43-2004, SEC.1; P.L.2-2005, SEC.120; P.L.173-2006, SEC.48; P.L.99-2007, SEC.207; P.L.137-2009, SEC.10; P.L.28-2011, SEC.1; P.L.117-2015, SEC.54; P.L.238-2015, SEC.11; P.L.149-2016, SEC.89; P.L.65-2016, SEC.26; P.L.142-2020, SEC.58; P.L.174-2021, SEC.40; P.L.153-2022, SEC.1; P.L.42-2023, SEC.2; P.L.9-2024, SEC.534.]

35-37-4-8. Taking of child's testimony — Closed circuit TV — Videotape — Conditions.

- (a) This section applies to a criminal action under the following:
 - (1) Sex crimes (IC 35-42-4).
 - (2) A battery offense included in IC 35-42-2 upon a child less than fourteen (14) years of age.
 - (3) Kidnapping and confinement (IC 35-42-3).
 - (4) Incest (IC 35-46-1-3).
 - (5) Neglect of a dependent (IC 35-46-1-4).
 - (6) Human and sexual trafficking crimes (IC 35-42-3.5).
- (b) As used in this section, "protected person" has the meaning set forth in section 6 of this chapter.
- (c) On the motion of the prosecuting attorney, the court may order that the testimony of a

protected person be taken in a room other than the courtroom, and that the questioning of the protected person by the prosecution and the defense be transmitted using a two-way closed circuit television arrangement that:

- (1) allows the protected person to see the accused and the trier of fact; and
- (2) allows the accused and the trier of fact to see and hear the protected person.

(d) On the motion of the prosecuting attorney or the defendant, the court may order that the testimony of a protected person be videotaped for use at trial. The videotaping of the testimony of a protected person under this subsection must meet the requirements of subsection (c).

(e) The court may not make an order under subsection (c) or (d) unless:

- (1) the testimony to be taken is the testimony of a protected person who:
 - (A) is the alleged victim of an offense listed in subsection (a) for which the defendant is being tried or is a witness in a trial for an offense listed in subsection (a); and
 - (B) is found by the court to be a protected person who should be permitted to testify outside the courtroom because:
 - (i) the court finds from the testimony of a psychiatrist, physician, or psychologist and any other evidence that the protected person's testifying in the physical presence of the defendant would cause the protected person to suffer serious emotional harm and the court finds that the protected person could not reasonably communicate in the physical presence of the defendant to the trier of fact;
 - (ii) a physician has certified that the protected person cannot be present in the courtroom for medical reasons; or
 - (iii) evidence has been introduced concerning the effect of the protected person's testifying in the physical presence of the defendant, and the court finds that it is more likely than not that the protected person's testifying in the physical presence of the defendant creates a substantial likelihood of emotional or mental harm to the protected person;
- (2) the prosecuting attorney has informed the defendant and the defendant's attorney of the intention to have the protected person testify outside the courtroom; and
- (3) the prosecuting attorney informed the defendant and the defendant's attorney under subdivision (2) at least ten (10) days before the trial of the prosecuting attorney's intention to have the protected person testify outside the courtroom.

(f) If the court makes an order under subsection (c), only the following persons may be in the same room as the protected person during the protected person's testimony:

- (1) A defense attorney if:
 - (A) the defendant is represented by the defense attorney; and
 - (B) the prosecuting attorney is also in the same room.
- (2) The prosecuting attorney if:
 - (A) the defendant is represented by a defense attorney; and
 - (B) the defense attorney is also in the same room.
- (3) Persons necessary to operate the closed circuit television equipment.
- (4) Persons whose presence the court finds will contribute to the protected person's well-being.
- (5) A court bailiff or court representative.

(g) If the court makes an order under subsection (d), only the following persons may be in the same room as the protected person during the protected person's videotaped testimony:

- (1) The judge.
- (2) The prosecuting attorney.
- (3) The defendant's attorney (or the defendant, if the defendant is not represented by an attorney).
- (4) Persons necessary to operate the electronic equipment.
- (5) The court reporter.
- (6) Persons whose presence the court finds will contribute to the protected person's well-being.
- (7) The defendant, who can observe and hear the testimony of the protected person with the protected person being able to observe or hear the defendant. However, if the defendant is not represented by an attorney, the defendant may question the protected person.

(h) If the court makes an order under subsection (c) or (d), only the following persons may question the protected person:

- (1) The prosecuting attorney.
- (2) The defendant's attorney (or the defendant, if the defendant is not represented by an attorney).
- (3) The judge.

[P.L.203-1986, § 2; P.L.37-1990, § 23; P.L.142-1994, § 8; P.L.2-2005, § 121; P.L.173-2006, § 49; P.L.238-2015, § 12; P.L.65-2016, § 27; P.L.142-2020, § 59.]

Domestic or Family Violence - Arrest / Bail - Law Enforcement

IC 35-33-1-1.5. Actions taken by law enforcement officers.

(a) A law enforcement officer responding to the scene of an alleged crime involving domestic or family violence shall use all reasonable means to prevent further violence, including the following:

(1) Transporting or obtaining transportation for the alleged victim and each child to a designated safe place to meet with a domestic violence counselor, local family member, or friend.

(2) Assisting the alleged victim in removing toiletries, medication, and necessary clothing.

(3) Giving the alleged victim immediate and written notice of the rights under IC 35-40.

(b) A law enforcement officer may confiscate and remove a firearm, ammunition, or a deadly weapon from the scene if the law enforcement officer has:

(1) probable cause to believe that a crime involving domestic or family violence has occurred;

(2) a reasonable belief that the firearm, ammunition, or deadly weapon:

(A) exposes the victim to an immediate risk of serious bodily injury; or

(B) was an instrumentality of the crime involving domestic or family violence; and

(3) observed the firearm, ammunition, or deadly weapon at the scene during the response.

(c) If a firearm, ammunition, or a deadly weapon is removed from the scene under subsection (b), the law enforcement officer shall provide for the safe storage of the firearm, ammunition, or deadly weapon during the pendency of a proceeding related to the alleged act of domestic or family violence. *[P.L.133-2002, § 60.]*

35-33-1-1.7. Domestic violence arrest — Arrestee to be kept in custody 8 hours.

(a) A facility having custody of a person arrested for a crime of domestic violence (as described in IC 35-31.5-2-78) shall keep the person in custody for at least eight (8) hours from the time of the arrest.

(b) A person described in subsection (a) may not be released on bail until at least eight (8) hours from the time of the person's arrest. *[P.L.44-2008, § 1; P.L.114-2012, § 68.]*

IC 35-31.5-2-76. Crime involving domestic or family violence.

"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 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.

[P.L.114-2012, § 67, eff. July 1, 2012; P.L.65-2016, § 22, effective July 1, 2016.]

IC 35-31.5-2-78. Crime of domestic violence.

"Crime of domestic violence", for purposes of IC 5-2-6.1, IC 35-38-9, IC 35-47-2-1.5, and IC 35-47-4-7, means an offense or the attempt to commit an offense that:

(1) has as an element the:

(A) use of physical force; or

(B) threatened use of a deadly weapon; and

(2) is committed against a family or household member, as defined in section 128 of this chapter.

[As added by P.L.114-2012, SEC.67. Amended by P.L.181-2014, SEC.2; P.L.40-2019, SEC.4; P.L.175-2022, SEC.5.]

35-31.5-2-128. Family or household member.

(a) An individual is a "family or household member" of another person if the individual:

(1) is a current or former spouse of the other person;

(2) is dating or has dated the other person;

(3) is or was engaged in a sexual relationship with the other person;

(4) is related by blood or adoption to the other person;

(5) is or was related by marriage to the other person;

(6) has or previously had an established legal relationship:

(A) as a guardian of the other person;

(B) as a ward of the other person;

(C) as a custodian of the other person;

(D) as a foster parent of the other person; or

(E) in a capacity with respect to the other person similar to those listed in clauses (A) through (D); or

(7) has a child in common with the other person.

(b) An individual is a "family or household member" of both persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), or (a)(7) applies if the individual is a minor child of one (1) of the persons. *[P.L.114-2012, § 67, eff. July 1, 2012.]*

IC 35-33-8-3.6 Automatic no contact order for certain defendants placed on bail; time limits; modification

(a) This section applies only to a defendant who is charged with committing a violent crime (as defined in IC 5-2-6.1-8) that results in bodily injury to a person.

(b) If a court releases a defendant described in subsection (a) to bail without holding a bail hearing in open court, the court shall include as a condition of bail the requirement that the

defendant refrain from any direct or indirect contact with the victim:

(1) for ten (10) days after release; or

(2) until the initial hearing;

whichever occurs first.

(c) At the initial hearing, the court may reinstate or modify the condition that the defendant refrain from direct or indirect contact with the victim. *[As added by P.L.94-2010, SEC.10.]*

IC 35-33-8-11 Authority to require that persons charged with a crime of domestic violence to wear a GPS device; liability for costs

(a) A court may require a person who has been charged with a crime of domestic violence (as described in IC 35-31.5-2-78) to wear a monitoring device as a condition of bail.

(b) A court may order a person who is required to wear a monitoring device under subsection (a) to pay any costs associated with the monitoring device.

[As added by P.L.94-2010, SEC.11. Amended by P.L.114-2012, SEC.71; P.L.84-2022, SEC.11.]

COMMON DOMESTIC VIOLENCE CRIMES UNDER INDIANA LAW

Chapter 10. Stalking

IC 35-45-10-1 "Stalk" defined

As used in this chapter, "stalk" means a knowing or an intentional course of conduct involving repeated or continuing harassment of another person that would cause a reasonable person to feel terrorized, frightened, intimidated, or threatened and that actually causes the victim to feel terrorized, frightened, intimidated, or threatened. The term does not include statutorily or constitutionally protected activity. *[As added by P.L.242-1993, SEC.4.]*

IC 35-45-10-2 "Harassment" defined

As used in this chapter, "harassment" 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. *[As added by P.L.242-1993, SEC.4.]*

IC 35-45-10-3 "Impermissible contact" defined

(a) As used in this chapter, "impermissible contact" includes the following:

- (1) Following or pursuing the victim.
- (2) Communicating with the victim.
- (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.

[As added by P.L.242-1993, SEC.4. Amended by P.L.266-2019, SEC.14; P.L.5-2022, SEC.7.]

IC 35-45-10-4 "Victim" defined

As used in this chapter, "victim" means a person who is the object of stalking. *[As added by P.L.242-1993, SEC.4.]*

IC 35-45-10-5 Criminal stalking

(a) A person who stalks another person commits stalking, a Level 6 felony.

(b) The offense is a Level 5 felony if at least one (1) of the following applies:

- (1) A person:
 - (A) stalks a victim; and
 - (B) makes an explicit or an implicit threat with the intent to place the victim in reasonable fear of:
 - (i) sexual battery (as defined in IC 35-42-4-8);
 - (ii) serious bodily injury; or
 - (iii) death.
- (2) A protective order to prevent domestic or family violence, a no contact order, or other judicial order under any of the following statutes has been issued by the court to protect the same victim or victims from the person and the person has been given actual notice of the

order:

(A) IC 31-15 and IC 34-26-5 or IC 31-1-11.5 before its repeal (dissolution of marriage and legal separation).

(B) IC 31-34, IC 31-37, or IC 31-6-4 before its repeal (delinquent children and children in need of services).

(C) IC 31-32 or IC 31-6-7 before its repeal (procedure in juvenile court).

(D) IC 34-26-5 or IC 34-26-2 and IC 34-4-5.1 before their repeal (protective order to prevent abuse).

(E) IC 34-26-6 (workplace violence restraining orders).

(3) The person's stalking of another person violates an order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion if the person has been given actual notice of the order.

(4) The person's stalking of another person violates a no contact order issued as a condition of probation if the person has been given actual notice of the order.

(5) The person's stalking of another person violates a protective order issued under IC 31-14-16-1 and IC 34-26-5 in a paternity action if the person has been given actual notice of the order.

(6) The person's stalking of another person violates an order issued in another state that is substantially similar to an order described in subdivisions (2) through (5) if the person has been given actual notice of the order.

(7) The person's stalking of another person violates an order that is substantially similar to an order described in subdivisions (2) through (5) and is issued by an Indian:

(A) tribe;

(B) band;

(C) pueblo;

(D) nation; or

(E) 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 if the person has been given actual notice of the order.

(8) A criminal complaint of stalking that concerns an act by the person against the same victim or victims is pending in a court and the person has been given actual notice of the complaint.

(9) The offense was committed or facilitated by the use of a tracking device.

(c) The offense is a Level 4 felony if:

(1) the act or acts were committed while the person was armed with a deadly weapon; or

(2) the person has an unrelated conviction for an offense under this section against the same victim or victims.

[As added by P.L.242-1993, SEC.4. Amended by P.L.225-1996, SEC.1; P.L.1-1997, SEC.150; P.L.1-1998, SEC.198; P.L.280-2001, SEC.52; P.L.133-2002, SEC.66; P.L.158-2013, SEC.541; P.L.172-2023, SEC.5.]

IC 35-45-2-2. Harassment.

(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. *[IC 35-45-2-2, as added by Acts 1976, P.L.148, § 5; 1977, P.L.340, § 72; 1977, P.L.343, § 1; 1978, P.L.82, § 4; P.L.216-1996, § 22.]*

IC 35-46-1-15.1 Invasion of privacy; offense; penalties

(a) A person who knowingly or intentionally violates:

(1) a protective order to prevent domestic or family violence or harassment 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);

(2) 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);

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

(4) 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;

(5) 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;

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

(7) 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);

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

(9) an order issued in another state that is substantially similar to an order described in subdivisions (1) through (8);

(10) an order that is substantially similar to an order described in subdivisions (1) through

(8) and is issued by an Indian:

(A) tribe;

(B) band;

(C) pueblo;

(D) nation; or

(E) 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;

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

(12) an order issued under IC 35-38-1-30;

commits invasion of privacy, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated conviction for an offense under this subsection or IC 35-45-10-5 (stalking).

(b) It is not a defense to a prosecution under subsection (a) that the accused person used or operated an unmanned aerial vehicle in committing the violation.

(c) A sex offender under IC 11-8-8-4.5 who:

(1) establishes a new residence within a one (1) mile radius of the residence of the victim of the offender's sex offense;

(2) intends to reside (as defined in IC 35-42-4-11(b)) at the residence; and

(3) at the time the sex offender established the residence, knew or reasonably should have known that the residence was located within a one (1) mile radius of the residence of the victim of the offender's sex offense;

commits invasion of privacy, a Class A misdemeanor. However, the offense is a Level 6 felony if the sex offender has a prior unrelated conviction under this subsection.

(d) The victim of the sex offender's sex offense may not be prosecuted under subsection (c) if the victim's liability is based on aiding, inducing, or causing the offender to commit the offense described in subsection (c).

(e) Subsection (c) does not apply to a sex offender who has obtained a waiver of residency under IC 35-38-2-2.5 or IC 35-38-1-33.

[As added by P.L.1-1991, SEC.201. Amended by P.L.49-1993, SEC.14; P.L.242-1993, SEC.5; P.L.1-1994, SEC.170; P.L.23-1994, SEC.17; P.L.303-1995, SEC.1; P.L.1-1997, SEC.153; P.L.37-1997, SEC.3; P.L.1-1998, SEC.199; P.L.1-2001, SEC.42; P.L.280-2001, SEC.53; P.L.1-2002, SEC.150; P.L.133-2002, SEC.67; P.L.104-2008, SEC.22; P.L.94-2010, SEC.12; P.L.158-2013, SEC.557; P.L.65-2016, SEC.37; P.L.107-2017, SEC.10; P.L.87-2018, SEC.3; P.L.266-2019, SEC.15; P.L.28-2023, SEC.2.]

IC 35-42-2-1.3. Domestic Battery

(a) Except as provided in subsections (b) through (f), a person who knowingly or intentionally:

(1) touches a family or household member in a rude, insolent, or angry manner; or

(2) in a rude, insolent, or angry manner places any bodily fluid or waste on a family or household member;

commits domestic battery, a Class A misdemeanor.

(b) The offense under subsection (a)(1) or (a)(2) is a Level 6 felony if one (1) or more of the following apply:

(1) The person who committed the offense has a previous, unrelated conviction:

(A) for a battery offense included in this chapter; or

(B) for a strangulation offense under IC 35-42-2-9.

(2) The person who committed the offense is at least eighteen (18) years of age and

committed the offense against a family or household member in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense.

(3) The offense results in moderate bodily injury to a family or household member.

(4) The offense is committed against a family or household member who is less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age.

(5) The offense is committed against a family or household member of any age who has a mental or physical disability and is committed by a person having the care of the family or household member with the mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation.

(6) The offense is committed against a family or household member who is an endangered adult (as defined in IC 12-10-3-2).

(7) The offense is committed against a family or household member:

(A) who has been issued a protection order (as defined in IC 34-26-7.5-2) that protects the family or household member from the person and the protection order was in effect at the time the person committed the offense; or

(B) while a no contact order issued by the court directing the person to refrain from having any direct or indirect contact with the family or household member was in effect at the time the person committed the offense.

(c) The offense described in subsection (a)(1) or (a)(2) is a Level 5 felony if one (1) or more of the following apply:

(1) The offense results in serious bodily injury to a family or household member.

(2) The offense is committed with a deadly weapon against a family or household member.

(3) The offense results in bodily injury to a pregnant family or household member if the person knew of the pregnancy.

(4) The person has a previous conviction for a battery offense or strangulation (as defined in section 9 of this chapter) included in this chapter against the same family or household member.

(5) The offense results in bodily injury to one (1) or more of the following:

(A) A family or household member who is less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(B) A family or household member who has a mental or physical disability if the offense is committed by an individual having care of the family or household member with the disability, regardless of whether the care is assumed voluntarily or because of a legal obligation.

(C) A family or household member who is an endangered adult (as defined in IC 12-10-3-2).

(d) The offense described in subsection (a)(1) or (a)(2) is a Level 4 felony if it results in serious bodily injury to a family or household member who is an endangered adult (as defined in IC 12-10-3-2).

(e) The offense described in subsection (a)(1) or (a)(2) is a Level 3 felony if it results in serious bodily injury to a family or household member who is less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(f) The offense described in subsection (a)(1) or (a)(2) is a Level 2 felony if it results in the death of one (1) or more of the following:

(1) A family or household member who is less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(2) A family or household member who is an endangered adult (as defined in IC 12-10-3-2).

[As added by P.L.188-1999, SEC.6. Amended by P.L.47-2000, SEC.3; P.L.221-2003, SEC.18; P.L.129-2006, SEC.1; P.L.6-2012, SEC.225; P.L.158-2013, SEC.421; P.L.65-2016, SEC.34; P.L.40-2019, SEC.8; P.L.142-2020, SEC.64; P.L.67-2021, SEC.2.]

IC 35-42-2-9. Strangulation

(a) This section does not apply to a medical procedure.

(b) As used in this section, "torso" means any part of the upper body from the collarbone to the hips.

(c) A person who, in a rude, angry, or insolent manner, knowingly or intentionally:

(1) applies pressure to the throat or neck of another person;

(2) obstructs the nose or mouth of the another person; or

(3) applies pressure to the torso of another person;

in a manner that impedes the normal breathing or the blood circulation of the other person commits strangulation, a Level 6 felony.

(d) However, the offense under subsection (c) is a Level 5 felony if:

(1) the offense is committed by a person:

(A) against a pregnant woman; and

(B) who knew the victim was pregnant at the time of the offense; or

(2) the person has a prior unrelated conviction under this section.

[P.L.129-2006, § 2, P.L.158-2013, § 432, eff. July 1, 2014; P.L.252-2017, § 11; P.L.40-2019, § 9; P.L.142-2020, § 65.]

IC 35-45-2-1. Intimidation

(a) A person who communicates a threat with the intent:

(1) that another person engage in conduct against the other person's will;

(2) that another person be placed in fear of retaliation for a prior lawful act;

(3) of:

(A) causing:

(i) a dwelling, a building, or other structure; or

(ii) a vehicle;

to be evacuated; or

(B) interfering with the occupancy of:

(i) a dwelling, building, or other structure; or

(ii) a vehicle; or

(4) that another person be placed in fear that the threat will be carried out, if the threat is a threat described in:

(A) subsection (c)(1) through (c)(5); or

(B) subsection (c)(7) through (c)(8);
commits intimidation, a Class A misdemeanor.

(b) However, the offense is a:

(1) Level 6 felony if:

(A) the threat is to commit a forcible felony;

(B) the subject of the threat or the person to whom the threat is communicated is a witness (or the spouse or child of a witness) in any pending criminal proceeding against the person making the threat;

(C) the threat is communicated because of the occupation, profession, employment status, or ownership status of a person or the threat relates to or is made in connection with the occupation, profession, employment status, or ownership status of a person;

(D) the person has a prior unrelated conviction for an offense under this section concerning the same victim; or

(E) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity; and

(2) Level 5 felony if:

(A) while committing it, the person draws or uses a deadly weapon;

(B) the subject of the threat or the person to whom the threat is communicated:

(i) is a judicial officer or bailiff of any court; or

(ii) is a prosecuting attorney or a deputy prosecuting attorney;

and the threat relates to the person's status as a judicial officer, bailiff, prosecuting attorney, or deputy prosecuting attorney, or is made in connection with the official duties of the judicial officer, bailiff, prosecuting attorney, or deputy prosecuting attorney; or

(C) the threat is:

(i) to commit terrorism; or

(ii) made in furtherance of an act of terrorism.

(c) "Threat" means an expression, by words or action, of an intention to:

(1) unlawfully injure the person threatened or another person, or damage property;

(2) unlawfully subject a person to physical confinement or restraint;

(3) commit a crime;

(4) unlawfully withhold official action, or cause such withholding;

(5) unlawfully withhold testimony or information with respect to another person's legal claim or defense, except for a reasonable claim for witness fees or expenses;

(6) expose the person threatened to hatred, contempt, disgrace, or ridicule;

(7) falsely harm the credit or business reputation of a person; or

(8) cause the evacuation of a dwelling, a building, another structure, or a vehicle. For purposes of this subdivision, the term includes an expression that would cause a reasonable person to consider the evacuation of a dwelling, a building, another structure, or a vehicle, even if the dwelling, building, structure, or vehicle is not evacuated.

[As added by Acts 1976, P.L.148, SEC.5. Amended by Acts 1977, P.L.340, SEC.71; Acts 1981, P.L.300, SEC.3; P.L.183-1984, SEC.6; P.L.325-1985, SEC.1; P.L.242-1993, SEC.3; P.L.164-1993, SEC.12; P.L.1-1994, SEC.169; P.L.241-2001, SEC.3; P.L.175-2003, SEC.3; P.L.3-2006, SEC.2; P.L.123-2013, SEC.3; P.L.158-2013, SEC.523; P.L.168-2014, SEC.82; P.L.85-2017, SEC.114; P.L.66-2019, SEC.17; P.L.5-2022, SEC.6.]

IC 35-45-2-5. Interference with the reporting of a crime.

A person who, with the intent to commit, conceal, or aid in the commission of a crime, knowingly or intentionally interferes with or prevents an individual from:

- (1) using a 911 emergency telephone system;
- (2) obtaining medical assistance; or
- (3) making a report to a law enforcement officer;

commits interference with the reporting of a crime, a Class A misdemeanor.

[As added by P.L.71-2002, § 1.]

PROTECTIVE ORDERS / NO CONTACT ORDERS - STATUTES

NO CONTACT ORDER AS CONDITION OF BAIL

IC 35-33-8-3.2 Pretrial risk assessment; conditions to assure appearance

(a) After considering the results of the Indiana pretrial risk assessment system (if available), other relevant factors, and bail guidelines described in section 3.8 of this chapter, a court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

* * *

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Except as provided in section 3.6 of this chapter, require the defendant to refrain from any direct or indirect contact with an individual and, if the defendant has been charged with an offense under IC 35-46-3, any animal belonging to the individual, including if the defendant has not been released from lawful detention.

* * *

(f) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the office of judicial administration with the clerk.

[As added by P.L.107-1998, SEC.2. Amended by P.L.1-2001, SEC.36; P.L.1-2003, SEC.91; P.L.98-2004, SEC.140; P.L.10-2005, SEC.4; P.L.1-2006, SEC.528; P.L.97-2006, SEC.1; P.L.173-2006, SEC.42; P.L.1-2007, SEC.226; P.L.104-2008, SEC.6; P.L.111-2009, SEC.7; P.L.94-2010, SEC.9; P.L.35-2012, SEC.107; P.L.187-2017, SEC.5; P.L.161-2018, SEC.115; P.L.147-2022, SEC.6; P.L.205-2023, SEC.30.]

IC 35-33-8-3.6 Automatic no contact order for violent defendants placed on bail

(a) This section applies only to a defendant who is charged with committing a violent crime (as defined in IC 5-2-6.1-8) that results in bodily injury to a person.

(b) If a court releases a defendant described in subsection (a) to bail without holding a bail hearing in open court, the court shall include as a condition of bail the requirement that the defendant refrain from any direct or indirect contact with the victim:

(1) for ten (10) days after release; or

(2) until the initial hearing;

whichever occurs first.

(c) At the initial hearing, the court may reinstate or modify the condition that the defendant refrain from direct or indirect contact with the victim. *[As added by P.L.94-2010, SEC.10.]*

NO CONTACT ORDER AS CONDITION OF PROBATION

IC 35-38-2-2.3 Conditions of probation; statement of conditions

(a) As a condition of probation, the court may require a person to do a combination of the following:

* * *

(18) Refrain from any direct or indirect contact with an individual and, if convicted of an offense under IC 35-46-3, any animal belonging to the individual

* * *

(f) When a court imposes a condition of probation described in subsection (a)(18):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the office of judicial administration with the clerk.

* * *

[As added by P.L.1-1991, SEC.198. Amended by P.L.2-1992, SEC.879; P.L.23-1994, SEC.16; P.L.1-1995, SEC.75; P.L.293-1995, SEC.1; P.L.76-2002, SEC.1; P.L.2-2003, SEC.91; P.L.60-2006, SEC.9; P.L.140-2006, SEC.24 and P.L.173-2006, SEC.24; P.L.1-2007, SEC.227; P.L.125-2007, SEC.8; P.L.234-2007, SEC.170; P.L.3-2008, SEC.249; P.L.111-2009, SEC.8; P.L.40-2012, SEC.20; P.L.147-2012, SEC.9; P.L.13-2013, SEC.138; P.L.74-2015, SEC.20; P.L.187-2015, SEC.47; P.L.209-2015, SEC.23; P.L.111-2017, SEC.10; P.L.161-2018, SEC.123; P.L.56-2023, SEC.321.]

NO CONTACT ORDER IN JUVENILE COURT

IC 31-37-6-6. Release or detention of child.

(a) (a) The juvenile court shall use the results of the detention tool to inform decisions regarding the detention or temporary detention of a child taken into custody under IC 31-37-5.

* * *

(e) Whenever the court releases a child under this section, the court may impose conditions upon the child, including:

(1) home detention;

(2) electronic monitoring;

(3) a curfew restriction;

(4) a protective order;

(5) a no contact order;

(6) an order to comply with Indiana law; or

(7) an order placing any other reasonable conditions on the child's actions or behavior.

* * *

[As added by P.L.1-1997, SEC.20. Amended by P.L.188-1999, SEC.2; P.L.217-2001, SEC.13; P.L.1-2002, SEC.127; P.L.146-2006, SEC.55; P.L.146-2008, SEC.624; P.L.101-2022, SEC.13.]

IC 31-37-19-1. Delinquent children — Decrees

(a) Subject to section 6.5 [IC 31-37-19-6.5] of this chapter, if a child is a delinquent child under IC 31-37-2, the juvenile court may enter one (1) or more of the following dispositional decrees:

* * *

(7) Order a person who is a party to refrain from direct or indirect contact with the child.

* * *

[As added by P.L. 1-1997, SEC.20. Amended by P.L. 70-2004, SEC.25; P.L. 145-2006, SEC.345; P.L. 146-2006, SEC.57; P.L. 146-2008, SEC.647; P.L. 147-2012, SEC.5; P.L. 104-2015, SEC.43; P.L. 85-2017, SEC. 105; P.L. 101-2022, SEC.26.]

IC 31-34-20-1. Decrees generally.

(a) Subject to this section and section 1.5 [IC 31-34-20-1.5] of this chapter, if a child is a child in need of services, the juvenile court may enter one (1) or more of the following dispositional decrees:

* * *

(7) Order a person who is a party to refrain from direct or indirect contact with the child.

[As added by P.L. 1-1997, SEC.17. Amended by P.L. 70-2004, SEC.21; P.L. 145-2006, SEC.311; P.L. 146-2006, SEC.50; P.L. 52-2007, SEC.10; P.L. 146-2008, SEC.602; P.L. 104-2015, SEC.39; P.L. 46-2016, SEC.14; P.L. 183-2017, SEC.48; P.L. 172-2022, SEC.9.]

IC 31-32-13-1. Orders — Control of conduct — Examination or treatment of child

Upon a juvenile court's motion or upon the motion of a child's parent, guardian, custodian, or guardian ad litem, a probation officer, a caseworker, the prosecuting attorney, the attorney for the department of child services, or any person providing services to the child or the child's parent, guardian, or custodian, the juvenile court may issue an order:

- (1) to control the conduct of any person in relation to the child;
- (2) to provide a child with an examination or treatment under IC 31-32-12; or
- (3) to prevent a child from leaving the court's jurisdiction.

[P.L. 1-1997, § 15; P.L. 145-2006, § 278.]

PROTECTIVE ORDERS IN DISSOLUTION PROCEEDINGS

IC 31-15-5-1. Request for protective orders.

Either party may request a protective order to prevent domestic or family violence at any time during the dissolution of marriage or legal separation action by filing a petition under IC 34-26-5 in the court in which the case is pending. The court may not require the moving party to give security. If the petitioner requests an ex parte protective order, the court shall immediately:

- (1) review the request; and
- (2) if required, set a hearing;

under IC 34-26-5. The procedure and law for a proceeding under this section are controlled by IC 34-26-5. *[P.L. 1-1997, § 7; P.L. 197-1997, § 6; P.L. 133-2002, § 31; P.L. 221-2003, § 6.]*

PROTECTIVE ORDERS IN PATERNITY ACTIONS

IC 31-14-16-1. Request for protective order.

A parent may request a court to issue a protective order against the other parent to prevent domestic or family violence at any time after a final decree of paternity is issued under this article (or IC 31-6-6.1 before its repeal) if the parties have an unemancipated child. The parent must file a petition under IC 34-26-5 in the court in which the case is pending, and the court may not require the moving party to give security. If the petitioner requests an ex parte protective order, the court shall immediately:

- (1) review the request; and
- (2) if required, set a hearing;

under IC 34-26-5. The procedure and law for a proceeding under this section are controlled by IC 34-26-5. *[P.L. 1-1997, § 6; P.L. 133-2002, § 26; P.L. 221-2003, § 4.]*

IC 35-46-1-15.1 Invasion of privacy; offense; penalties

(a) A person who knowingly or intentionally violates:

- (1) a protective order to prevent domestic or family violence or harassment 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);
- (2) 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);
- (3) a workplace violence restraining order issued under IC 34-26-6;
- (4) 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;
- (5) 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;
- (6) a no contact order issued as a condition of probation;
- (7) 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);
- (8) a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;
- (9) an order issued in another state that is substantially similar to an order described in subdivisions (1) through (8);
- (10) an order that is substantially similar to an order described in subdivisions (1) through (8) and is issued by an Indian:
 - (A) tribe;
 - (B) band;
 - (C) pueblo;

(D) nation; or

(E) 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;

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

(12) an order issued under IC 35-38-1-30;

commits invasion of privacy, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated conviction for an offense under this subsection or IC 35-45-10-5 (stalking).

(b) It is not a defense to a prosecution under subsection (a) that the accused person used or operated an unmanned aerial vehicle in committing the violation.

(c) A sex offender under IC 11-8-8-4.5 who:

(1) establishes a new residence within a one (1) mile radius of the residence of the victim of the offender's sex offense;

(2) intends to reside (as defined in IC 35-42-4-11(b)) at the residence; and

(3) at the time the sex offender established the residence, knew or reasonably should have known that the residence was located within a one (1) mile radius of the residence of the victim of the offender's sex offense;

commits invasion of privacy, a Class A misdemeanor. However, the offense is a Level 6 felony if the sex offender has a prior unrelated conviction under this subsection.

(d) The victim of the sex offender's sex offense may not be prosecuted under subsection (c) if the victim's liability is based on aiding, inducing, or causing the offender to commit the offense described in subsection (c).

(e) Subsection (c) does not apply to a sex offender who has obtained a waiver of residency under IC 35-38-2-2.5 or IC 35-38-1-33.

[As added by P.L.1-1991, SEC.201. Amended by P.L.49-1993, SEC.14; P.L.242-1993, SEC.5; P.L.1-1994, SEC.170; P.L.23-1994, SEC.17; P.L.303-1995, SEC.1; P.L.1-1997, SEC.153; P.L.37-1997, SEC.3; P.L.1-1998, SEC.199; P.L.1-2001, SEC.42; P.L.280-2001, SEC.53; P.L.1-2002, SEC.150; P.L.133-2002, SEC.67; P.L.104-2008, SEC.22; P.L.94-2010, SEC.12; P.L.158-2013, SEC.557; P.L.65-2016, SEC.37; P.L.107-2017, SEC.10; P.L.87-2018, SEC.3; P.L.266-2019, SEC.15; P.L.28-2023, SEC.2.]

IC 34-26-5 Chapter 5. Indiana Civil Protection Order Act

IC 34-26-5-1 Prevention of domestic violence, family violence, and harassment
IC 34-26-5-2 Persons eligible to file petition for order of protection; mutual orders
IC 34-26-5-2 Persons eligible to file petition for order of protection; mutual orders
IC 34-26-5-3 Forms; clerical assistance; protective order registry
IC 34-26-5-4 Jurisdiction; venue
IC 34-26-5-5 Duty to inform court of other legal proceedings involving a party or child
IC 34-26-5-6 Rules
IC 34-26-5-7 Address confidentiality
IC 34-26-5-8 Use of forms; transmission to clerk
IC 34-26-5-9 Ex parte orders; relief after notice and hearing; duties of issuing court
IC 34-26-5-10 Hearing after ex parte order
IC 34-26-5-11 Exclusion from residence not waived by invitation from petitioner
IC 34-26-5-12 Dismissal
IC 34-26-5-13 Lapse of time between act and filing of petition
IC 34-26-5-14 Prohibition on mutual orders
IC 34-26-5-15 Prohibition on mediation
IC 34-26-5-16 Fees
IC 34-26-5-17 Validity of foreign protection orders; full faith and credit; enforcement
IC 34-26-5-18 Orders entered into Indiana data and communication system (IDACS)
IC 34-26-5-19 Guardian ad litem
IC 34-26-5-20 Effect of certain protective orders; use of forms
IC 34-26-5-21 Ex parte order; telephonic services

IC 34-26-5-1 Prevention of domestic violence, family violence, and harassment

This chapter shall be construed to promote the:

- (1) protection and safety of all victims of domestic or family violence in a fair, prompt, and effective manner;
- (2) protection and safety of all victims of harassment in a fair, prompt, and effective manner; and
- (3) prevention of future domestic violence, family violence, and harassment. *[As added by P.L.133-2002, SEC.56. Amended by P.L.266-2019, SEC.5.]*

IC 34-26-5-2 Persons eligible to file petition for order of protection; petition on behalf of child; prohibition on mutual orders; jurisdiction for order against a minor

(a) A person who is or has been a victim of domestic or family violence may file a petition for an order for protection against a:

- (1) family or household member who commits an act of domestic or family violence; or
- (2) person who has committed stalking under IC 35-45-10-5 or a sex offense under IC 35-42-4 against the petitioner.

(b) A person who is or has been subjected to harassment may file a petition for an order for protection against a person who has committed repeated acts of harassment against the petitioner.

(c) A parent, a guardian, or another representative may file a petition for an order for protection on behalf of a child against a:

- (1) family or household member who commits an act of domestic or family violence;
- (2) person who has committed stalking under IC 35-45-10-5 or a sex offense under IC 35-42-4 against the child;
- (3) person who has committed repeated acts of harassment against the child; or
- (4) person who engaged in a course of conduct involving repeated or continuing contact with a child that is intended to prepare or condition a child for sexual activity (as defined in IC 35-42-4-13).

(d) A court may issue only one (1) order for each respondent. If a petitioner files a petition against more than one (1) respondent, the court shall:

- (1) assign a new case number; and
- (2) maintain a separate court file;

for each respondent.

(e) If a petitioner seeks relief against an unemancipated minor, the case may originate in any court of record and, if it is an emergency matter, be processed the same as an ex parte petition. When a hearing is set, the matter may be transferred to a court with juvenile jurisdiction.

(f) If a petition for an order for protection is filed by a person or on behalf of an unemancipated minor, the court shall determine, after reviewing the petition or making an inquiry, whether issuing the order for protection may impact a school corporation's ability to provide in-person instruction for the person or the unemancipated minor. If the court determines that issuing the order for protection may impact a school corporation's ability to provide in-person instruction for the person or the unemancipated minor, then the court may not issue the order for protection until the following requirements are met:

(1) Notice is provided to the school corporation, by registered mail or certified mail, that includes:

- (A) notice of the petition for the order for protection; and
- (B) the date for the hearing on the petition for the order for protection, if applicable.

(2) Upon receipt of the notice, the school corporation is allowed to:

- (A) respond to the notice not later than three (3) business days after receipt of the notice; and
- (B) testify at the hearing on the petition for the order for protection.

If the school corporation fails to respond to the notice of the petition for the order for protection as described in subdivision (2), then the court may issue the order for protection described in this subsection.

[As added by P.L.133-2002, SEC.56. Amended by P.L.40-2019, SEC.3; P.L.266-2019, SEC.6; P.L.156-2020, SEC.126; P.L.67-2021, SEC.1.]

IC 34-26-5-3 Forms; clerical assistance; protective order registry

(a) The office of judicial administration shall:

(1) develop and adopt:

- (A) a petition for an order for protection;
- (B) an order for protection, including:
 - (i) orders issued under this chapter;

- (ii) ex parte orders;
- (iii) no contact orders under IC 31 and IC 35;
- (iv) forms relating to workplace violence restraining orders under IC 34-26-6; and
- (v) forms relating to a child protective order under IC 31-34-2.3;
- (C) a confidential form;
- (D) a notice of modification or extension for an order for protection, a no contact order, a workplace violence restraining order, or a child protective order;
- (E) a notice of termination for an order for protection, a no contact order, a workplace violence restraining order, or a child protective order; and
- (F) any other uniform statewide forms necessary to maintain an accurate registry of orders; and
- (2) provide the forms under subdivision (1) to the clerk of each court authorized to issue the orders.
- (b) In addition to any other required information, a petition for an order for protection must contain a statement listing each civil or criminal action involving:
 - (1) either party; or
 - (2) a child of either party.
- (c) The following statements must be printed in boldface type or in capital letters on an order for protection, a no contact order, a workplace violence restraining order, or a child protective order:

VIOLATION OF THIS ORDER IS PUNISHABLE BY CONFINEMENT IN JAIL, PRISON, AND/OR A FINE. IF SO ORDERED BY THE COURT, THE RESPONDENT IS FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S RESIDENCE OR RESIDENCE OF ANY CHILD WHO IS THE SUBJECT OF THE ORDER, EVEN IF INVITED TO DO SO BY THE PETITIONER OR ANY OTHER PERSON. IN NO EVENT IS THE ORDER FOR PROTECTION VOIDED.

PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g), ONCE A RESPONDENT HAS RECEIVED NOTICE OF THIS ORDER AND AN OPPORTUNITY TO BE HEARD, IT IS A FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER IF THE PROTECTED PERSON IS:

- (A) THE RESPONDENT'S CURRENT OR FORMER SPOUSE;**
 - (B) A CURRENT OR FORMER PERSON WITH WHOM THE RESPONDENT RESIDED WHILE IN AN INTIMATE RELATIONSHIP; OR**
 - (C) A PERSON WITH WHOM THE RESPONDENT HAS A CHILD.**
- INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.**

- (d) The clerk of the circuit court, or a person or entity designated by the clerk of the circuit court, shall provide to a person requesting an order for protection:
 - (1) the forms adopted under subsection (a);
 - (2) all other forms required to petition for an order for protection, including forms:
 - (A) necessary for service; and
 - (B) required under IC 31-21 (or IC 31-17-3 before its repeal); and
 - (3) clerical assistance in reading or completing the forms and filing the petition.

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

(e) A petition for an order for protection must be:

- (1) verified or under oath under Trial Rule 11; and
- (2) issued on the forms adopted under subsection (a).

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

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

[As added by P.L.133-2002, SEC.56. Amended by P.L.39-2003, SEC.1; P.L.221-2003, SEC.8; P.L.52-2007, SEC.11; P.L.138-2007, SEC.92; P.L.3-2008, SEC.243; P.L.116-2009, SEC.11; P.L.130-2009, SEC.22; P.L.161-2018, SEC.107.]

IC 34-26-5-4 Jurisdiction; venue

(a) Any court of record has jurisdiction to issue a civil order for protection.

(b) A petition for an order for protection must be filed in the county in which the:

- (1) petitioner currently or temporarily resides;
- (2) respondent resides; or
- (3) domestic or family violence or harassment occurred.

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

(d) If a court has jurisdiction over an action that relates to the subject matter of the requested civil order for protection under section 2(b) or 2(c)(3) of this chapter, 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 an order for protection in that court. *[As added by P.L.133-2002, SEC.56. Amended by P.L.266-2019, SEC.7.]*

IC 34-26-5-5 Duty to inform court of other legal proceedings involving a party or child

At a hearing to obtain an order for protection, each party has a continuing duty to inform the court of:

- (1) each separate proceeding for an order for protection;
- (2) any civil litigation;
- (3) each proceeding in a family, domestic relations, or juvenile court; and
- (4) each criminal case;

involving a party or a child of a party. The information provided under this section must include the case name, the case number, and the county and state in which the proceeding is held, if that information is known by the party. *[As added by P.L.133-2002, SEC.56.]*

IC 34-26-5-6 Rules

The following rules apply to an order for protection issued under this chapter:

- (1) An order for protection is in addition to, and not instead of, another available civil or criminal proceeding.

(2) A petitioner is not barred from seeking an order because of another pending proceeding.

(3) A court may not delay granting relief because of the existence of a pending action between the petitioner and respondent.

(4) If a person who petitions for an ex parte order for protection also has a pending case involving:

(A) the respondent; or

(B) a child of the petitioner and respondent;

the court that has been petitioned for relief shall immediately consider the ex parte petition and then transfer that matter to the court in which the other case is pending.

(5) If a person files a petition for an order of protection requesting relief that:

(A) does not require a hearing under sections 9(c) and 10(a) through 10(b) of this chapter; and

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

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

[As added by P.L. 133-2002, SEC.56. Amended by P.L. 221-2003, SEC.9; P.L. 266-2019, SEC.8; P.L. 159-2022, SEC.1.]

IC 34-26-5-7 Address confidentiality

A petitioner may omit the petitioner's address from all nonconfidential documents filed with a court. However, a petitioner must provide the court with complete information concerning the protected address on the uniform statewide confidential form and on other confidential forms developed by the office of judicial administration under section 3 of this chapter. A petitioner shall also provide the clerk with a public mailing address for purposes of serving pleadings, notices, and court orders. The petitioner may use the address confidentiality program under IC 5-26.5. If disclosure of a petitioner's address is necessary to determine jurisdiction or to consider venue, the court may order the disclosure to be made:

(1) after receiving a petitioner's consent;

(2) orally in the judge's chambers and out of the presence of a respondent with a sealed record made; or

(3) after a hearing in which the court considers the safety of a petitioner and finds that disclosure of the address is in the interest of justice. *[As added by P.L. 133-2002, SEC.56. Amended by P.L. 221-2003, SEC.10; P.L. 161-2018, SEC.108.]*

IC 34-26-5-8 Use of forms; transmission to clerk

If a petitioner seeks:

(1) an order for protection;

(2) an extension of an order for protection;

(3) a modification of an order for protection;

(4) the termination of an order for protection; or

(5) the registration of a foreign protective order;

the petitioner is responsible for completing the forms prescribed by the office of judicial administration and for transmitting those forms to the clerk of the court. *[As added by P.L. 133-2002, SEC.56. Amended by P.L. 116-2009, SEC.12; P.L. 130-2009, SEC.23; P.L. 161-2018, SEC.109.]*

IC 34-26-5-9 Ex parte orders; relief after notice and hearing; duties of issuing court; effective dates; burden of proof; superseding orders; presumptions

(a) If it appears from a petition for an order for protection or from a petition to modify an order for protection that domestic or family violence has occurred or that a modification of an order for protection is required, a court may:

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

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

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

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

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

- (1) Enjoin a respondent from threatening to commit or committing acts of domestic or family violence against a petitioner and each designated family or household member.
- (2) Prohibit a respondent from harassing, annoying, telephoning, contacting, or directly or indirectly communicating with a petitioner.
- (3) Prohibit a respondent from using a tracking device (as defined by IC 35-31.5-2-337.6) to determine the location of:
 - (A) the petitioner or property owned or used by the petitioner; and
 - (B) any other family or household member or property owned or used by the family or household member.
- (4) Remove and exclude a respondent from the residence of a petitioner, regardless of ownership of the residence.
- (5) Order a respondent to stay away from the residence, school, or place of employment of a petitioner or a specified place frequented by a petitioner and each designated family or household member.
- (6) Order that a petitioner has the exclusive possession, care, custody, or control of any animal owned, possessed, kept, or cared for by the petitioner, respondent, minor child of either the petitioner or respondent, or any other family or household member.
- (7) Prohibit a respondent from removing, transferring, injuring, concealing, harming, attacking, mistreating, threatening to harm, or otherwise disposing of an animal described in subdivision (6).
- (8) Order possession and use of the residence, an automobile, and other essential personal effects, regardless of the ownership of the residence, automobile, and essential personal effects. If possession is ordered under this subdivision or subdivision (6), the court may direct a law enforcement officer to accompany a petitioner to the residence of the parties to:
 - (A) ensure that a petitioner is safely restored to possession of the residence,

automobile, animal, and other essential personal effects; or

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

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

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

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

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

(A) require supervision by a third party; or

(B) deny parenting time;

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

(3) Order a respondent to:

(A) pay attorney's fees;

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

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

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

(i) medical expenses;

(ii) counseling;

(iii) shelter; and

(iv) repair or replacement of damaged property;

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

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

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

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

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

(e) The court shall:

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

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

(3) electronically notify each law enforcement agency:

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

(B) designated by the petitioner;

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

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

(6) require the clerk of court to enter or provide a copy of the order to the Indiana protective

order registry established by IC 5-2-9-5.5.

(f) Except as provided in subsection (g), an order for protection issued ex parte or upon notice and a hearing, or a modification of an order for protection issued ex parte or upon notice and a hearing, is effective for two (2) years after the date of issuance unless another date is ordered by the court. The sheriff of each county shall provide expedited service for an order for protection.

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

(1) the respondent named in the order is a sex or violent offender (as defined in IC 11-8-8-5) and is required to register as a lifetime sex or violent offender under IC 11-8-8-19; and

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

An order for protection to which this subsection applies is effective indefinitely after the date of issuance unless another date is ordered by the court. The sheriff of each county shall provide expedited service for an order for protection.

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

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

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

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

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

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

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

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

(2) prohibit the respondent from approaching or entering certain locations where the petitioner may be found.

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

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

As added by P.L. 133-2002, SEC.56. Amended by P.L. 68-2005, SEC.59; P.L. 116-2009, SEC.13; P.L. 130-2009, SEC.24; P.L. 1-2010, SEC.135; P.L. 112-2017, SEC.1; P.L. 266-2019, SEC.9; P.L. 159-2022, SEC.2; P.L. 172-2023, SEC.1; P.L. 9-2024, SEC.527.

IC 34-26-5-10 Hearing after ex parte order

(a) If a court issues:

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

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

(b) If a court issues:

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

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

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

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

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

(d) In a hearing under this section:

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

[As added by P.L.133-2002, SEC.56. Amended by P.L.112-2017, SEC.2; P.L.266-2019, SEC.10; P.L.159-2022, SEC.3; P.L.178-2022(ts), SEC.21; P.L.172-2023, SEC.2.]

IC 34-26-5-11 Exclusion from residence not waived by invitation from petitioner

If a respondent is excluded from the residence of a petitioner or ordered to stay away from a petitioner, an invitation by the petitioner to do so does not waive or nullify an order for protection.

[As added by P.L.133-2002, SEC.56.]

IC 34-26-5-12 Dismissal

If a petitioner:

- (1) files a written request for dismissal with a court; or
- (2) makes an oral request on the record to dismiss the case in open court;

the court shall without delay or any conditions dismiss the case without prejudice. *[As added by P.L.133-2002, SEC.56.]*

IC 34-26-5-13 Lapse of time between act and filing of petition

A court may not deny a petitioner relief under section 9 of this chapter solely because of a lapse of time between an act of domestic or family violence or harassment and the filing of a petition. *[As added by P.L.133-2002, SEC.56. Amended by P.L.266-2019, SEC.11.]*

IC 34-26-5-14 Prohibition on mutual orders

(a) A court may not grant a mutual order for protection to opposing parties.

(b) If both parties allege injury, the parties shall do so by separate petitions. The trial court shall review each petition separately in an individual or a consolidated hearing and grant or deny each petition on the petition's individual merits. If the trial court finds cause to grant both petitions, the court shall do so by separate orders with specific findings justifying the issuance of each order. *[As added by P.L.133-2002, SEC.56.]*

IC 34-26-5-15 Prohibition on mediation

A court may not:

- (1) order parties into mediation; or
- (2) refer parties to mediation;

for resolution of the issues in a petition for an order for protection regarding family or domestic violence. This section may not be construed to preclude mediation in other cases involving the same parties. *[As added by P.L.133-2002, SEC.56.]*

IC 34-26-5-16 Fees

Fees for:

- (1) filing;
- (2) service of process;
- (3) witnesses; or
- (4) subpoenas;

may not be charged for a proceeding seeking relief or enforcement as provided in this chapter, including a proceeding concerning a foreign protection order as described in section 17 of this chapter. This section may not be construed to prevent the collecting of costs from a party against whom an order for protection is sought if the court finds a claim to be meritorious and issues an order for protection under this chapter. *[As added by P.L.133-2002, SEC.56. Amended by P.L.176-2005, SEC.23.]*

IC 34-26-5-17 Validity of foreign protection orders; full faith and credit; enforcement; duties of law enforcement officers

(a) A foreign protection order is facially valid if it:

- (1) identifies the protected person and the respondent;

- (2) is currently in effect;
- (3) was issued by a state or tribal court with jurisdiction over the:
 - (A) parties; and
 - (B) subject matter;

under the law of the issuing state or Indian tribe; and

- (4) was issued after a respondent was given reasonable notice and an opportunity to be heard sufficient to protect the respondent's right to due process. In the case of an ex parte order, notice and opportunity to be heard must be provided within the time required by state or tribal law and within a reasonable time after the order is issued sufficient to protect the respondent's due process rights.

(b) A facially valid foreign protection order is prima facie evidence of its validity. The protection order may be inscribed on a tangible medium or stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of an order for protection is not required for enforcement.

(c) Except as provided in subsection (d), a protection order that is facially valid and issued by a court of a state (issuing state) or Indian tribe shall be accorded full faith and credit by Indiana courts.

(d) A mutual foreign protection order is not entitled to full faith and credit if the order is issued by a state or tribal court against a person who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against a family or household member, unless:

- (1) a separate petition or motion was filed by a respondent;
- (2) the issuing court has reviewed each motion separately and granted or denied each on its individual merits; and
- (3) separate orders were issued and the issuing court made specific findings that each party was entitled to an order.

(e) Registration or filing of a foreign protection order is not a prerequisite to enforcement of the order in Indiana, and a protection order that is consistent with this section shall be accorded full faith and credit notwithstanding a failure to register or file the order in Indiana. However, if a petitioner wishes to register a foreign protection order in Indiana, all Indiana courts of record shall accommodate the request. The office of judicial administration shall develop a form to be used by courts, clerks, and law enforcement agencies when a petitioner makes a request to register a foreign protection order. Except for a protective order issued to the Indiana protective order registry established by IC 5-2-9-5.5, the courts, clerks of the courts, and sheriffs or law enforcement agencies maintaining depositories shall employ the same procedures required under IC 5-2-9-6 for entering, modifying, extending, or terminating a foreign protection order as those used for a protection order and a no contact order originating in Indiana.

(f) A facially valid foreign protection order shall be enforced by a law enforcement officer and a state court as if it were an order originating in Indiana. The order must be enforced if the foreign protection order contains relief that the state courts lack the power to provide in an order for protection issued in Indiana.

(g) An Indiana law enforcement officer:

- (1) may not require notification, registration, or filing of a facially valid foreign order for protection as a prerequisite to enforcement of an order;
- (2) if a foreign protection order is not presented, may consider other information to determine under a totality of the circumstances whether there is probable cause to believe

that a valid foreign order for protection exists; and

(3) who determines that an otherwise valid foreign protection order cannot be enforced because a respondent has not been notified or served with the order, shall:

(A) inform the respondent of the order;

(B) serve the order on the respondent;

(C) ensure that the order and service of the order are entered into the state depository;

(D) allow the respondent a reasonable opportunity to comply with the order before enforcing the order; and

(E) ensure the safety of the protected person while giving the respondent the opportunity to comply with the order.

(h) After a foreign protective order is registered, the clerk shall enter the order in the Indiana protective order registry established by IC 5-2-9-5.5. *[As added by P.L.133-2002, SEC.56. Amended by P.L.116-2009, SEC.14; P.L.130-2009, SEC.25; P.L.161-2018, SEC.110.]*

IC 34-26-5-18 Orders entered into Indiana data and communication system (IDACS)

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.

[As added by P.L.133-2002, SEC.56. Amended by P.L.98-2004, SEC.121; P.L.52-2007, SEC.12; P.L.116-2009, SEC.15; P.L.130-2009, SEC.26; P.L.1-2010, SEC.136.]

IC 34-26-5-19 Guardian ad litem

In a proceeding under this chapter, a court may appoint a guardian ad litem to represent the interests of a child of one (1) or both parents. *[As added by P.L.133-2002, SEC.56.]*

IC 34-26-5-20 Effect of certain protective orders; use of forms

(a) A protective order issued before July 1, 2002, under IC 31-34-17, IC 31-37-16, or IC 34-26-2 (before their repeal) remains in effect for the period indicated in the court order granting the protective order.

(b) A protective order issued before July 1, 2002, under IC 31-14-16 or IC 31-15-5 remains in effect for the period indicated in the court order granting the protective order.

(c) After June 30, 2002, a protected person must use the forms developed by the office of

judicial administration under section 3 of this chapter if the person is seeking an extension or a modification of an order issued under subsection (a) or (b). *[As added by P.L.16-2009, SEC.32. Amended by P.L.161-2018, SEC.111.]*

IC 34-26-5-21 Ex parte order; telephonic services

(a) As used in this section, "financial responsibility" means an obligation to pay monthly service fees and other costs and charges associated with any telephone number.

(b) As used in this section, "provider" means a person or entity that provides commercial mobile service (as defined in 47 U.S.C. 332).

(c) A petitioner for an order for protection may request that the court issuing the order for protection require a provider to transfer to the petitioner a telephone number that is used by:

- (1) the petitioner; or
- (2) a minor child in the petitioner's custody.

(d) The court may order a provider to transfer to a petitioner the sole:

- (1) right to continued use of a telephone number; and
- (2) financial responsibility for services associated with a telephone number.

(e) A provider shall terminate the respondent's use of a telephone number that the petitioner has sought to transfer under subsection (d), unless the provider notifies the petitioner and the court within seventy-two (72) hours after issuance of the order described in subsection (d):

(1) that an account holder named in the order for protection has terminated the account;
or

(2) that the requested transfer, if completed, would:

- (A) impair proper function of a wireless device;
- (B) result in network or service disruption; or
- (C) cause another technical or operational issue.

(f) A petitioner for an order for protection has exclusive:

- (1) rights to use; and
- (2) financial control of;

any telephone number that is transferred under this section.

(g) A provider's customary requirements for establishing an account and transferring a telephone number apply to a transfer made under this section. The provider's requirements may include:

- (1) proof of the petitioner's identity;
- (2) the petitioner's financial information; and
- (3) the petitioner's customer preferences.

(h) A provider is immune from civil liability for complying with an order to transfer a telephone number under this section.

(i) The court issuing an order for protection described in this section shall serve the order on the wireless service provider's agent for service of process listed with the secretary of state. *[As added by P.L.112-2017, SEC.3.]*

IC 34-26-6 Chapter 6. Workplace Violence Restraining Orders

IC 34-26-6-0.5 Application

IC 34-26-6-1 "Course of conduct"

IC 34-26-6-2 "Credible threat of violence"

IC 34-26-6-3 "Employee"

IC 34-26-6-4 "Employer"

IC 34-26-6-5 "Unlawful violence"

IC 34-26-6-6 Employer may seek restraining order or injunction

IC 34-26-6-7 Affidavit; irreparable harm

IC 34-26-6-8 Hearing; responsive pleading; burden of proof

IC 34-26-6-9 Effective dates; renewal

IC 34-26-6-1 Service

IC 34-26-6-11 Delivery to law enforcement agency; availability of information in order IC

34-26-6-12 Intentional violation; invasion of privacy

IC 34-26-6-13 Forms; instructions; rules; transmission to IDACS

IC 34-26-6-14 Fees

IC 34-26-6-15 Limitations on orders and injunctions

IC 34-26-6-0.5 Application

This chapter does not apply to a case involving or growing out of a labor dispute covered by IC 22-6-1. *[As added by P.L.221-2003, SEC.11.]*

IC 34-26-6-1 "Course of conduct"

As used in this chapter, "course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, indicating a continuity of purpose, that includes the following:

- (1) Following or stalking an employee to or from the employee's place of work.
- (2) Entering the employee's place of work.
- (3) Following an employee during the employee's hours of employment.
- (4) Making telephone calls to an employee during the employee's hours of employment.
- (5) Sending correspondence to an employee by means such as public or private mail, interoffice mail, fax, or electronic mail. *[As added by P.L.133-2002, SEC.57.]*

IC 34-26-6-2 "Credible threat of violence"

As used in this chapter, "credible threat of violence" means a knowing and willful statement or course of conduct that does not serve a legitimate purpose and that causes a reasonable person to fear for the person's safety or for the safety of the person's immediate family. *[As added by P.L.133-2002, SEC.57.]*

IC 34-26-6-3 "Employee"

As used in this chapter, "employee" means:

- (1) a person employed or permitted to work or perform a service for remuneration;
- (2) a member of a board of directors for a private, public, or quasi-public corporation;

- (3) an elected or appointed public officer; and
- (4) a volunteer or an independent contractor who performs services for an employer at the employer's place of work. *[As added by P.L.133-2002, SEC.57. Amended by P.L.221-2003, SEC.12.]*

IC 34-26-6-4 "Employer"

As used in this chapter, "employer" means:

- (1) an individual;
- (2) a partnership;
- (3) an association;
- (4) a limited liability company;
- (5) a corporation;
- (6) a business trust;
- (7) the state;
- (8) a governmental agency; or
- (9) a political subdivision;

that has at least two (2) employees during any work week. *[As added by P.L.133-2002, SEC.57. Amended by P.L.221-2003, SEC.13.]*

IC 34-26-6-5 "Unlawful violence"

As used in this chapter, "unlawful violence", except for lawful acts of self-defense or defense of others, means battery under IC 35-42-2 or stalking under IC 35-45-10. *[As added by P.L.133-2002, SEC.57.]*

IC 34-26-6-6 Employer may seek restraining order or injunction

An employer may seek a temporary restraining order or injunction on behalf of an employee to prohibit further violence or threats of violence by a person if:

- (1) the employee has suffered unlawful violence or a credible threat of violence from the person; and
- (2) the unlawful violence has been carried out at the employee's place of work or the credible threat of violence can reasonably be construed to be carried out at the employee's place of work by the person. *[As added by P.L.133-2002, SEC.57.]*

IC 34-26-6-7 Affidavit; irreparable harm

A plaintiff may obtain a temporary restraining order under section 6 of this chapter by filing a petition for an injunction if the plaintiff:

- (1) files an affidavit that shows, to the satisfaction of the court, reasonable proof that an employee has suffered unlawful violence or a credible threat of violence by the defendant; and
- (2) demonstrates that great or irreparable harm has been suffered by the employee or will be suffered by the employee. *[As added by P.L.133-2002, SEC.57.]*

IC 34-26-6-8 Hearing; responsive pleading; burden of proof

A court shall hold a hearing not more than fifteen (15) days after a petition for an injunction is filed under section 7 of this chapter. The defendant may file a cross-complaint or a responsive pleading that explains, excuses, justifies, or denies the alleged unlawful violence or credible threat of violence. The court shall:

- (1) receive testimony and may make independent inquiry; and
- (2) if the defendant is a current employee of the entity requesting the injunction, receive testimony of the employer's decision to retain, terminate, or otherwise discipline the defendant.

If the judge finds by clear and convincing evidence that the defendant engaged in unlawful violence or made a credible threat of violence, the judge shall issue an injunction prohibiting further unlawful violence or credible threats of violence. *[As added by P.L.133-2002, SEC.57.]*

IC 34-26-6-9 Effective dates; renewal

An injunction issued under section 8 of this chapter may remain in effect for not more than three (3) years. Not more than three (3) months before the expiration of an injunction, a plaintiff may apply for a renewal of the injunction by filing a new petition under section 8 of this chapter. *[As added by P.L.133-2002, SEC.57.]*

IC 34-26-6-10 Service

A defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and a notice of the hearing not less than five (5) days before the hearing. However, the court may, for good cause, upon the filing of a motion by a plaintiff or upon the court's own motion, shorten the time for service on the defendant. *[As added by P.L.133-2002, SEC.57.]*

IC 34-26-6-11 Delivery to law enforcement agency; availability of information in order or injunction to responding law enforcement officers

The court shall order a plaintiff or the attorney for a plaintiff to deliver a copy of each:

- (1) temporary restraining order;
- (2) injunction;
- (3) modification of a temporary restraining order or an injunction; and
- (4) termination of a temporary restraining order or an injunction;

to a law enforcement agency that is requested by a plaintiff and approved by the court. The copies under subdivisions (1) through (4) 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 an order available to a law enforcement officer responding to the scene of unlawful violence or a credible threat of violence. *[As added by P.L.133-2002, SEC.57.]*

IC 34-26-6-12 Intentional violation; invasion of privacy

An intentional violation of a temporary restraining order or an injunction issued under this chapter is punishable as set forth under IC 35-46-1-15.1. *[As added by P.L.133-2002, SEC.57.]*

IC 34-26-6-13 Forms; instructions; rules; transmission to IDACS

(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 temporary restraining order or an injunction issued for harassment or domestic or family violence under this chapter 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, an order or injunction issued under this section 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 temporary restraining order or an injunction relating to harassment or domestic or family violence must be transmitted to the Indiana data and communication system (IDACS) as required under IC 34-26-5-18. *[As added by P.L.133-2002, SEC.57. Amended by P.L.161-2018, SEC.112.]*

IC 34-26-6-14 Fees

A filing fee may not be charged for a petition that alleges that a person has:

- (1) inflicted or threatened violence against an employee of the plaintiff;
- (2) stalked an employee of the plaintiff; or
- (3) spoken in a manner that has placed an employee in reasonable fear of violence;

and that seeks a temporary restraining order or an injunction to restrain future violence or threats of violence. A filing fee may not be charged for a responsive pleading described under section 8 of this chapter. *[As added by P.L.133-2002, SEC.57. Amended by P.L.221-2003, SEC.14.]*

IC 34-26-6-15 Limitations on orders and injunctions

This chapter may not be construed to:

- (1) permit a court to issue a temporary restraining order or an injunction that prohibits speech or any other activity that is constitutionally protected or otherwise protected by another law;
 - (2) prevent either party from representation by private counsel or from pro se representation; or
 - (3) expand, diminish, alter, or modify the duty, if any, of an employer to provide a safe workplace for an employee or another person. *[As added by P.L.133-2002, SEC.57.]*
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IC 5-2-9 Chapter 9. Protective Order Depositories

IC 5-2-9-0.1 Application of certain amendments to chapter

IC 5-2-9-1 "Law enforcement agency"

IC 5-2-9-1.2 "IDACS coordinator"

IC 5-2-9-1.3 "County clerk"

IC 5-2-9-1.4 "Indiana protective order registry" or "registry"

IC 5-2-9-1.5 Repealed

IC 5-2-9-1.6 Repealed

IC 5-2-9-1.7 "Protected person"

IC 5-2-9-2 Repealed

IC 5-2-9-2.1 "Protective order"

IC 5-2-9-3 "Sheriff"

IC 5-2-9-4 Repealed

IC 5-2-9-5 Depository established

IC 5-2-9-5.5 Indiana protective order registry; office of judicial administration

IC 5-2-9-6 Copies of orders issued; confidential file; confidential form; registry

IC 5-2-9-6.3 Repealed

IC 5-2-9-6.5 Information placed in the registry; law enforcement agency duties

IC 5-2-9-7 Confidentiality

IC 5-2-9-8 Entry of information into IDACS

IC 5-2-9-9 Clerk to remove dismissed protection order from IDACS

IC 5-2-9-0.1 Application of certain amendments to chapter

The following amendments to this chapter apply as follows:

(1) The addition of section 1.3 and sections 1.5, 1.6, and 6.3 of this chapter (before their repeal) by P.L.280-2001 applies to foreign protection orders issued before, on, or after July 1, 2001.

(2) The amendments made to sections 2.1, 5, 6, 7, and 8 of this chapter by P.L.280-2001 apply to foreign protection orders issued before, on, or after July 1, 2001. *[As added by P.L.220-2011, SEC.62.]*

IC 5-2-9-1 "Law enforcement agency"

As used in this chapter, "law enforcement agency" means the department or agency of a city, town, or tribe whose principal function is the apprehension of criminal offenders.

[As added by P.L.53-1989, SEC.1. Amended by P.L.64-2022, SEC.3.]

IC 5-2-9-1.2 "IDACS coordinator"

As used in this chapter, "IDACS coordinator" means an individual who holds an administrative position within a law enforcement agency that has operational Indiana data and communication system (IDACS) terminals and who is appointed by the director of the law enforcement agency.

[As added by P.L.116-2009, SEC.1; P.L.130-2009, SEC.6. Amended by P.L.1-2010, SEC.12.]

IC 5-2-9-1.3 "County clerk"

As used in this chapter, "county clerk" refers to the clerk of the circuit court. *[As added by P.L.280-2001, SEC.3.]*

IC 5-2-9-1.4 "Indiana protective order registry" or "registry"

As used in this chapter, "Indiana protective order registry" or "registry" means the Internet based registry of protective orders established under section 5.5 of this chapter and developed and maintained by the office of judicial administration. *[As added by P.L.116-2009, SEC.2; P.L.130-2009, SEC.7. Amended by P.L.1-2010, SEC.13; P.L.161-2018, SEC.7.]*

IC 5-2-9-1.7 "Protected person"

As used in this chapter, "protected person" means a person or an employer (as defined in IC 34-26-6-4) protected under a protective order, as defined in section 2.1 of this chapter. *[As added by P.L.221-2003, SEC.1. Amended by P.L.116-2009, SEC.3; P.L.130-2009, SEC.8; P.L.1-2010, SEC.14.]*

IC 5-2-9-2 Repealed

[As added by P.L.53-1989, SEC.1. Amended by P.L.26-1990, SEC.6; P.L.37-1990, SEC.1. Repealed by P.L.1-1991, SEC.26.]

IC 5-2-9-2.1 "Protective order"

(a) As used in this chapter, "protective order" means:

- (1) a protective order issued under IC 34-26-5 (or, if the order involved a family or household member, IC 34-26-2-12(1)(A), IC 34-26-2-12(1)(B), IC 34-26-2-12(1)(C), IC 34-4-5.1-5(a)(1)(A), IC 34-4-5.1-5(a)(1)(B), or IC 34-4-5.1-5(a)(1)(C) before their repeal);
- (2) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency protective order issued under IC 34-26-2-6(1), IC 34-26-2-6(2), or IC 34-26-2-6(3) or IC 34-4-5.1-2.3(a)(1)(A), IC 34-4-5.1-2.3(a)(1)(B), or IC 34-4-5.1-2.3(a)(1)(C) before their repeal);
- (3) a protective order issued under IC 31-15-4-1 (or IC 31-1-11.5-7(b)(2), IC 31-1-11.5-7(b)(3), IC 31-16-4-2(a)(2), or IC 31-16-4-2(a)(3) before their repeal);
- (4) a dispositional decree containing a no contact order issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-19-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order containing a no contact order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal);
- (5) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion;
- (6) a no contact order issued as a condition of probation;
- (7) a protective order issued under IC 31-15-5-1 (or IC 31-1-11.5-8.2 or IC 31-16-5 before their repeal);
- (8) a protective order issued under IC 31-14-16-1 in a paternity action;
- (9) 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;
- (10) a workplace violence restraining order issued under IC 34-26-6;
- (11) a child protective order issued under IC 31-34-2.3; or
- (12) a foreign protective order registered under IC 34-26-5-17.

(b) Whenever a protective order is issued by an Indiana court, the Indiana court must caption the order in a manner that indicates the type of order issued and the section of the Indiana Code

that authorizes the protective order. The Indiana court shall also place on the order the court's hours of operation and telephone number with area code. *[As added by P.L.1-1991, SEC.27. Amended by P.L.49-1993, SEC.1; P.L.23-1994, SEC.1; P.L.1-1997, SEC.32; P.L.37-1997, SEC.1; P.L.2-1998, SEC.13; P.L.1-1998, SEC.66; P.L.1-2001, SEC.2; P.L.280-2001, SEC.6; P.L.1-2002, SEC.15; P.L.133-2002, SEC.3; P.L.52-2007, SEC.1; P.L.116-2009, SEC.4; P.L.130-2009, SEC.9.]*

IC 5-2-9-3 "Sheriff"

As used in this chapter, "sheriff" refers to a county sheriff. *[As added by P.L.53-1989, SEC.1.]*

IC 5-2-9-5 Depository established

A depository is established in the office of each sheriff and law enforcement agency in Indiana for the purpose of collecting, maintaining, and retaining the following:

- (1) Protective orders.
- (2) No contact orders.
- (3) Workplace violence restraining orders.
- (4) Child protective orders.

[As added by P.L.1-1991, SEC.29. Amended by P.L.49-1993, SEC.2; P.L.1-1997, SEC.33; P.L.1-1998, SEC.67; P.L.1-2001, SEC.3; P.L.280-2001, SEC.7; P.L.133-2002, SEC.4; P.L.52-2007, SEC.2.]

IC 5-2-9-5.5 Indiana protective order registry; duties of office of judicial administration

- (a) The Indiana protective order registry is established.
- (b) The registry is an Internet based, electronic depository for protective orders. Copies of all protective orders shall be retained in the registry.
- (c) The registry must contain confidential information about protected persons.
- (d) The office of judicial administration shall create, manage, and maintain the registry.
- (e) A protective order retained under section 5 of this chapter may be entered in the registry.
- (f) The office of judicial administration shall make the protective order registry established by this section available so that county case management systems may interface with the protective order registry by not later than December 31, 2009.
- (g) The office of judicial administration shall submit information concerning a standard protocol for county case management systems to interface with the protective order registry to each:
 - (1) prosecuting attorney; and
 - (2) court. *[As added by P.L.116-2009, SEC.5; P.L.130-2009, SEC.10. Amended by P.L.1-2010, SEC.15; P.L.161-2018, SEC.8.]*

IC 5-2-9-6 Copies of orders issued; confidential file; confidential form; registry

- (a) The clerk of a court that issues a protective order shall:
 - (1) provide a copy of the order to the petitioner; and
 - (2) provide a copy of the order and service of process to the respondent or defendant in accordance with the rules of trial procedure.
- (b) The clerk of a court that issues a protective order or the clerk of a court in which a petition is filed shall maintain a confidential file to secure any confidential information about a protected

person designated on a uniform statewide form prescribed by the office of judicial administration.

(c) This subsection applies to a protective order that a sheriff or law enforcement agency received under subsection (a) before July 1, 2009, and a confidential form under subsection (b) that was not retained in the registry. The sheriff or law enforcement agency shall:

(1) maintain a copy of the protective order in the depository established under this chapter;

(2) enter:

(A) the date and time the sheriff or law enforcement agency receives the protective order;

(B) the location of the person who is subject to the protective order, if reasonably ascertainable from the information received;

(C) the name and identification number of the officer who serves the protective order;

(D) the manner in which the protective order is served;

(E) the name of the petitioner and any other protected parties;

(F) the name, Social Security number, date of birth, and physical description of the person who is the subject of the protective order, if reasonably ascertainable from the information received;

(G) the date the protective order expires;

(H) a caution indicator stating whether a person who is the subject of the protective order is believed to be armed and dangerous, if reasonably ascertainable from the information received; and

(I) if furnished, a Brady record indicator stating whether a person who is the subject of the protective order is prohibited from purchasing or possessing a firearm or ammunition under federal law, if reasonably ascertainable from the information received;

on the copy of the protective order or the confidential form; and

(3) except for a protective order that is retained in the registry, establish a confidential file in which a confidential form that contains information concerning a protected person is kept.

(d) Except for a protective order that is retained in the registry, a protective order may be removed from the depository established under this chapter only if the sheriff or law enforcement agency that administers the depository receives:

(1) a notice of termination on a form prescribed or approved by the office of judicial administration;

(2) an order of the court; or

(3) a notice of termination and an order of the court.

(e) If a protective order in a depository established under this chapter is terminated, the person who obtained the order must file a notice of termination on a form prescribed or approved by the office of judicial administration with the clerk of the court. The clerk of the court shall:

(1) enter the notice of termination into;

(2) provide a copy of the notice of termination to;

the registry and provide a copy of the notice of termination to each of the depositories to which the protective order was sent. The clerk of the court shall maintain the notice of termination in the court's file.

(f) If a protective order or form is extended or modified, the person who obtained the extension or modification must file a notice of extension or modification on a form prescribed or approved

by the office of judicial administration with the clerk of the court. Except for a protective order retained in the registry, the clerk of the court shall provide a copy of the notice of extension or modification of a protective order to each of the depositories to which the order and a confidential form were sent. The clerk of the court shall maintain the notice of extension or modification of a protective order in the court's file.

(g) The clerk of a court that issued an order terminating a protective order that is an ex parte order shall provide a copy of the order to the following:

(1) Each party.

(2) Except for a protective order retained in the registry, the law enforcement agency provided with a copy of a protective order under subsection (a).

[As added by P.L.23-1994, SEC.2. Amended by P.L.31-1996, SEC.3; P.L.32-1996, SEC.3; P.L.280-2001, SEC.8; P.L.133-2002, SEC.5; P.L.221-2003, SEC.2; P.L.52-2007, SEC.3; P.L.116-2009, SEC.6; P.L.130-2009, SEC.11; P.L.109-2015, SEC.19; P.L.161-2018, SEC.9.]

IC 5-2-9-6.5 Information placed in the registry; law enforcement agency duties

(a) After a court issues a protective order and issues the order to the registry, an IDACS coordinator may provide additional information about the parties in the order, including:

(1) dates of birth;

(2) Social Security numbers;

(3) driver license numbers; and

(4) physical descriptions of the parties;

to ensure the accuracy of the orders in the registry and information in IDACS.

(b) A law enforcement agency that perfects service of a protective order issued to the registry shall enter into the registry:

(1) the date and time the law enforcement agency received the protective order;

(2) the location of the person who is the subject of the protective order, if this information is available;

(3) the name and identification number of the law enforcement officer who served the protective order; and

(4) the manner in which the protective order was served.

[As added by P.L.116-2009, SEC.7; P.L.130-2009, SEC.12. Amended by P.L.1-2010, SEC.16.]

IC 5-2-9-7 Confidentiality

(a) Any information:

(1) in a uniform statewide confidential form or any part of a confidential form prescribed by the office of judicial administration that must be filed with a protective order; or

(2) otherwise acquired concerning a protected person;

is confidential and may not be divulged to any respondent or defendant.

(b) Information described in subsection (a) may only be used by:

(1) a court;

(2) a sheriff;

(3) another law enforcement agency;

(4) a prosecuting attorney; or

(5) a court clerk;

to comply with a law concerning the distribution of the information.

[As added by P.L.23-1994, SEC.3. Amended by P.L.280-2001, SEC.10; P.L.133-2002, SEC.6; P.L.52-2007, SEC.4; P.L.116-2009, SEC.8; P.L.130-2009, SEC.13; P.L.161-2018, SEC.10.]

IC 5-2-9-8 Entry of information into IDACS

Except for a protective order that is retained in the registry, a law enforcement agency that receives a copy of a protective order shall enter the information received into the Indiana data and communication system (IDACS) computer under IC 10-13-3-35 upon receiving a copy of the order. *[As added by P.L.31-1996, SEC.4 and P.L.32-1996, SEC.4. Amended by P.L.280-2001, SEC.11; P.L.133-2002, SEC.7; P.L.97-2004, SEC.18; P.L.52-2007, SEC.5; P.L.116-2009, SEC.9; P.L.130-2009, SEC.14; P.L.109-2015, SEC.20.]*

IC 5-2-9-9 Clerk to remove dismissed protection order from IDACS

When an IDACS coordinator receives notice from a county clerk that a protective order has been dismissed, the IDACS coordinator shall remove the name of the respondent from the registry. *[As added by P.L.219-2019, SEC.1.]*



Protection Order Registry Judicial Administration / Court Technology

Need to request a protection order?

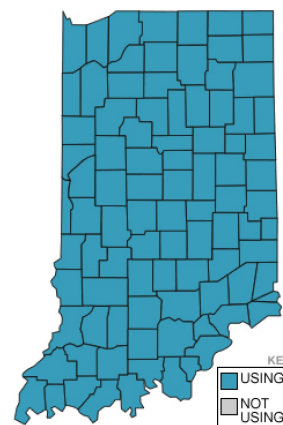
Start a request for a protection order by filing online. See our tutorials to learn how to get started or reach out to an advocate for help.

Overview

The Indiana Supreme Court partnered with the Indiana Criminal Justice Institute and State Police to receive two federal grants to create and implement the statewide Protection Order Registry (POR) which makes judicial orders available to local, state and national law enforcement agencies within minutes, all at no cost to counties.

Annually, far too many Hoosiers die as a result of domestic violence and tens of thousands of adults and children are forced to seek help from emergency shelter because it is not safe for them to stay at home. Protection Orders are a significant tool to help protect victims of domestic violence and their families, but court orders are ineffective unless the information reaches local and state law enforcement officers who need to enforce them.

The Indiana Protection Order Registry links Indiana courts issuing Protection and No-Contact Orders to the State Police's Indiana Data and Communication System (IDACS) and the FBI's National Crime Information Center (NCIC). Because orders are entered and available immediately, it:



- Accelerates information-sharing by providing complete records in a timely fashion.
- Ensures data accuracy and consistency.
- Enhances state and national databanks.
- Increases protection across state lines as well as within Indiana.
- Reduces administrative work by local officers who currently re-type orders into IDACS.
- Notifies victim that their order has been issued, served, and will expire in 60 days.

Addressing domestic violence is a complex issue, and the Protection Order Registry will significantly assist those at risk. Furthermore, the partnership between the Executive and Judicial branches of Indiana government demonstrates that state leaders are committed to protecting victims.



How it Works

When orders are issued, two things happen:

- (1) The Order is entered into the system and electronically shared with IDACS and NCIC within minutes, and
- (2) A notification of the Order is faxed or e-mailed to local law enforcement agencies where the parties live and work. This ensures that all appropriate law enforcement agencies are immediately notified when a Protection or No-Contact Order is issued, modified or revoked.

Project Benefits

The Indiana Protection Order Registry significantly enhances the effectiveness of law enforcement officers as well as courts and clerks. The Registry:

- Generates a state-approved order.
- Automatically enters and deletes orders in IDACS as well as validates hit confirmations.
- Minimizes data entry by maintaining both parties' information for future use.
- Allows orders to be modified instead of recreated.
- Allows authorized users to view the conditions of an order from any computer.
- Allows law enforcement agencies to verify the existence of a valid order and service information immediately.
- Allows petitioners to be notified when the order is issued, served and about to expire.
- Allows orders to be printed with the Spanish translation included.
- Allows judicial officers' electronic signatures to be attached to their orders and printed with their signatures.
- Allows protection orders to be searched on-line by cause number or defendant name.

Contact Information

For more information on the project contact Carl Cowan at 317-234-5994 (Fax: 317-234-2605) or carl.cowan@courts.in.gov.

More Information

Search Protection Orders

<https://mycourts.in.gov/porp>

Protection Order, No Contact Order and Workplace Violence Restraining Order Forms

<https://www.in.gov/courts/iocs/publications/po-forms/>.

Search Protective Orders and No Contact Orders

Search for publicly accessible information about Protective Orders and No Contact Orders filed in Indiana courts. Orders filed statewide beginning July 1, 2009 are included in this database. For more information about cases, contact the county Clerk's Office or search for non-confidential case information on Indiana's trial court case search at mycase.IN.gov. Protective Order cases are not searchable on mycase.IN.gov.

[Learn more about Indiana's electronic protection order registry »](#)

Search:

☒ By Name:

*

Last Name (required)First Name

☐ By Case Number:

**

EX. 49D01-0909-PO-999999 or 49D010909PO999999

Narrow your search (Optional):

Year of Birth (Range):

* to *

EX. 1970EX. 1975

Race:

Select Race ▼

County Issued:

Adams
Allen
Bartholomew
Benton
Blackford
Boone
Brown
Carroll
Cass
Clark

To select/deselect multiple counties, press and hold the CTRL button, then click each county name you wish to search.

City of Residence:

Please click the "I'm not a robot" checkbox below

☐ I'm not a robot



Search



Search Tips

Case Number

You do not need to include the dashes in the case number. You will find your case number on the materials given to you by the Clerk's Office in the county where you filed.

Narrowing Your Search

Each case will only have one record in the system, if a case has multiple orders issued, only the most recent information will be displayed. Narrowing your search can result in the exclusion of the order you're searching for if you enter information that is different than the information on file in the Protection Order Registry. If you can't find the information you're looking for, try searching without adding any of the optional criteria.

Year of Birth

Enter a range of years if you aren't certain of the age of the person who has had the order filed against them. If you do know the year, enter the same year in both boxes.

City of Residence

If you narrow your search with a city or multiple cities, keep in mind that this field searches for the city in which the person who had the order filed against them lived at the time of filing — not necessarily their current city of residence.

Restraining Orders

[Office of Court Services](#) > [Publications & Forms](#) > Protection Order Deskbook Forms

Need to request a protection order?

Start a request for a protection order by filing online. [See our tutorials](#) to learn how to get started or [reach out to an advocate](#) for help.

Indiana's Updated Civil Protection Order, No Contact Order, and Workplace Violence Restraining Order Forms are effective July 1, 2020. The following forms are updated and valid for use in court.

All forms below contain dates of approval and revision in the bottom right corner of each page, which you can check against the dates listed in the table below. If the form you are using has been updated since you downloaded, you should download again now. Most forms below are available in both Microsoft Word and Adobe PDF formats.

Cover Sheet

The cover sheet is a fillable PDF document capable of being filled out electronically through the Adobe Acrobat Reader.

Form #	Form Title	Created	Revised	Word	PDF
n/a	Cover Sheet for Protection, No Contact, and Workplace Violence Restraining Orders	07.01.02	07.01.15	n/a	PDF

Service of Protection, No Contact, and Workplace Violence Restraining Orders

Form #	Form Title	Created	Revised	Word	PDF
PNW-0100	Instructions to Clerk	07.01.03	--	Word	PDF
PNW-0101	Return Of Service Information For Protective Orders, No Contact Orders And Workplace Violence Restraining Orders	07.01.03	--	Word	PDF
PNW-0102	Access to Court Records Notice of Exclusion of Confidential Information	07.01.20	--	Word	PDF

Protection Order Forms

 Indiana Judicial Branch Search Judiciary					
Home About Training & Education Publications & Forms Committees & Commissions Initiatives					
PO-0101	Petition for an Order for Protection and Request for a Hearing (Filed on Behalf of a Child)	07.01.02	08.23.19	Word	PDF
PO-0102	Instructions for Petition for an Order for Protection (Filed by Person Seeking Protection)	07.01.02	07.01.20	Word	PDF
PO-0103	Instructions for Petition for an Order for Protection (Filed on Behalf of a Child)	07.01.02	07.01.20	Word	PDF
PO-0104	Confidential Form (to accompany Petition for Order and Request)	07.01.02	07.01.19	Word	PDF
PO-0106	Notice to Appear	07.01.02	07.01.14	Word	PDF
PO-0107	Respondent's Verified Request for a Hearing	07.01.02	07.01.08	Word	PDF
PO-0108	Petitioner's Verified Request for Dismissal	07.01.02	07.01.08	Word	PDF
PO-0111	Verified Motion to Reinstate Petition for an Order for Protection	07.01.02	--	Word	PDF
PO-0115	Petition to Modify an Order for Protection	07.01.02	07.01.19	Word	PDF
PO-0116	Petition to Extend Order for Protection	07.01.15	--	Word	PDF
PO-0119	Registration of Foreign Protection Order	07.01.02	07.01.14	Word	PDF



Special Processes & Procedures

Protection Orders & Protection Order Registry

Contact: Melissa Arvin, Indiana Office of Court Services melissa.arvin@courts.in.gov

The Indiana General Assembly charged the Division of State Court Administration [now the Office of Judicial Administration's Indiana Office of Court Services (IOCS)] with the responsibility of designing and updating the forms used in protection order proceedings. To fulfill this duty, IOCS has been working closely with the Protection Order Committee established by the Indiana Supreme Court within the Judicial Conference of Indiana. The Committee explores and considers ways to improve the protection order process. Trial court judges, magistrates, and trial court clerks comprise the membership of the Committee with the IOCS providing staff support.

The Protection Order Committee created and distributed a Protection Order Deskbook to trial court clerks, judges, and magistrates. Clerks should consult Chapter 2 in the Protection Order Deskbook for a very thorough discussion of the duties of a clerk with respect to protection orders.

Forms

The Protection Order Committee has developed a comprehensive set of forms divided into four main categories:

- protection orders,
- no-contact orders,
- workplace violence restraining orders and
- child protection orders.

The Protection Order Committee conducts a yearly update and provides newly approved forms in July of each year. All forms can be found in Odyssey or on this website: <https://www.in.gov/courts/iocs/publications/po-forms/>, Under I.C. 34-26-5-3(e)(2) and 34-26-6-13, the use of the official state forms is mandatory.

Protection Order Registry

The Indiana Supreme Court partnered with the Indiana Criminal Justice Institute and the Indiana State Police to receive two federal grants to create and implement the statewide Protection Order Registry (POR) which makes judicial orders available, without cost, to local, state, and national law enforcement agencies within minutes of issuance. The public search function for the Registry only provides information on the Respondent.

The Indiana Protection Order Registry links Indiana courts issuing protection and no-contact orders to the State Police's Indiana Data and Communication System (IDACS) and the FBI's National Crime Information Center (NCIC).

When orders are issued, two things happen immediately:

- The order is entered into the system and electronically shared with IDACS and NCIC within minutes; and,
- A notification of the order is emailed to local law enforcement agencies where the parties live

and work. This notification process ensures all appropriate law enforcement agencies are immediately notified when a protection, no-contact, or workplace violence restraining order is issued, modified, or terminated.

System benefits:

- Automatically enters and deletes orders in IDACS as well as validates hit confirmations;
- Minimizes data entry by maintaining both parties' information for future use;
- Allows orders to be modified instead of recreated;
- Allows authorized users to view the conditions of an order from any computer with Internet access; and
- Allows law enforcement agencies to verify service information immediately.

In 2009, the Indiana General Assembly enacted legislation to make participation in the Protection Order Registry mandatory for all courts.

= Frequently Asked Questions =

Q: Is the language found on the prescribed forms mandatory or is it discretionary?

A: The language contained in the orders is mandatory and not discretionary, although some parts of the language may be used or omitted at the court's discretion. The cover sheet must be included as the first page of every order of protection, workplace violence restraining order, no-contact order, and child protection order. The cover sheet contains information to meet federal requirements and ensure Indiana orders receive full faith and credit in every state. These orders should be issued in the form provided.

I.C. 34-26-5-3(c) requires the inclusion of certain language regarding firearm disqualifiers and warnings of criminal penalties. The order forms include findings which must be made to make the order effective and enforceable. Accordingly, the Protection Order Committee strongly encourages the use of the order forms provided so that the orders issued are in compliance with state and federal law.

Q: What sort of assistance should the Clerk provide to a person seeking a protection order?

A: The Clerk may provide assistance under I.C. 34-26-5-3(d) and may include:

- Distributing protection order forms.
- Giving information about court procedures in hearing protection order cases.
- Referring petitioners to victim services, including victim advocates, which may in turn assist in completion of the forms or in representation of the petitioner.
- Answering nonlegal questions about completion of the forms. See the Legal Information Guide for guidance: <https://www.in.gov/courts/publications/legal-info-guide/>.
- Assisting the petitioner in reading or completing the forms, primarily checking the forms to ensure they are not blank
- Referring parties to a law library if appropriate materials are available.
- Referring parties to emergency assistance.

- Referring petitioners to the Attorney General Address Confidentiality Program under I.C. 5-26.5.

Q: Who may petition for a protection order?

A: A Petitioner needs to have been a victim of:

- Domestic or family violence;
- Stalking;
- A sex offense, including child grooming, or
- Harassment.

A person may also file a petition for a protection order on behalf of a child who has been a victim of domestic or family violence, stalking, a sex offense, harassment, or a victim of sex grooming.

Q: What is “domestic or family violence?”

A: 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:

- Attempting to cause, threatening to cause, or causing physical harm to another family or household member.
- Placing a family or household member in fear of physical harm.
- Causing a family or household member to involuntarily engage in sexual activity by force, threat of force, or duress.

Abusing, torturing, mutilating, 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 the protection orders, domestic or family violence also includes stalking or a sex offense, regardless of whether the stalking or sex offense is committed by a family or household member. I.C. 34-6-2-34.5.

Q: Against whom may a protection order be issued?

A: The Respondent must be either a:

- Family or household member of the Petitioner who committed domestic or family violence;
- A person who has committed stalking or a sex offense against the Petitioner;
- A person who engaged in repeated contact with a child Petitioner that is intended to prepare the child for sexual activity; or,
- A person who has committed repeated acts of harassment against the Petitioner.

Q: Who is a family or household member?

A: Under I.C. 34-6-2-44.8, a “Family or household member” of an individual means:

- a person who is a current or former spouse;
- a person who is dating or has dated the other person;
- a person who is engaged or was engaged in a sexual relationship with the other person;
- a person who is related by blood or adoption to the other person;
- a person who is related or was related by marriage to the other person;
- a person who has or previously had an established legal relationship;
- as a guardian of the other person,

- as a ward of the other person;
- as a custodian of the other person;
- as a foster parent of the other person; or
- in a capacity similar to those listed above.
- a person who has a child in common with the other person; or,
- a person who has adopted a child of another person.

Q: What is “stalking” under Indiana law?

A: “Stalk” is defined by I.C. 35-45-10-1 as: A knowing or intentional course of conduct involving repeated or continuing harassment of another person that would cause a reasonable person to feel terrorized, frightened, intimidated, or threatened and that actually causes the victim to feel terrorized, frightened, intimidated, or threatened. The term does not include statutorily or constitutionally protected activity. Courts have defined “course of conduct” to involve two or more incidents.

Q: What is a “sex offense” under Indiana law?

A: A “sex offense” means one of the following crimes under Indiana law (IC 35-42-4):

- Rape;
- Child molesting;
- Child exploitation;
- Possession of child pornography;
- Vicarious sexual gratification;
- Child solicitation;
- Child seduction;
- Sexual battery;
- Sexual misconduct with a minor;
- Unlawful employment of a sex offender near children;
- Violation of sex offender residency restrictions;
- Sex offender Internet offenses;
- Inappropriate communication with a child; or,
- Unlawful entry of school property by a serious sex offender.
- Sex offender unmanned aerial vehicle offense
- Incest under I.C. 35-46-1-3

NOTE: For a person to ask for an order of protection because they were a victim of stalking or a sex offense, it is not necessary for criminal charges to be filed. However, we encourage all victims of sex offenses to seek medical treatment, report to law enforcement or speak to a therapist or other mental health professional. Additionally, if the petitioner is the victim of a case where the respondent is required to register for life as a sexual or violent offender, the protection order can be issued for the lifetime of the petitioner.

Q: What is harassment under Indiana law?

A: Under I.C. 34-6-2-51.5, “harassment” for purposes of civil protection orders, 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.

“Impermissible contact,” under I.C. 35-45-10-3, includes, but is not limited to, the following:

- Following or pursuing the victim.
- Communicating with the victim in person, in writing, by telephone, by telegraph, or through electronic means.
- Posting on social media, if the post is directed to the victim or refers to the victim directly or indirectly.

Q: What relief may be granted ex parte and without ever holding a hearing unless the Respondent asks for one?

A:

- Enjoin the Respondent from threatening to commit or committing acts of domestic or family violence against the Petitioner and each designated family or household member.
- Prohibit the Respondent from harassing, annoying, telephoning, contacting, or directly or indirectly communicating with the Petitioner.
- Order the Respondent to stay away from the Petitioner’s residence, school, employment and/or other specified places and each designated family or household member.
- Order the Respondent to stay away from places where the Petitioner’s family or household members regularly go. See I.C. 34-26-5-9(b)(1), (2) & (4)
- If, after a court has granted ex parte relief, the Respondent desires a hearing to contest the ex parte order, they may request one. See I. C. 34-26-5-10(a).

NOTE: If a petition for protection order is based solely on allegations of harassment, an order may NOT be granted ex parte. A court must hold a hearing within 30 days of the petition for an order for protection based solely on harassment or a petition to modify an order for protection based solely on harassment. See I.C. 34-26-5-9(b).

Q: What relief may be granted ex parte, but requires a hearing within 30 days?

A:

- Ordering that a Petitioner has the exclusive possession, care, custody, or control of any animal owned, possessed, kept, or cared for by the Petitioner, Respondent, minor child of either party, or any other family or household member.
- Preventing a Respondent from removing, transferring, injuring, concealing, harming, attacking, mistreating, threatening to harm, or otherwise disposing of an animal described above.
- Evicting the Respondent from the Petitioner’s residence, regardless of ownership.
- Regardless of ownership, ordering the Respondent to give the Petitioner possession or use of:
 - A residence they both share;

- An automobile; and,
- Other essential personal effects, including an animal described above.
- Ordering other relief necessary to provide for the safety and welfare of a Petitioner and each designated or household member.

In a situation involving an eviction or writ of assistance, the court should order a law enforcement officer to supervise the transfer of the property to ensure the Petitioner/Respondent receives the possession of the property ordered, and to keep peace between the parties. See I.C. 34-26-5-9(c) (3), (5), (7), and (8) and I.C. 34-26-5-10(b). In this context, "property" refers to personal property, and can include family pets/household animals.

Q: What relief may be ordered only after notice to Respondent and a hearing?

A:

- Specifying parenting time arrangements, including supervision by a third party or a denial of parenting time.
- Ordering the Respondent to pay money to the Petitioner, or on the behalf of the Petitioner, for:
 - Attorney fees;
 - Rent or mortgage payments;
 - Child support, if a duty exists;
 - Other expenses related to domestic or family violence such as medical bills, counseling, shelter, or repair fees.
- The court may also place the Respondent on a GPS tracking device and order the Respondent to pay fees associated with the monitoring; and,
- The court may order the Respondent to pay costs and fees incurred by the Petitioner in bringing the action.
- Prohibiting the Respondent from possessing firearms, ammunition, or deadly weapons and requiring the Respondent to surrender firearms, ammunition, or deadly weapons.
- 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 this permission.
- An order for protection based on a petition alleging harassment only.
See I.C. 34-26-5-9(d)(2),(3)(4) & (5).

Q: Is there other relief available to a Petitioner?

A: Yes. A protection order court can order a mobile cellular service provider (such as Verizon or AT&T) to transfer a telephone number used by a Petitioner, or a minor child in the Petitioner's custody, to the Petitioner alone, even if the number and account are held in the Respondent's name.

Note that the financial responsibility for that phone number will also be transferred to the Petitioner. This law allows the court to nullify a consumer contract (a power it would not otherwise have) and allow the Petitioner (and minor child(ren)) to keep the same phone number(s) and permit the wireless service provider to enter into a new contract for the phone number(s) with just the Petitioner alone, provided the Petitioner meets the eligibility requirements.

Q: Which court should review the petition?

A: People seeking protection orders are in crisis and the parties' safety should always be the court's first priority. A judge should review each petition immediately considering local rules, consult with the clerk, and decide whether it should be transferred to either another court in the same county or even to a court in a different Indiana county.

Except for petitions based solely on harassment, the judge in the county where the protection order case is filed should promptly rule on the petition and issue an ex parte order for protection if one is necessary to ensure the protected person's safety prior to ordering a transfer of the petition to another court.

If there are minor children, a protection order may affect parenting time and support. Ideally, the court which issued the order establishing parenting time and support should consider the petition if that can be done on the same day that the petition is filed. If the court with jurisdiction over the minor children is in another county, a judge in the county where the protection order case is filed should promptly review the petition and issue an ex parte order if necessary. Then, the case can be transferred to the other county for a hearing.

If a petitioner files for a protection order against a juvenile respondent, any court of record may process the ex parte petition. However, when a hearing is set, the court may transfer the case to a court with juvenile jurisdiction. See I.C. 34-26-5-2(d). The courts in the county should adopt a local rule defining "pending," and specifying when and how cases will be transferred to the court in which a case involving the parties, or their children is pending. See I.C. 34-26-5-6(4), 31-14-16-1, 31-15-4-1(b), and 31-15-5-1.

Q: Are petitions for harassment handled differently?

A: Yes. Petitions based on harassment have unique court procedures:

- Ex parte orders for protection based on harassment are not allowed. The court is required to hold a hearing within 30 days after the petition is filed. I.C. 34-26-5-9(b).
- An address for Respondent is encouraged to serve a copy of the petition and notice for hearing. If an address is not provided, other information on the Respondent should be provided to the court to assist with service and location of the Respondent.
- If a court has jurisdiction over an action that relates to the alleged harassment, 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 protection order in that court. I.C. 34-26-5-4(d).

Q: What if, after reviewing petition, the court is not inclined to grant ex parte order?

A: If the court believes the facts as alleged in the petition do not satisfy the statutory requirements of domestic or family violence, sexual assault, or stalking by a preponderance of the evidence, then the court should not issue an ex parte order for protection. Do not simply dismiss the case or disallow the filing of the petition altogether but schedule the matter for an evidentiary hearing, with notice to both parties, to determine whether an order should be issued.

Q: How should parenting time issue be handled in a protection order proceeding?

A: Orders involving parenting time require a hearing which should be held in the court having jurisdiction of the parties' children. If a court order establishing paternity has not been entered, the putative father should not be granted parenting time as part of the terms of the protection order. The Protection Order Deskbook discusses parenting time issues in protection order cases in Chapter 5.

Q: May a court grant a mutual order for protection to opposing parties?

A: A court may not grant a mutual order of protection to opposing parties. If both parties allege injury, they must file separate petitions under separate cases. The court should review each petition separately in an individual or a consolidated hearing and grant or deny each petition on the petition's individual merits. If the trial court finds cause to grant both petitions, the court must do so by separate orders with specific findings. See I.C. 34-26-5-14 and Ind. Trial Rule 65(E).

Q: What should a court do if a Petitioner requests that the court dismiss an order of protection?

A: A Petitioner may file a written request that the court dismiss and terminate an order for protection. The Petitioner may also make an oral request, on the record, for the dismissal or termination of an order for protection. If such a request is made, the court shall, without delay or any conditions, dismiss the case without prejudice. I.C. 34-26-5-12.

Q: What procedures should be followed if a person has a foreign protection order and wants to register it in Indiana?

A: A "foreign" protection order refers to an order for protection issued in another state or tribal court. Under both federal and state law, courts in Indiana must enforce valid protection, no-contact, and workplace violence restraining orders from other jurisdictions as if they were issued by our own courts. This recognition and enforcement are known as full faith and credit. See I.C. 34-26-5-17 and 18 U.S. Code 2265. The Protection Order Deskbook, Chapter 11, discusses full faith and credit and offers guidance on how to recognize whether a foreign order for protection is facially valid and thus entitled to full faith and credit.

Understanding full faith and credit is important because many other states' protection order laws allow their courts to determine custody matters, while Indiana's protection order statute does not. Even though our statutes differ, Indiana courts are required by law to enforce all the terms of another jurisdiction's order—even if they include custody provisions.

Although registration of foreign protection orders is not required for enforcement, I.C. 34-26-5-17 provides a way for protected persons to register their orders here in Indiana. A protected person might want to register a foreign order with an Indiana court for a variety of reasons. For example, even though there is a national protection order database, it does not contain every single order that is issued everywhere in the U.S. When protected persons travel to a new state, their attorney may advise them to take their order to the county courthouse and register it so that it is entered in both the state and national databases and is enforceable. For this reason, a protected person may come to the court wishing to register the order.

When a protected person presents a foreign protection order for registration, use form PO-119 and PO-120. Do not require the protected person to file a completely new petition. Form PO-119 has two sections: use Section A if the protected person is registering a foreign order for the first time; use Section B if the person is wishing to make a record of the fact that the foreign order has been modified or extended. Form PO-120 is a confidential data entry form for the foreign protection order that contains information for the Indiana POR and for local law enforcement.

Once a protected person has filled out both PO-119 and PO-120, take the original copies of both, along with a copy of the foreign protection order, place them in a Confidential Court file, and give the matter a "PO" case number designation.

Make sure the protected person has been given a certified copy of PO-119 by the Clerk as soon as possible. The court staff is responsible for registering the foreign protection order within the Indiana POR so that it can be submitted to IDACS and NCIC, the state and national databases. This should be done on the same business day the protected person completes the registration form (PO-119). If the protected person desires, the court should also forward copies of the foreign order, PO-119, and PO-120 to local law enforcement. It is not necessary to serve the Respondent/Defendant with any type of notice concerning this registration.



PROTECTION ORDER DESKBOOK

Prepared by the Protection Order Committee of Judicial Conference of Indiana



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INDIANA ATTORNEY GENERAL ADDRESS CONFIDENTIALITY PROGRAM

FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, STALKING HARASSMENT, INTIMIDATION, INVASION OF PRIVACY AND HUMAN TRAFFICKING

IC 5-26.5 ADDRESS CONFIDENTIALITY PROGRAM

Ch. 1. Definitions

Ch. 2. Address Confidentiality Program

Ch. 3. Duties of the Office of the Attorney General

Ch. 4. Revocation of Certification as a Program Participant

Ch. 5. Agency Use of Designated Address

IC 5-26.5-1-1 Applicability of definitions

The definitions in this chapter apply throughout this article. *[As added by P.L.273-2001, SEC.3.]*

IC 5-26.5-1-2 "Address"

"Address" means:

- (1) a residential street address;
- (2) a school address; or
- (3) a work address;

of an individual as specified on an individual's application to be a program participant. *[As added by P.L.273-2001, SEC.3.]*

IC 5-26.5-1-2.5 "Designated address"

"Designated address" means the address designated by the office of the attorney general to serve as the address of a program participant. *[As added by P.L.149-2020, SEC.1.]*

IC 5-26.5-1-3 "Domestic violence"

"Domestic violence" includes conduct that is:

- (1) an element of an offense under IC 35-42 or a threat to commit an act described in IC 35-42 by a person against:
 - (A) a family or household member; or
 - (B) an incapacitated individual under the guardianship or otherwise subject to the control of the person;
- (2) an element or threat to commit an act constituting an element of a misdemeanor or felony under the laws of:
 - (A) the United States;
 - (B) another state; or
 - (C) an Indian tribe;

that is substantially similar to an offense described in subdivision (1); or

(3) an attempt or conspiracy to engage in conduct described in subdivision (1) or (2); regardless of whether the act or threat has been reported to a law enforcement agency or results in a criminal prosecution or whether the person who engages in the conduct is an adult. *[As added by P.L.273-2001, SEC.3. Amended by P.L.149-2020, SEC.2.]*

IC 5-26.5-1-3.5 "Harassment"

"Harassment" means conduct that constitutes:

- (1) an offense under IC 35-45-2-2 (harassment);
- (2) an offense under the laws of:
 - (A) the United States;
 - (B) another state; or
 - (C) an Indian tribe;

that is substantially similar to an offense described in subdivision (1); or

- (3) an attempt or conspiracy to engage in conduct described in subdivision (1) or (2);

regardless of whether the conduct results in criminal prosecution or whether the person who engages in the conduct is an adult. *[As added by P.L.149-2020, SEC.3.]*

IC 5-26.5-1-3.8 "Human trafficking"

"Human trafficking" means conduct that constitutes:

- (1) an offense under IC 35-42-3.5 (human and sexual trafficking);
- (2) an offense under the laws of:
 - (A) the United States;
 - (B) another state; or
 - (C) an Indian tribe;

that is substantially similar to an offense described in subdivision (1); or

- (3) an attempt or conspiracy to engage in conduct described in subdivision (1) or (2);

regardless of whether the conduct results in criminal prosecution or whether the person who engages in the conduct is an adult. *[As added by P.L.149-2020, SEC.4.]*

IC 5-26.5-1-4 "Incapacitated individual"

"Incapacitated individual" has the meaning set forth in IC 12-10-7-1. *[As added by P.L.273-2001, SEC.3.]*

IC 5-26.5-1-4.5 "Intimidation"

"Intimidation" means conduct that constitutes:

- (1) an offense under IC 35-45-2-1 (intimidation);
- (2) an offense under the laws of:
 - (A) the United States;
 - (B) another state; or
 - (C) an Indian tribe;

that is substantially similar to an offense described in subdivision (1); or

- (3) an attempt or conspiracy to engage in conduct described in subdivision (1) or (2);

regardless of whether the conduct results in criminal prosecution or whether the person who engages in the conduct is an adult. *[As added by P.L.149-2020, SEC.5.]*

IC 5-26.5-1-4.8 "Invasion of privacy"

"Invasion of privacy" means conduct that constitutes:

- (1) an offense under IC 35-46-1-15.1 (invasion of privacy);
- (2) an offense under the laws of:

- (A) the United States;
- (B) another state; or
- (C) an Indian tribe;

that is substantially similar to an offense described in subdivision (1); or

(3) an attempt or conspiracy to engage in conduct described in subdivision (1) or (2); regardless of whether the conduct results in criminal prosecution or whether the person who engages in the conduct is an adult. *[As added by P.L. 149-2020, SEC.6.]*

IC 5-26.5-1-5 "Minor"

"Minor" means a person who is less than eighteen (18) years of age. *[As added by P.L. 273-2001, SEC.3.]*

IC 5-26.5-1-5.5 "Person"

Sec. 5.5. "Person" means an individual, corporation, limited liability company, partnership, unincorporated association, or governmental entity (as defined in IC 35-31.5-2-144). *[As added by P.L. 149-2020, SEC.7.]*

IC 5-26.5-1-5.6 "Program"

"Program" means the address confidentiality program administered by the office of the attorney general under this article. *[As added by P.L. 149-2020, SEC.8.]*

IC 5-26.5-1-6 "Program participant"

"Program participant" refers to an individual certified as a program participant under IC 5-26.5-2-3. *[As added by P.L. 273-2001, SEC.3. Amended by P.L. 133-2002, SEC.8.]*

IC 5-26.5-1-7 "Protective order"

"Protective order" means any order issued by a court that prohibits a person from directly or indirectly contacting, harassing, disturbing, or approaching another person. The term includes an order (as defined in IC 5-2-9-2.1) and a protective order from a foreign jurisdiction. *[As added by P.L. 273-2001, SEC.3.]*

IC 5-26.5-1-8 "Sexual assault"

"Sexual assault" means conduct that constitutes:

- (1) an offense under IC 35-42-4 (sex crimes) or IC 35-46-1-3 (incest);
- (2) an offense under the laws of:
 - (A) the United States;
 - (B) another state; or
 - (C) an Indian tribe;

that is substantially similar to an offense described in subdivision (1); or

(3) an attempt or conspiracy to engage in conduct described in subdivision (1) or (2); regardless of whether the conduct results in criminal prosecution or whether the person who engages in the conduct is an adult. *[As added by P.L. 133-2002, SEC.9. Amended by P.L. 1-2003, SEC.20; P.L. 149-2020, SEC.9.]*

IC 5-26.5-1-9 "Stalking"

"Stalking" means conduct that constitutes:

- (1) an offense under IC 35-45-10-5 (stalking);
- (2) an offense under the laws of:
 - (A) the United States;
 - (B) another state; or
 - (C) an Indian tribe;

that is substantially similar to an offense described in subdivision (1); or

- (3) an attempt or conspiracy to engage in conduct described in subdivision (1) or (2);

regardless of whether the conduct results in criminal prosecution or whether the person who engages in the conduct is an adult. *[As added by P.L.133-2002, SEC.10. Amended by P.L.1-2003, SEC.21; P.L.149-2020, SEC.10.]*

IC 5-26.5-2-1 Eligible applicants

The following individuals may apply to the office of the attorney general to have an address designated by the office of the attorney general serve as the individual's address or as the address of a minor or an incapacitated individual:

- (1) An individual who is at least eighteen (18) years of age.
- (2) A parent or guardian acting on behalf of a minor.
- (3) A guardian acting on behalf of an incapacitated individual.
- (4) An emancipated minor.

[As added by P.L.273-2001, SEC.3. Amended by P.L.133-2002, SEC.11.]

IC 5-26.5-2-2 Approval of applications

The office of the attorney general shall approve an application filed in the manner and on a form prescribed by the office of the attorney general if the application contains the following:

- (1) A sworn statement by the applicant that the applicant has good reason to believe that:
 - (A) the applicant, or the minor or incapacitated individual on whose behalf the application is made, or a household member of the applicant is a victim of:
 - (i) domestic violence;
 - (ii) harassment;
 - (iii) human trafficking;
 - (iv) intimidation;
 - (v) invasion of privacy;
 - (vi) sexual assault; or
 - (vii) stalking; and
 - (B) the applicant fears for:
 - (i) the applicant's safety; or
 - (ii) the safety of a minor or an incapacitated individual on whose behalf the application is made.
- (2) A copy of a valid protective order, if any, that has been issued on behalf of the applicant, or the minor or incapacitated individual on whose behalf the application is made, or household member of the applicant.
- (3) A designation of the office of the attorney general as an agent of the applicant for the

purpose of:

- (A) service of process; and
- (B) receipt of mail.

(4) The:

- (A) mailing address; and
- (B) telephone number;

where the applicant may be contacted by the office of the attorney general.

(5) The new address that the applicant requests not be disclosed.

(6) The signature of the applicant and of any representative of an agency designated under IC 5-26.5-3-4 that assisted in the preparation of the application.

(7) The date the applicant signed the application.

(8) A description of the applicant's plan, developed with the assistance of a representative of an agency designated under IC 5-26.5-3-4, to maintain the confidentiality of the applicant's new address.

(9) The office of the attorney general may require the applicant to provide additional information:

- (A) to determine the truth or falsity of the sworn statement as described in subdivision (1); or

- (B) about the applicant's plan described in subdivision (8).

[As added by P.L.273-2001, SEC.3. Amended by P.L.133-2002, SEC.12; P.L.149-2020, SEC.11.]

IC 5-26.5-2-3 Certification of participants; confidentiality

(a) Upon approving an application under section 2 of this chapter, the office of the attorney general shall certify the applicant as a program participant.

(b) Subject to IC 5-26.5-3-2, IC 5-26.5-5-2.5, IC 5-26.5-5-2.6, and IC 5-26.5-5-6, the name, address, telephone number, and any other identifying information relating to a program participant, as contained in a record created under this chapter, is declared confidential for purposes of IC 5-14-3-4(a)(1). *[As added by P.L.273-2001, SEC.3. Amended by P.L.149-2020, SEC.12.]*

IC 5-26.5-2-4 Use of work address

A program participant may use an address designated by the office of the attorney general as the program participant's work address. *[As added by P.L.273-2001, SEC.3.]*

IC 5-26.5-2-5 Manner of application to vote; recording residence address in computerized system; confidentiality of application information; voting

(a) The definitions set forth in IC 3-5-2 apply to this section.

(b) A program participant who is otherwise qualified to vote may apply to vote as provided in IC 3-7. The residence address of a program participant shall be recorded in the computerized system as set forth in the voter registration application. However, the voter registration application of the program participant is confidential, and the name and residence address of the program participant shall not be printed on any poll list or made available through any electronic poll list provided to precinct election officers.

(c) The program participant may vote in person at the office of the county election board or may vote absentee by mail. The absentee ballot application of a program participant is confidential. The program participant's mailing address shall be recorded in the computerized system as the address of the office of the attorney general. Except as provided in this section, IC 3-11-4-6 applies to a program participant who wishes to vote by absentee ballot. *[As added by P.L.273-2001, SEC.3. Amended by P.L.209-2003, SEC.197; P.L.271-2013, SEC.35.]*

IC 5-26.5-2-6 Expiration of certification; renewal

Certification as a program participant expires June 30 of the fourth year after the date on which the office of the attorney general certifies or renews the certification of the applicant as a program participant. A program participant may apply to renew the certification under section 7 of this chapter. *[As added by P.L.273-2001, SEC.3. Amended by P.L.133-2002, SEC.13; P.L.149-2020, SEC.13.]*

IC 5-26.5-2-7 Notice of expiration; approval of renewal

(a) This section applies to a program participant whose certification expired under section 6 of this chapter.

(b) The office of the attorney general shall notify the program participant of the expiration date at least thirty (30) days before the expiration date.

(c) The office of the attorney general shall approve an application for renewal of certification filed in the manner and on a form prescribed by the office of the attorney general if the application contains the requirements set forth in section 2 of this chapter. *[As added by P.L.273-2001, SEC.3. Amended by P.L.133-2002, SEC.14.; P.L.149-2020, SEC.14.]*

IC 5-26.5-2-11 Name change; copy of decree to attorney general

A program participant who obtains a change of name under IC 34-28-2 shall provide a copy of the decree of the court changing the program participant's name to the office of the attorney general not more than thirty (30) days after the court enters the decree. *[As added by P.L.133-2002, SEC.16.]*

IC 5-26.5-3-1 Adoption of rules

The office of the attorney general may adopt rules to implement this article. *[As added by P.L.273-2001, SEC.3.]*

IC 5-26.5-3-2 Disclosure of confidential information

(a) The office of the attorney general may not disclose for public inspection or copying the name, address, telephone number, or any other identifying information relating to a program participant that is declared confidential under IC 5-26.5-2-3(b), as contained in a record created under this chapter, except as follows:

(1) When requested by a law enforcement agency, to the law enforcement agency.

(2) When directed by a court order, to a person identified in the order.

(b) The office of the attorney general may verify a program participant's status as a participant as necessary to carry out the purposes of this article. *[As added by P.L.273-2001, SEC.3. Amended by P.L.133-2002, SEC.17; P.L.149-2020, SEC.16.]*

IC 5-26.5-3-3 Forwarding mail

The office of the attorney general shall forward first class mail belonging to a program participant to the program participant. *[As added by P.L.273-2001, SEC.3.]*

IC 5-26.5-3-4 Designation of agencies providing counseling and shelter services

The office of the attorney general shall designate:

- (1) state and local agencies; and
- (2) nonprofit agencies;

that provide counseling and shelter services to victims of domestic violence to assist persons in applying to be program participants. *[As added by P.L.273-2001, SEC.3.]*

IC 5-26.5-3-5 Assistance and counseling not considered legal advice

Assistance and counseling provided by the office of the attorney general or its designees to applicants under this article may not be construed as legal advice. *[As added by P.L.273-2001, SEC.3.]*

IC 5-26.5-3-6 Address confidentiality fund

(a) The office of the attorney general may accept grants and donations made to the office for the purposes of this article.

(b) The address confidentiality fund is established as a dedicated fund to be administered by the office of the attorney general. The fund consists of money accepted by the office of the attorney general under subsection (a) and any appropriations made to the fund by the general assembly.

(c) Expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a fiscal year does not revert to the state general fund. Money in the fund is continuously appropriated for the purposes of this article. *[As added by P.L.273-2001, SEC.3.]*

IC 5-26.5-3-7 Civil immunity for attorney general, agent, or employee

The office of the attorney general and an agent or employee of the office of the attorney general are immune from civil liability for damages for conduct within the scope and arising out of the performance of the duties imposed under this article. *[As added by P.L.133-2002, SEC.18.]*

IC 5-26.5-3-8 When a physical address is required by law

The department of administration shall provide a physical address for the program to use for program participants when a physical address is required by law. *[As added by P.L.149-2020, SEC.17.]*

IC 5-26.5-4-1 *[Repealed by P.L.133-2002, SEC.69.]*

IC 5-26.5-4-1.5 Revocation of certification; denial of application

The office of the attorney general may revoke a program participant's certification or deny an applicant's application if the program participant or applicant:

- (1) uses or intends to use the program in furtherance of a crime;
- (2) knowingly misrepresents in a fraudulent manner any information the program participant or applicant provides under this article; or
- (3) is unable or unwilling to maintain the confidentiality of the program participant's or applicant's address. *[As added by P.L.149-2020, SEC.18.]*

IC 5-26.5-4-2 Change of address

The office of the attorney general may revoke a program participant's certification if the program participant changes the program participant's residential address from the address listed on the application, unless the program participant provides the office of the attorney general with written notice seven (7) days before the change of address. *[As added by P.L.273-2001, SEC.3.]*

IC 5-26.5-4-3 Mail returned as undeliverable

The office of the attorney general may revoke the certification of a program participant if mail forwarded by the office of the attorney general to the program participant's address is returned as undeliverable. *[As added by P.L.273-2001, SEC.3.]*

IC 5-26.5-4-4 Applicants using false information

The office of the attorney general shall revoke the certification of a program participant who has applied to the address confidentiality program using false information. *[As added by P.L.273-2001, SEC.3.]*

IC 5-26.5-5-1 Responsibility for requesting use of designated address

(a) The program participant, and not the office of the attorney general, is responsible for providing written notice to a person:

- (1) under section 2.5 of this chapter to use the designated address as the program participant's address; or
- (2) under section 2.6 of this chapter to withhold from disclosure the program participant's identifying information.

(b) The office of the attorney general shall prescribe a form for the program participant to provide written notice under this article. *[As added by P.L.273-2001, SEC.3. Amended by P.L.149-2020, SEC.20.]*

IC 5-26.5-5-2.5 Acceptance of designated address; request of additional address

(a) Except as provided in subsection (b), if a program participant provides a person with:

- (1) written notice on the form prescribed under section 1 of this chapter:
 - (A) that the individual is a program participant; and
 - (B) of the requirements of this section; and
- (2) the designated address;

the person shall accept the designated address as the address of the program participant and may not require the program participant to provide an address in place of, or in addition to, the designated address.

(b) A person may require a program participant who complies with subsection (a) to provide an address in addition to the designated address as a condition of receiving a service or benefit that would be impossible to provide without knowledge of the program participant's physical location. However, the person must use the designated address for all mail correspondence with the program participant. *[As added by P.L.149-2020, SEC.22.]*

IC 5-26.5-5-2.6 Notice; prohibiting landlord disclosure of name/address; exceptions

(a) Except as provided in subsection (c), if a program participant provides written notice to a person on the form prescribed under section 1 of this chapter:

- (1) that the individual is a program participant; and
- (2) of the requirements of this section;

the person may not knowingly disclose the program participant's address.

(b) A landlord that receives a written notice under section 1 of this chapter is also prohibited from displaying the program participant's name at the program participant's address. If the program participant resides in a unit of a multifamily building or complex, a landlord may not display the program participant's name at the unit, building, or complex, including display of the name on a mailbox, door, or in a tenant directory, clubhouse, or other common area.

(c) After a person receives written notice under section 1 of this chapter, the person may disclose the program participant's information under the following circumstances:

- (1) If the program participant provides written consent to the person for disclosure of the program participant's address, the person may disclose the information only for the purpose for which the consent was given.
- (2) A landlord may provide a program participant's name to the state or a political subdivision only when responding to a specific request made in connection to:
 - (A) an active investigation or inspection of an alleged health, building, or fire code violation; or
 - (B) an active investigation of a violation of the law allegedly committed by the program participant.

(d) This section does not apply to records of the judicial branch. *[As added by P.L.149-2020, SEC.23.]*

IC 5-26.5-5-5 Notice of termination

A person who ceases to be a program participant is responsible for notifying persons who use the address designated by the office of the attorney general as the program participant's address that the designated address is no longer the person's address. *[As added by P.L.273-2001, SEC.3.]*

IC 5-26.5-5-6 Civil or criminal proceedings; disclosure

(a) A person may not disclose a program participant's address in the course of a civil or criminal proceeding before a court or other tribunal, unless that court or tribunal finds that:

- (1) the address is needed to obtain information or evidence without which the matter before the court or other tribunal may not proceed;
- (2) there is no other practicable way of obtaining the information or evidence; and
- (3) the potential harm to the safety of the program participant is outweighed by the interest

in disclosure.

(b) The court or other tribunal must provide the program participant and the office of the attorney general with:

(1) notice that address disclosure is sought; and

(2) an opportunity to be heard and present evidence regarding the potential harm to the safety of the program participant if the address is disclosed.

(c) In a criminal proceeding, the court or other tribunal shall order disclosure of a program participant's address if the court or tribunal finds that protecting the address would violate a constitutional right of the accused.

(d) If the court or other tribunal orders disclosure of a program participant's address in a civil or criminal proceeding, the court or tribunal shall issue an appropriate order to further prohibit the disclosure of the address except to the extent absolutely necessary to obtain the information or evidence. *[As added by P.L. 149-2020, SEC.26.]*

INDIANA CODE 35-38-6 WITNESSES AT EXECUTION OF DEATH SENTENCE

IC 35-38-6-1. Execution of death sentence; specified time/date; executioner; lethal injection.

(a) The punishment of death shall be inflicted by intravenous injection of a lethal substance or substances into the convicted person:

- (1) in a quantity sufficient to cause the death of the convicted person; and
- (2) until the convicted person is dead.

(b) The death penalty shall be inflicted before the hour of sunrise on a date fixed by the sentencing court. However, the execution must not occur until at least one hundred (100) days after the conviction.

(c) The warden of the state prison, or persons designated by the warden, shall designate the person who is to serve as the executioner.

(d) The department of correction may adopt rules under IC 4-22-2 necessary to implement subsection (a).

(e) The department of correction may make and enter into a contract with an outsourcing facility, a wholesale drug distributor (as defined in IC 25-26-14-12), a pharmacy (as defined in IC 25-26-13-2), or a pharmacist (as defined in IC 25-26-13-2) for the issuance or compounding of a lethal substance necessary to carry out an execution by lethal injection. A lethal substance provided to the department of correction under this subsection may be used only for the purpose of carrying out an execution by lethal injection. The issuance or compounding of a lethal substance under this subsection:

- (1) does not constitute the practice of pharmacy (as defined in IC 25-26-13-2);
- (2) is not subject to the jurisdiction of the Indiana board of pharmacy, the medical licensing board of Indiana, the Indiana department of health, or the Indiana professional licensing agency; and
- (3) is exempt from the provisions of IC 25.

A pharmacist, a pharmacy, a wholesale drug distributor, or an outsourcing facility that provides a lethal substance to the department of correction under this subsection shall label the lethal substance with the name of the lethal substance, its dosage, a projected expiration date, and a statement that the lethal substance shall be used only by the department of correction for the purpose of carrying out an execution by lethal injection.

(f) The following are confidential, are not subject to discovery, and may not be introduced as evidence in any civil or criminal proceeding:

- (1) The identity of a person described in subsection (e) that enters into a contract with the department of correction under subsection (e) for the issuance or compounding of lethal substances necessary to carry out an execution by lethal injection.
- (2) The identity of an officer, an employee, or a contractor of a person described in subdivision (1).

(3) The identity of a person contracted by a person described in subdivision (1) to obtain equipment or a substance to facilitate the compounding of a lethal substance described in subsection (e).

(4) Information reasonably calculated to lead to the identity of a person described in this subsection, including a:

- (A) name;
- (B) residential or business address;
- (C) residential or office telephone number; and

(D) Social Security number or tax identification number.

This subsection applies retroactively to any request for information, discovery request, or proceeding, no matter when made or initiated.

* * *

[As added by P.L.311-1983, § 3; P.L.294-1995, § 1; P.L.20-2002, § 1; P.L.67-2017, § 15; P.L.217-2017, § 158, effective April 27, 2017; P.L.86-2018, § 334, effective March 15, 2018; P.L.56-2023, SEC.322.]

IC 35-38-6-6. Who may be present at execution — Exclusion — Confidentiality.

(a) Only the following persons may be present at the execution:

- (1) The warden of the state prison.
- (2) The person designated by the warden of the state prison and any assistants who are necessary to assist in the execution.
- (3) The prison physician.
- (4) One (1) other physician.
- (5) The spiritual advisor of the convicted person.
- (6) The prison chaplain.
- (7) Not more than five (5) friends or relatives of the convicted person who are invited by the convicted person to attend.
- (8) Except as provided in subsection (b), not more than eight (8) of the following members of the victim's immediate family who are at least eighteen (18) years of age:
 - (A) The victim's spouse.
 - (B) One (1) or more of the victim's children.
 - (C) One (1) or more of the victim's parents.
 - (D) One (1) or more of the victim's grandparents.
 - (E) One (1) or more of the victim's siblings.

(b) If there is more than one (1) victim, not more than eight (8) persons who are members of the victims' immediate families may be present at the execution. The department shall determine which persons may be present in accordance with procedures adopted under subsection (c).

(c) The department shall develop procedures to determine which family members of a victim may be present at the execution if more than eight (8) family members of a victim desire to be present or if there is more than one (1) victim. Upon the request of a family member of a victim, the department shall establish a support room for the use of:

- (1) an immediate family member of the victim described in subsection (a)(8) who is not selected to be present at the execution; and
- (2) a person invited by an immediate family member of the victim described in subsection (a)(8) to offer support to the immediate family member.

(d) The warden of the state prison may exclude a person from viewing the execution if the warden determines that the presence of the person would threaten the safety or security of the state prison and sets forth this determination in writing.

(e) The department of correction:

- (1) shall keep confidential the identities of persons who assist the warden of the state prison in an execution; and
- (2) may:
 - (A) classify as confidential; and

(B) withhold from the public;
any part of a document relating to an execution that would reveal the identity of a person who assists the warden in the execution. *[As added by P.L.311-1983, § 3; P.L.20-2002, § 5; P.L.56-2006, § 1; P.L.67-2017, § 18, effective July 1, 2017.]*

IC 35-37-6. PRIVILEGED COMMUNICATIONS AND VICTIM COUNSELING

35-37-6-1 "Confidential communication"

35-37-6-1.5 "Confidential information"

35-37-6-2 Repealed

35-37-6-2.5 "Personally identifying information"

35-37-6-2.7 "Student advocate office"

35-37-6-3 "Victim"

35-37-6-3.5 "Victim advocate"

35-37-6-4 Repealed

35-37-6-5 "Victim service provider"

35-37-6-6 Repealed

35-37-6-7 Application of chapter

35-37-6-8 Duty of victim advocate to report

35-37-6-9 Confidential communications; compelling testimony; records; shelters

35-37-6-10 Waiver by victim of protections of chapter

35-37-6-11 Waiver by advocate of protection; disclosure of confidential information

35-37-6-13 Authorization of release of confidential information

35-37-6-14 Prosecuting attorney duty to disclose; victim preserves confidentiality

35-37-6-15 Partial disclosure

35-37-6-16 Refusal to testify 35-37-6-17 Disclosure of information in aggregate form

35-37-6-17 Disclosure of information in aggregate form

IC 35-37-6-1 "Confidential communication"

(a) As used in this chapter, "confidential communication" means any information:

- (1) exchanged between a victim and a victim advocate in the course of the relationship between the victim and the victim advocate;
- (2) exchanged or disclosed in a support group in which a victim is or was a participant; or
- (3) exchanged in the presence of a third person who facilitates or facilitated communication between a victim and a victim advocate.

(b) The term includes communication that is verbal or written and includes:

- (1) advice;
- (2) notes;
- (3) reports;
- (4) statistical data;
- (5) memoranda;
- (6) working papers;
- (7) records; and
- (8) personally identifying information; produced in the course of advocating for a victim.

[As added by P.L. 136-1987, SEC.5. Amended by P.L. 104-2008, SEC.7.]

IC 35-37-6-1.5 "Confidential information"

(a) As used in this chapter, "confidential information" includes:

- (1) personally identifying information;
- (2) descriptions of physical appearance;

(3) the case file; and

(4) the case history; of a person who seeks, receives, or has received services from a victim advocate.

(b) The term does not include:

(1) information disclosed to a victim service provider or a victim advocate if the victim:

(A) files criminal charges;

(B) institutes a civil lawsuit; or

(C) reports allegations of criminal conduct to a law enforcement agency; against the victim service provider or victim advocate; and

(2) alleged child abuse or neglect that is required to be reported under IC 31-33.

[As added by P.L.104-2008, SEC.8.]

IC 35-37-6-2 Repealed by P.L.104-2008, SEC.24.]

IC 35-37-6-2.5 "Personally identifying information"

(a) As used in this chapter, "personally identifying information" means information that identifies a victim or the location where domestic violence, dating violence, sexual assault, or stalking occurred, including the victim's:

(1) name;

(2) mailing and physical address;

(3) electronic mail address;

(4) Internet protocol address;

(5) telephone numbers, including facsimile numbers;

(6) Social Security number;

(7) date of birth;

(8) racial or ethnic background; and

(9) religious affiliation.

(b) The term includes any other information that, in combination with other nonpersonally identifying information, would identify an individual.

[As added by P.L.104-2008, SEC.9.]

IC 35-37-6-2.7 "Student advocate office"

As used in this chapter, "student advocate office" means a student services office, victim assistance office, or other victim counselor as designated by a state educational institution or an approved postsecondary educational institution. *[As added by P.L.70-2016, SEC.2.]*

IC 35-37-6-3 "Victim"

As used in this chapter, "victim" means:

(1) an individual against whom an act of:

(A) domestic or family violence;

(B) dating violence;

(C) sexual assault (as defined in IC 5-26.5-1-8);

(D) human and sexual trafficking (IC 35-42-3.5); or

(E) stalking (IC 35-45-10-5); is committed; or

(2) an individual:

(A) who is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5),

or stalking (IC 35-45-10-5); and

(B) who:

(i) is a member of the family of an individual described in subdivision (1); but

(ii) is not a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5).

[As added by P.L.136-1987, SEC.5. Amended by P.L.104-2008, SEC.10.]

IC 35-37-6-3.5 "Victim advocate"

(a) As used in this chapter, "victim advocate" means an individual employed or appointed by or who volunteers for:

(1) a victim services provider; or

(2) the student advocate office of a state educational institution or an approved postsecondary educational institution, if the individual provides services to a victim.

(b) The term does not include:

(1) a law enforcement officer;

(2) an employee or agent of a law enforcement officer;

(3) a prosecuting attorney; or

(4) an employee or agent of a prosecuting attorney's office.

(c) The term includes an employee, an appointee, or a volunteer of a:

(1) victim services provider;

(2) domestic violence program;

(3) sexual assault program;

(4) rape crisis center;

(5) battered women's shelter;

(6) transitional housing program for victims of domestic violence; or

(7) program that has as one (1) of its primary purposes to provide services to an individual:

(A) against whom an act of:

(i) domestic or family violence;

(ii) dating violence;

(iii) sexual assault (as defined in IC 5-26.5-1-8);

(iv) human and sexual trafficking (IC 35-42-3.5); or

(v) stalking (IC 35-45-10-5); is committed; or

(B) who:

(i) is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and

(ii) is a member of the family of an individual described in clause (A) other than a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5).

[As added by P.L.104-2008, SEC.11. Amended by P.L.70-2016, SEC.3.]

IC 35-37-6-4 [Repealed by P.L.104-2008, SEC.24.]

IC 35-37-6-5 "Victim service provider"

As used in this chapter, "victim service provider" means a person:

- (1) that is:
 - (A) a public agency;
 - (B) a unit of a public agency; or
 - (C) an organization that is exempt from federal income taxation under Section 501 of the Internal Revenue Code;
- (2) that is not affiliated with a law enforcement agency;
- (3) that has, as one (1) of its primary purposes, to provide services for emotional and psychological conditions that occur to an individual:
 - (A) against whom an act of:
 - (i) domestic or family violence;
 - (ii) dating violence;
 - (iii) sexual assault (as defined in IC 5-26.5-1-8);
 - (iv) human and sexual trafficking (IC 35-42-3.5); or
 - (v) stalking (IC 35-45-10-5); is committed; or
 - (B) who:
 - (i) is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and
 - (ii) is a member of the family of an individual described in clause (A) other than a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5).

[As added by P.L.136-1987, SEC.5. Amended by P.L.104-2008, SEC.12.]

IC 35-37-6-6 [Repealed by P.L.104-2008, SEC.24.]

IC 35-37-6-7 Application of chapter

This chapter does not limit any other testimonial privilege available to a person.

[As added by P.L.136-1987, SEC.5.]

IC 35-37-6-8 Duty of victim advocate to report

This chapter does not relieve a victim advocate of any duty to report suspected abuse, neglect, battery, or exploitation under IC 12-10-3, IC 31-33, or IC 35-46-1-13. *[As added by P.L.136-1987, SEC.5. Amended by P.L.3-1989, SEC.222; P.L.2-1992, SEC.875; P.L.1-1997, SEC.144; P.L.104-2008, SEC.13.]*

IC 35-37-6-9 Confidential communications; compelling testimony; records; shelters

(a) The following persons or entities may not be compelled to give testimony, to produce records, or to disclose any information concerning confidential communications and confidential information to anyone or in any judicial, legislative, or administrative proceeding:

- (1) A victim.
 - (2) A victim advocate or victim service provider unless the victim specifically consents to the disclosure in a written authorization that contains the date the consent expires.
- (b) A victim advocate, victim service provider, or victim may not be compelled to provide

testimony in any judicial, legislative, or administrative proceeding that would identify the name, address, location, or telephone number of any facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding unless the facility is a party to the proceeding.

(c) A victim service provider or victim advocate may not require a victim to consent to the disclosure of information concerning confidential communications and confidential information as a condition of the victim receiving services.

(d) This section does not prohibit a victim from providing testimony concerning an offense.

(e) The consent to disclose information on behalf of:

(1) a child who is less than eighteen (18) years of age and is unemancipated; or

(2) an incapacitated victim;

may be made by a custodial parent, custodian, guardian, or guardian ad litem in a written authorization that contains the date the consent expires.

(f) A consent under subsection (e) may not be given by a custodial parent, custodian, guardian, or guardian ad litem of the victim if the custodial parent, custodian, guardian, or guardian ad litem:

(1) committed; or

(2) is alleged to have committed; an offense against the victim.

[As added by P.L.136-1987, SEC.5. Amended by P.L.104-2008, SEC.14.]

IC 35-37-6-10 Waiver by victim of protections of chapter

(a) A victim does not waive the protections afforded by this chapter by testifying in court about an offense. However, if the victim partially discloses the contents of a confidential communication in the course of testifying, either party may request the court to rule that justice requires the protections of this chapter to be waived, to the extent they apply to that portion of the communication.

(b) A waiver under this section applies only to the extent necessary to require any witness to respond to questions concerning the confidential communication that are relevant to the facts and circumstances of the case. *[As added by P.L.136-1987, SEC.5.]*

IC 35-37-6-11 Waiver by victim advocate of protection; disclosure of confidential information

A victim advocate may not waive the protections afforded to a victim under this chapter. However, if:

(1) a victim brings suit against a victim advocate or victim service provider in which the victim advocate was employed or served as a volunteer at the time of the counseling relationship; and

(2) the suit alleges malpractice during the relationship; the victim advocate may testify or produce records regarding confidential communications with the victim and is not liable for doing so.

[As added by P.L.136-1987, SEC.5. Amended by P.L.104-2008, SEC.15.]

IC 35-37-6-13 Authorization of release of confidential information

(a) Except as provided in subsection (d):

(1) a victim; or

(2) in the case of a deceased victim, the victim's personal representative;

may authorize a victim advocate or victim service provider to release confidential information or other information by signing a written authorization that specifies what information will be released and to whom the information will be released.

(b) The authorization described in subsection (a) must include a date the authorization expires.

(c) A victim advocate shall make reasonable attempts to notify a victim when a victim service provider or victim advocate is required to disclose confidential information or confidential communications.

(d) A consent for release may not be given by a personal representative of the victim if the personal representative:

(1) abused or killed the victim;

(2) is alleged to have abused or killed the victim; or

(3) assisted another person in abusing or killing the victim.

[As added by P.L.104-2008, SEC.16.]

IC 35-37-6-14 Prosecuting attorney duty to disclose; victim preserves confidentiality

(a) This section does not:

(1) relieve a prosecuting attorney of the constitutional and ethical obligation to disclose exculpatory evidence; and

(2) prohibit impeachment of a victim as permitted by the Indiana Rules of Evidence.

(b) A victim does not waive any privileges or confidentiality protections under this chapter if the victim:

(1) testifies about underlying acts of domestic violence, dating violence, sexual assault, or stalking; or

(2) reveals that he or she used or attempted to use the services of a victim service provider or victim advocate. *[As added by P.L.104-2008, SEC.17.]*

IC 35-37-6-15 Partial disclosure

The partial disclosure of a confidential communication under this chapter does not waive any privilege concerning the remainder of the confidential communication.

[As added by P.L.104-2008, SEC.18.]

IC 35-37-6-16 Refusal to testify

The fact that a victim or victim advocate refuses to testify or disclose information because of a privilege under this chapter does not raise any negative inferences or presumptions. *[As added by P.L.104-2008, SEC.19.]*

IC 35-37-6-17 Disclosure of information in aggregate form

A victim service provider may disclose information in the aggregate that does not identify a victim regarding services and demographic information to comply with federal or state data collection requirements. *[As added by P.L.104-2008, SEC.20.]*

VICTIM RIGHTS RELATING TO IDENTITY DECEPTION - IC 35-40-4

IDENTITY DECEPTION - IC 35-43-5-3.5

ATTORNEY GENERAL IDENTITY THEFT UNIT - IC 4-6-13 - AG FORMS, CONTACTS

IC 35-43-5-3.5 Identity Deception

(a) Except as provided in subsection (c), a person who, with intent to harm or defraud another person, knowingly or intentionally obtains, possesses, transfers, or uses identifying information to profess to be another person, commits identity deception, a Level 6 felony.

(b) However, the offense defined in subsection (a) is a Level 5 felony if:

(1) a person obtains, possesses, transfers, or uses the identifying information of more than one hundred (100) persons;

(2) the fair market value of the fraud or harm caused by the offense is at least fifty thousand dollars (\$50,000); or

(3) a person obtains, possesses, transfers, or uses the identifying information of a person who is less than eighteen (18) years of age and is:

(A) the person's son or daughter;

(B) a dependent of the person;

(C) a ward of the person; or

(D) an individual for whom the person is a guardian.

(c) The conduct prohibited in subsections (a) and (b) does not apply to:

(1) a person less than twenty-one (21) years of age who uses identifying information to acquire an alcoholic beverage (as defined in IC 7.1-1-3-5);

(2) a minor (as defined in IC 35-49-1-4) who uses identifying information to acquire:

(A) a cigarette, an electronic cigarette (as defined in IC 35-46-1-1.5), or a tobacco product (as defined in IC 6-7-2-5);

(B) a periodical, a videotape, or other communication medium that contains or depicts nudity (as defined in IC 35-49-1-5);

(C) admittance to a performance (live or film) that prohibits the attendance of the minor based on age; or

(D) an item that is prohibited by law for use or consumption by a minor; or

(3) any person who uses identifying information for a lawful purpose.

(d) It is not a defense in a prosecution under subsection (a) or (b) that no person was harmed or defrauded. *[As added by P.L.180-2001, SEC.2. Amended by P.L.22-2003, SEC.2; P.L.125-2006, SEC.9; P.L.137-2009, SEC.14; P.L.20-2013, SEC.3; P.L.158-2013, SEC.471; P.L.174-2021, SEC.46.]*

IC 35-43-5-3.8 Synthetic Identity Deception [Repealed]

[As added by P.L.137-2009, SEC.15. Amended by P.L.158-2013, SEC.473; P.L.49-2020, SEC.27. Repealed by P.L.174-2021, SEC.47.]

IC 35-43-5-1(i) Definitions

- (i) **"Identifying information"** means information that identifies a person, including a person's:
- (1) name, address, date of birth, place of employment, employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;
 - (2) unique biometric data, including the person's fingerprint, voice print, or retina or iris image;
 - (3) unique electronic identification number, address, or routing code;
 - (4) telecommunication identifying information; or
 - (5) telecommunication access device, including a card, a plate, a code, a telephone number, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access that may be used to:
 - (A) obtain money, goods, services, or any other thing of value; or
 - (B) initiate a transfer of funds.

* * *

(r) **"Synthetic identifying information" [Repealed]**

[As added by Acts 1976, P.L.148, SEC.3. Amended by Acts 1977, P.L.340, SEC.49; P.L.321-1983, SEC.4; P.L.182-1984, SEC.3; P.L.180-1991, SEC.8; P.L.216-1991, SEC.1; P.L.193-1991, SEC.2; P.L.247-1993, SEC.1; P.L.150-1994, SEC.2; P.L.2-1995, SEC.127; P.L.84-2001, SEC.2; P.L.180-2001, SEC.1; P.L.22-2003, SEC.1; P.L.160-2003, SEC.27; P.L.73-2005, SEC.170; P.L.171-2005, SEC.1; P.L.181-2005, SEC.5; P.L.137-2009, SEC.13; P.L.43-2017, SEC.1; P.L.174-2021, SEC.43.]

IC 35-40-14-1 "Identity theft"

As used in this chapter, "identity theft" means:

- (1) identity deception (IC 35-43-5-3.5); or
- (2) synthetic identity deception (IC 35-43-5-3.8) (before its repeal).

[As added by P.L.137-2009, §11. Amended by P.L.142-2020, SEC.62; P.L.174-2021, SEC.41.]

IC 35-40-14-2 "Unit"

As used in this chapter, "unit" refers to the identity theft unit established under IC 4-6-13-2. *[As added by P.L.137-2009, SEC.11.]*

IC 35-40-14-3 Duties of law enforcement agencies concerning identity theft

(a) A person who has learned or reasonably suspects that the person has been the victim of identity theft may contact the local law enforcement agency that has jurisdiction over the person's residence. The local law enforcement agency shall take an official report of the matter and provide the complainant with a copy of that report. Even if jurisdiction lies elsewhere for investigation and prosecution of a crime of theft, the local law enforcement agency shall take the complaint and provide the person with a copy of the complaint. The law enforcement authority may refer the complaint to a law enforcement agency in a different jurisdiction.

(b) This section does not affect the discretion of a local law enforcement agency to allocate resources for investigation of crimes. A complaint filed under this section is not required to be counted as an open case for purposes of compiling open case statistics.

[As added by P.L.137-2009, SEC.11.]

IC 35-40-14-4 Protections for victims of identity theft

(a) A person who is injured by a crime of identity theft or who has filed a police report alleging commission of an offense of identity theft may file an application with the court in the jurisdiction where the person resides for the issuance of a court order declaring that the person is a victim of identity theft. A person may file an application under this section regardless of whether the person is able to identify each person who allegedly obtained, possessed, transferred, or used the person's identifying information in an unlawful manner.

(b) A person filing an application under subsection (a) shall file a copy of the application with the unit. The unit may appear at and present evidence in a hearing conducted under this section if the unit determines that a court order declaring the applicant a victim of identity theft would be inappropriate.

(c) A person is presumed to be a victim of identity theft under this section if another person is charged with and convicted of an offense of identity theft for unlawfully obtaining, possessing, transferring, or using the person's identifying information.

(d) After notice and hearing, if the court is satisfied by a preponderance of the evidence that the applicant has been injured by a crime of identity theft, the court shall enter an order containing:

- (1) a declaration that the person filing the application is a victim of identity theft resulting from the commission of a crime of identity theft;
- (2) any known information identifying the violator or person charged with the offense;
- (3) the specific personal identifying information and any related document or record used

to commit the alleged offense; and

(4) information identifying any financial account or transaction affected by the alleged offense, including:

(A) the name of the financial institution in which the account is established or of the merchant or creditor involved in the transaction, as appropriate;

(B) any relevant account numbers;

(C) the dollar amount of the account or transaction affected by the alleged offense; and

(D) the date or dates of the offense.

(e) Except as provided in subsection (h), an order issued under this section must be sealed because of the confidential nature of the information required to be included in the order. The order may be opened and the order or a copy of the order may be released only:

(1) to the proper officials in a civil proceeding brought by or against the victim arising or resulting from the commission of a crime of identity theft, including a proceeding to set aside a judgment obtained against the victim;

(2) to the victim for the purpose of submitting the copy of the order to a governmental entity or private business to:

(A) prove that a financial transaction or account of the victim was directly affected by the commission of a crime of identity theft; and

(B) correct any record of the entity or business that contains inaccurate or false information as a result of the offense;

(3) on order of the judge; or

(4) as otherwise required by law.

(f) A court at any time may vacate an order issued under this section if the court finds that the application or any information submitted to the court by the applicant contains a fraudulent misrepresentation or a material misrepresentation of fact.

(g) Except as provided in subsection (h), a copy of the order provided to a person under subsection (e)(1) must remain sealed throughout and after the civil proceeding. Information contained in a copy of an order provided to a governmental entity or business under subsection (e)(2) is confidential and may not be released to another person except as otherwise required by law.

(h) The following information regarding an application filed under this section may be released to the public:

(1) The name of the applicant.

(2) The county of residence of the applicant.

(3) Whether the application was approved or denied by the court.

[As added by P.L.137-2009, SEC.11.]

IC 4-6-13 AG IDENTITY THEFT UNIT

IC 4-6-13-1 "Unit"

IC 4-6-13-2 Identity theft unit; purpose

IC 4-6-13-3 Duties of identity theft unit

IC 4-6-13-4 Powers of the attorney general

IC 4-6-13-5 Duty of attorney general to notify a prosecuting attorney

IC 4-6-13-6 Agency cooperation with the identity theft unit

IC 4-6-13-7 Jurisdiction of other agencies not limited

IC 4-6-13-8 Power to deputize attorney general or deputy attorney general

IC 4-6-13-9 Educational programs

IC 4-6-13-1 "Unit"

As used in this chapter, "unit" refers to the identity theft unit established under section 2 of this chapter. *[As added by P.L. 137-2009, SEC.2.]*

IC 4-6-13-2 Identity theft unit; purpose

The attorney general shall establish an identity theft unit to assist prosecuting attorneys in enforcing identity deception (IC 35-43-5-3.5) and related criminal statutes and to carry out this chapter. *[As added by P.L. 137-2009, SEC.2.]*

IC 4-6-13-3 Duties of identity theft unit

(a) The unit shall do the following:

(1) Investigate consumer complaints regarding identity theft, identity deception, fraud, deception, and related matters.

(2) Assist victims of identity theft, identity deception, fraud, deception, and related crimes in obtaining refunds in relation to fraudulent or authorized charges or debits, canceling fraudulent accounts, correcting false information in consumer reports caused by identity deception, correcting false information in personnel files and court records, and related matters.

(3) Cooperate with federal, state, and local law enforcement agencies in the investigation of identity theft, identity deception, fraud, deception, violations of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), and related crimes. To the extent authorized by federal law, the unit may enforce compliance with the federal statutes or regulations described in this subdivision or refer suspected violations of the statutes or regulations to the appropriate federal regulatory agencies.

(4) Assist state and federal prosecutors in the investigation and prosecution of identity theft, identity deception, fraud, deception, and related crimes.

(b) The attorney general shall adopt rules under IC 4-22-2 to the extent necessary to organize the unit. *[As added by P.L. 137-2009, SEC.2.]*

IC 4-6-13-4 Powers of the attorney general

The attorney general may do any of the following when conducting an investigation under section 3 of this chapter:

(1) Issue and serve a subpoena for the production of records, including records stored in

electronic data processing systems, books, papers, and documents for inspection by the attorney general or the investigator.

(2) Issue and serve a subpoena for the appearance of a person to provide testimony under oath.

(3) Apply to a court with jurisdiction to enforce a subpoena described in subdivision (1) or (2). *[As added by P.L.137-2009, SEC.2.]*

IC 4-6-13-5 Duty of attorney general to notify a prosecuting attorney

If the attorney general determines during an investigation conducted under this chapter that there is reasonable suspicion to believe that a person has committed identity deception or a similar offense, the attorney general shall promptly notify a law enforcement agency and the prosecuting attorney that have jurisdiction over the person or offense. *[As added by P.L.137-2009, SEC.2.]*

IC 4-6-13-6 Agency cooperation with the identity theft unit

(a) The following may cooperate with the unit to implement this chapter:

- (1) The bureau of motor vehicles.
- (2) The secretary of state.
- (3) The department of financial institutions.
- (4) The department of insurance.
- (5) The state police department.
- (6) The department of workforce development.
- (7) The department of state revenue.
- (8) A prosecuting attorney.
- (9) Local law enforcement agencies.

(b) Notwithstanding IC 5-14-3, the entities listed in subsection (a) may share information with the unit. *[As added by P.L.137-2009, SEC.2.]*

IC 4-6-13-7 Jurisdiction of other agencies not limited

The establishment of the unit and the unit's powers does not limit the jurisdiction of an entity described in section 6 of this chapter. *[As added by P.L.137-2009, SEC.2.]*

IC 4-6-13-8 Power to deputize attorney general or deputy attorney general

A prosecuting attorney may deputize the attorney general or a deputy attorney general for purposes of the prosecution of an identity deception offense or a related offense. *[As added by P.L.137-2009, SEC.2.]*

IC 4-6-13-9 Educational programs

The unit may initiate and maintain an educational program to inform consumers of:

- (1) risks relating to identity deception and similar crimes;
- (2) steps consumers may take to minimize their risks of becoming a victim of identity deception;
- (3) methods to detect identity deception and similar crimes; and
- (4) measures that identity deception victims may take to recover from the crime and to hold the perpetrator of the crime accountable in a court of law.

[As added by P.L.137-2009, SEC.2.]



Indiana Attorney General IDENTITY THEFT UNIT

The Indiana Attorney General's Office established the Identity Theft Unit in response to increased identity theft incidents reported by Indiana citizens and to enhance existing efforts to educate Hoosiers about protecting their identities. The Identity Theft Unit assists ID theft victims and provides investigative services to help promote the prosecution of identity thieves.

In 2006, the Attorney General's Office worked with the Indiana General Assembly to pass the Disclosure of Security Breach Act. This law requires that Indiana businesses inform their customers about security breaches that have placed their personal information in jeopardy. The Attorney General's Office enforces the law and can seek up to \$150,000 for data breaches that have not been properly disclosed to Indiana customers.

In 2009, the Indiana Attorney General worked with the General Assembly to pass an Identity Theft bill that further enhanced law enforcement's ability to investigate and prosecute identity crimes and further enhanced victims' ability to recover from the crime. Additionally, the bill statutorily created the Identity Theft Unit within the Attorney General's Office and provided it with investigative tools and victim assistance responsibilities.

Indiana Attorney General Identity Theft Unit

Indiana Government Center South
302 W. Washington St., 5th Floor
Indianapolis, IN

IDENTITY THEFT VICTIM GUIDE

As soon as you become aware your personal information has been stolen and/or used by someone else, you should act quickly and follow the steps outlined below. Be sure to keep a record of the details of your conversations and copies of all correspondence.

PLACE FRAUD ALERTS ON YOUR CREDIT REPORTS

Fraud alerts can help prevent an identity thief from doing further damage to your credit. Contact the toll-free fraud number of any of the three consumer reporting companies below to place a fraud alert on your credit report. You only need to contact one of the three agencies to place an alert. The company you call is required to contact the other two, which will place an alert on their versions of your report. Ask the company that you contact to confirm this action. Credit reports from all three consumer reporting companies should be sent to you free of charge.

Equifax Credit Freeze

P.O. Box 740241

Atlanta, GA 30374-0241

1.800.525.6285

<http://www.equifax.com/>

Place a Credit freeze Online with Equifax

Experian Credit Freeze

P.O. Box 9554

Allen, TX 75013

1.888.397.3742

<http://www.experian.com/>

Place a Credit freeze Online with Experian

TransUnion Credit Freeze

Fraud Victim Assistance Department

P.O. Box 2000

Chester, PA 19016-2000

1.800.680.7289

<http://www.transunion.com/>

Place a Credit freeze Online with Trans Union

CONTACT YOUR BANK FOR ASSISTANCE WITH FRAUDULENT ACCOUNTS OR CHARGES

Your banks and financial institutions may be able to assist you in securing your accounts from being accessed by identity thieves. Asking your bank to close your existing account, open a different account, or place a security lock may all be ways to assist with recovery after identity theft-related damages. For further guidance and ways to help, visit <https://www.identitytheft.gov/#/Steps> for more information.

PLACE A FREEZE ON YOUR CREDIT REPORTS

A credit freeze, also known as a security freeze, is a consumer right provided by Indiana law. Placing a security freeze on your credit reports can block an identity thief from opening a new account or obtaining credit in your name. A credit freeze keeps new creditors from accessing your credit report without your permission. If you activate a credit freeze, an identity thief cannot take out new credit in your name, even if the thief has your Social Security number or other personal information, because creditors cannot access your credit report. Visit <https://www.in.gov/attorneygeneral/consumer-protection-division/id-theft-prevention/protect/credit-freeze/> for more information.

REPORT THE FRAUD TO YOUR LOCAL POLICE DEPARTMENT AS SOON AS POSSIBLE

Indiana law requires the law enforcement agency where you live to take an official report and provide you with a copy. When you file the report, provide as much documentation as possible, including copies of debt collection letters, credit reports, and your notarized Identity Theft Affidavit. The police report and complaint number may be needed when contacting creditors. Consumer reporting companies should automatically block fraudulent accounts and bad debts from appearing on your credit report if you provide a copy of the police report.

FILE A COMPLAINT WITH THE ATTORNEY GENERAL'S IDENTITY THEFT UNIT

The Identity Theft Unit provides assistance to identity theft victims and investigative services to help with the prosecution of identity thieves. When filing a complaint, please be sure to include legible copies of any correspondence you have received regarding this matter; copies of the police report that you have filed regarding this matter; copies of any fraudulent entries on your credit report/bank statements; and any other applicable paperwork. Click here for complaint forms. For

additional assistance, you may contact the Identity Theft Unit at 1.800.382.5516 or IDTheft@atg.in.gov.

FILE A COMPLAINT WITH THE FEDERAL TRADE COMMISSION

The FTC maintains a confidential, national identity theft database and may also be able to assist in pursuing identity thieves through federal channels, if applicable. You can file a complaint online at www.consumer.gov/idtheft, or by phone at 1.877.ID.THEFT.

REVIEW YOUR CONSUMER RIGHTS

Victims are also encouraged to review their rights provided by state and federal law. Understanding your rights can help you recover from an identity theft crime.

[Review Your Consumer Rights](#)

FOLLOW UP STEPS

Once you receive your credit reports, review them carefully. Look for inquiries from companies you haven't contacted, accounts you didn't open, and debts on your accounts that you can't explain. Ensure information, like your SSN, address(es), name or initials, and employers are correct. If you find fraudulent or inaccurate information, get it removed. See [Correcting Fraudulent Information in Credit Reports](#) on the Federal Trade Commissions' (FTC) site to learn more.

When you correct your credit report, use an Identity Theft Report with a cover letter explaining your request, to get the fastest and most complete results (materials provided by the FTC).

Continue to check your credit reports periodically, especially for the first year after you discover the identity theft, to make sure no new fraudulent activity has occurred.

SAMPLE LETTERS AND FORMS

For a list of sample letters and forms you may use to exercise your rights as an identity theft victim, please [click here](#).

Credit Karma sample credit dispute letter, [click here](#).

Experian dispute form, [click here](#).

Equifax dispute form, [click here](#).

TransUnion investigation request form, [click here](#).

CREDIT FREEZE - **WATCH VIDEOS** - **TOOL KIT** - **COMPLAINT FORM**

You can file an **identity theft complaint** with the Indiana Attorney General's Office online or by filling out a printable form. You can also request a complaint form by calling (800) 382-5516 or (317) 232-6330.

Identity Theft Complaint Forms:

[Online Identity Theft Complaint Form](#)

Fillable Identity Theft Complaint Form
Printable Identity Theft Complaint Form

Please provide copies of your supporting documentation and retain all originals. You are also advised to keep a copy of your complaint for your records.

A **credit freeze**, also known as a security freeze, is a consumer right provided by Indiana law. Placing a credit freeze on your credit reports can block an identity thief from opening a new account or obtaining credit in your name. A credit freeze keeps new creditors from accessing your credit report without your permission. If you activate a credit freeze, an identity thief cannot take out new credit in your name, even if the thief has your SSN or other personal information, because creditors cannot access your credit report.

Any Indiana resident can request a credit freeze free of charge. There is no fee for Indiana residents to place, temporarily lift, remove or request a new password or PIN. To place a freeze, either use each credit agency's online process or send a letter by certified mail to each of the three credit agencies. Make sure you freeze your credit with each credit bureau- a freeze with one bureau will not transfer to the others.

Please note that in the wake of the 2017 Equifax Data Breach, consumers may run into errors submitting the freeze request due to the influx of traffic to their websites. Please contact the credit agency directly if you encounter any issues - these websites are not administered by the Indiana Attorney General.

For each, you may be asked to provide:

- ▶ Your full name (including middle initial as well as Jr., Sr., II, III, etc.), address, SSN, and date of birth.
 - ▶ If you have moved in the past five years, you will need the addresses where you have lived over the prior five years
 - ▶ Proof of current address such as a utility or phone bill (alternative options include a bank, insurance, or credit card statement listing your full name and address)
 - ▶ A photocopy of a government issued identification card (state driver's license or ID card, military identification, etc.)
- [*Click here for sample letters to send to all three credit bureaus.](#)
 - [Frequently Asked Questions](#)
 - [Click here for an informational video on security freezes.](#)

Protected Person Security Freeze

As part of an ongoing effort by the Attorney General's Office to help consumers protect themselves from identity theft and safeguard their credit, the Legislature in 2014 passed a new state law, Senate Enrolled Act 394 of 2014, creating the Protected Person Security Freeze. Because identity thieves could attempt to steal the information of individuals such as children or disabled adults who have clean credit history in order to assume their identities and perpetrate fraud, the 2014 law offers a security freeze for protected consumers, similar to the credit freeze

for adults. Parents can use it to protect their children from identity theft even if the minors don't have credit yet. For mentally disabled adults who also should be protected against identity theft, their legal guardians can register them for the security freeze.

Below are links to the three credit bureaus Protected Person Security Freeze sites. For the free service, each of the three credit bureaus requires that consumers register a minor or a protected consumer in writing, by mail, rather than online. And each credit bureau has a slightly different format for registering for a security freeze for a minor or other protected consumer, so read the directions carefully.

Consumers who have questions about the Protected Person Security Freeze can contact the Attorney General's Consumer Protection Division at 1-800-382-5516. More information is at <https://www.in.gov/attorneygeneral/consumer-protection-division/id-theft-prevention/>

Freeze Credit
Do Not Call / Robocalls
Security Breaches
Resources

Welcome

The risk of identity theft is a lot like germs – you can be aware and take precautions but you cannot avoid the risk completely. You can only be smart about the behaviors you use and educate those around you. This site contains interactive tools to allow you to help protect yourself from America's fastest growing crime – identity theft.

Victims of identity theft can seek assistance from the Attorney General's Identity Theft Unit. The unit provides investigative services to help in the prosecution of identity thieves. The Identity Theft Unit is committed to reducing incidents of identity theft around the state by providing educational resources to teach Hoosiers how to protect themselves from this crime.

Civic and non-profit organizations seeking a representative from the Indiana Attorney General's Office to address identity theft prevention for educational purposes may submit a speaker request online.

For other consumer related matters outside of Identity Theft, please visit www.IndianaConsumer.com.

FEDERAL CRIME VICTIM RIGHTS (SELECTED STATUTES)

18 U.S.C. § 3771. Crime victims' rights

34 U.S.C. § 20141. Services to victims

18 U.S.C. § 3510. Rights of victims to attend and observe trial

18 U.S.C. § 3509. Child victims' and child witnesses' rights

18 U.S.C. § 3663. Order of restitution

18 U.S.C. § 3663A. Mandatory restitution to victims of certain crimes

18 U.S.C. § 3771. Crime victims' rights

(a) Rights of crime victims. A crime victim has the following rights:

- (1) The right to be reasonably protected from the accused.
- (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.
- (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
- (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.
- (5) The reasonable right to confer with the attorney for the Government in the case.
- (6) The right to full and timely restitution as provided in law.
- (7) The right to proceedings free from unreasonable delay.
- (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.
- (9) The right to be informed in a timely manner of any plea bargain or deferred prosecution agreement.
- (10) The right to be informed of the rights under this section and the services described in section 503(c) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)) and provided contact information for the Office of the Victims' Rights Ombudsman of the Department of Justice.

(b) Rights afforded.

(1) In general. In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a). Before making a determination described in subsection (a)(3), the court shall make every effort to permit the fullest attendance possible by the victim and shall consider reasonable alternatives to the exclusion of the victim from the criminal proceeding. The reasons for any decision denying relief under this chapter shall be clearly stated on the record.

(2) Habeas corpus proceedings.

(A) In general. In a Federal habeas corpus proceeding arising out of a State conviction, the court shall ensure that a crime victim is afforded the rights described in paragraphs (3), (4), (7), and (8) of subsection (a).

(B) Enforcement.

(i) In general. These rights may be enforced by the crime victim or the crime victim's lawful representative in the manner described in paragraphs (1) and (3) of

subsection (d).

(ii) Multiple victims. In a case involving multiple victims, subsection (d)(2) shall also apply.

(C) Limitation. This paragraph relates to the duties of a court in relation to the rights of a crime victim in Federal habeas corpus proceedings arising out of a State conviction, and does not give rise to any obligation or requirement applicable to personnel of any agency of the Executive Branch of the Federal Government.

(D) Definition. For purposes of this paragraph, the term “crime victim” means the person against whom the State offense is committed or, if that person is killed or incapacitated, that person’s family member or other lawful representative.

(c) Best efforts to accord rights.

(1) Government. Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a).

(2) Advice of attorney. The prosecutor shall advise the crime victim that the crime victim can seek the advice of an attorney with respect to the rights described in subsection (a).

(3) Notice. Notice of release otherwise required pursuant to this chapter [this section] shall not be given if such notice may endanger the safety of any person.

(d) Enforcement and limitations.

(1) Rights. The crime victim or the crime victim’s lawful representative, and the attorney for the Government may assert the rights described in subsection (a). A person accused of the crime may not obtain any form of relief under this chapter [this section].

(2) Multiple crime victims. In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in subsection (a), the court shall fashion a reasonable procedure to give effect to this chapter [this section] that does not unduly complicate or prolong the proceedings.

(3) Motion for relief and writ of mandamus. The rights described in subsection (a) shall be asserted in the district court in which a defendant is being prosecuted for the crime or, if no prosecution is underway, in the district court in the district in which the crime occurred. The district court shall take up and decide any motion asserting a victim’s right forthwith. If the district court denies the relief sought, the movant may petition the court of appeals for a writ of mandamus. The court of appeals may issue the writ on the order of a single judge pursuant to circuit rule or the Federal Rules of Appellate Procedure, unless the litigants, with the approval of the court, have stipulated to a different time period for consideration. In deciding such application, the court of appeals shall apply ordinary standards of appellate review. The court of appeals shall take up and decide such application forthwith within 72 hours after the petition has been filed. In no event shall proceedings be stayed or subject to a continuance of more than five days for purposes of enforcing this chapter [this section]. If the court of appeals denies the relief sought, the reasons for the denial shall be clearly stated on the record in a written opinion.

(4) Error. In any appeal in a criminal case, the Government may assert as error the district court’s denial of any crime victim’s right in the proceeding to which the appeal relates.

(5) Limitation on relief. In no case shall a failure to afford a right under this chapter [this section] provide grounds for a new trial. A victim may make a motion to re-open a plea or

sentence only if—

(A) the victim has asserted the right to be heard before or during the proceeding at issue and such right was denied;

(B) the victim petitions the court of appeals for a writ of mandamus within 14 days; and

(C) in the case of a plea, the accused has not pled to the highest offense charged.

This paragraph does not affect the victim's right to restitution as provided in title 18, United States Code.

(6) No cause of action. Nothing in this chapter [this section] shall be construed to authorize a cause of action for damages or to create, to enlarge, or to imply any duty or obligation to any victim or other person for the breach of which the United States or any of its officers or employees could be held liable in damages. Nothing in this chapter [this section] shall be construed to impair the prosecutorial discretion of the Attorney General or any officer under his direction.

(e) Definitions. For the purposes of this chapter [this section]:

(1) Court of Appeals. The term "court of appeals" means—

(A) the United States court of appeals for the judicial district in which a defendant is being prosecuted; or

(B) for a prosecution in the Superior Court of the District of Columbia, the District of Columbia Court of Appeals.

(2) Crime victim.

(A) In general. The term "crime victim" means a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia.

(B) Minors and certain other victims. In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representatives of the crime victim's estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim's rights under this chapter [this section], but in no event shall the defendant be named as such guardian or representative.

(3) District court; court. The terms "district court" and "court" include the Superior Court of the District of Columbia.

(f) Procedures to promote compliance.

(1) Regulations. Not later than 1 year after the date of enactment of this chapter [enacted Oct. 30, 2004], the Attorney General of the United States shall promulgate regulations to enforce the rights of crime victims and to ensure compliance by responsible officials with the obligations described in law respecting crime victims.

(2) Contents. The regulations promulgated under paragraph (1) shall—

(A) designate an administrative authority within the Department of Justice to receive and investigate complaints relating to the provision or violation of the rights of a crime victim;

(B) require a course of training for employees and offices of the Department of Justice that fail to comply with provisions of Federal law pertaining to the treatment of crime victims, and otherwise assist such employees and offices in responding more effectively to the needs of crime victims;

(C) contain disciplinary sanctions, including suspension or termination from

employment, for employees of the Department of Justice who willfully or wantonly fail to comply with provisions of Federal law pertaining to the treatment of crime victims; and

(D) provide that the Attorney General, or the designee of the Attorney General, shall be the final arbiter of the complaint, and that there shall be no judicial review of the final decision of the Attorney General by a complainant.

[Added Oct. 30, 2004, P. L. 108-405, Title I, § 102(a), 118 Stat. 2261; July 27, 2006, P. L. 109-248, Title II, § 212, 120 Stat. 616; May 7, 2009, P. L. 111-16, § 3(12), 123 Stat. 1608; May 29, 2015, P. L. 114-22, Title I, § 113(a), (c)(1), 129 Stat. 240, 241.]

34 U.S.C. § 20141. Services to victims

(a) Designation of responsible officials. The head of each department and agency of the United States engaged in the detection, investigation, or prosecution of crime shall designate by names and office titles the persons who will be responsible for identifying the victims of crime and performing the services described in subsection (c) at each stage of a criminal case.

(b) Identification of victims. At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall—

- (1) identify the victim or victims of a crime;
- (2) inform the victims of their right to receive, on request, the services described in subsection (c); and
- (3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c).

(c) Description of services.

(1) A responsible official shall—

- (A) inform a victim of the place where the victim may receive emergency medical and social services;
- (B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and [the] manner in which such relief may be obtained;
- (C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and
- (D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).

(2) A responsible official shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.

(3) During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of—

- (A) the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation;
- (B) the arrest of a suspected offender;
- (C) the filing of charges against a suspected offender;
- (D) the scheduling of each court proceeding that the witness is either required to attend or, under section 1102(b)(4), is entitled to attend;

- (E) the release or detention status of an offender or suspected offender;
- (F) the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and
- (G) the sentence imposed on an offender, including the date on which the offender will be eligible for parole.

(4) During court proceedings, a responsible official shall ensure that a victim is provided a waiting area removed from and out of the sight and hearing of the defendant and defense witnesses.

(5) After trial, a responsible official shall provide a victim the earliest possible notice of—

- (A) the scheduling of a parole hearing for the offender;
- (B) the escape, work release, furlough, or any other form of release from custody of the offender; and
- (C) the death of the offender, if the offender dies while in custody.

(6) At all times, a responsible official shall ensure that any property of a victim that is being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes.

(7) The Attorney General or the head of another department or agency that conducts an investigation of a sexual assault shall pay, either directly or by reimbursement of payment by the victim, the cost of a physical examination of the victim which an investigating officer determines was necessary or useful for evidentiary purposes. The Attorney General shall provide for the payment of the cost of up to 2 anonymous and confidential tests of the victim for sexually transmitted diseases, including HIV, gonorrhea, herpes, chlamydia, and syphilis, during the 12 months following sexual assaults that pose a risk of transmission, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of sexually transmitted diseases to the victim as the result of the assault. A victim may waive anonymity and confidentiality of any tests paid for under this section.

(8) A responsible official shall provide the victim with general information regarding the corrections process, including information about work release, furlough, probation, and eligibility for each.

(d) No cause of action or defense. This section does not create a cause of action or defense in favor of any person arising out of the failure of a responsible person to provide information as required by subsection (b) or (c).

(e) Definitions. For the purposes of this section—

(1) the term “responsible official” means a person designated pursuant to subsection (a) to perform the functions of a responsible official under that section; and

(2) the term “victim” means a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime, including—

(A) in the case of a victim that is an institutional entity, an authorized representative of the entity; and

(B) in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, one of the following (in order of preference):

- (i) a spouse;
- (ii) a legal guardian;
- (iii) a parent;

- (iv) a child;
- (v) a sibling;
- (vi) another family member; or
- (vii) another person designated by the court.

[Act Nov. 29, 1990, P. L. 101-647, Title V, § 503, 104 Stat. 4820; Sept. 13, 1994, P. L. 103-322, Title IV, Subtitle E, § 40503(a), 108 Stat. 1946.]

18 U.S.C. § 3510. Rights of victims to attend and observe trial

(a) Non-capital cases. Notwithstanding any statute, rule, or other provision of law, a United States district court shall not order any victim of an offense excluded from the trial of a defendant accused of that offense because such victim may, during the sentencing hearing, make a statement or present any information in relation to the sentence.

(b) Capital cases. Notwithstanding any statute, rule, or other provision of law, a United States district court shall not order any victim of an offense excluded from the trial of a defendant accused of that offense because such victim may, during the sentencing hearing, testify as to the effect of the offense on the victim and the victim's family or as to any other factor for which notice is required under section 3593(a) [18 USCS § 3593(a)].

(c) Definition. As used in this section, the term "victim" includes all persons defined as victims in section 503(e)(2) of the Victims' Rights and Restitution Act of 1990 [42 USCS § 10607(e)(2)].
[Act As added March 19, 1997, P. L. 105-6, § 2(a), 111 Stat. 12.]

18 U.S.C. § 3509. Child victims' and child witnesses' rights

(a) Definitions. For purposes of this section—

- (1) the term "adult attendant" means an adult described in subsection (i) who accompanies a child throughout the judicial process for the purpose of providing emotional support;
- (2) the term "child" means a person who is under the age of 18, who is or is alleged to be—
 - (A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or
 - (B) a witness to a crime committed against another person;
- (3) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child;
- (4) the term "physical injury" includes lacerations, fractured bones, burns, internal injuries, severe bruising or serious bodily harm;
- (5) the term "mental injury" means harm to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors, which may be demonstrated by a change in behavior, emotional response, or cognition;
- (6) the term "exploitation" means child pornography or child prostitution;
- (7) the term "multidisciplinary child abuse team" means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;
- (8) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

- (9) the term “sexually explicit conduct” means actual or simulated—
- (A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex; sexual contact means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person;
 - (B) bestiality;
 - (C) masturbation;
 - (D) lascivious exhibition of the genitals or pubic area of a person or animal; or
 - (E) sadistic or masochistic abuse;
- (10) the term “sex crime” means an act of sexual abuse that is a criminal act;
- (11) the term “negligent treatment” means the failure to provide, for reasons other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of the child; and
- (12) the term “child abuse” does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty.
- (b) Alternatives to live in-court testimony.
- (1) Child’s live testimony by 2-way closed circuit television.
- (A) In a proceeding involving an alleged offense against a child, the attorney for the Government, the child’s attorney, or a guardian ad litem appointed under subsection (h) may apply for an order that the child’s testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 7 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.
 - (B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the defendant, for any of the following reasons:
 - (i) The child is unable to testify because of fear.
 - (ii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying.
 - (iii) The child suffers a mental or other infirmity.
 - (iv) Conduct by defendant or defense counsel causes the child to be unable to continue testifying.
 - (C) The court shall support a ruling on the child’s inability to testify with findings on the record. In determining whether the impact on an individual child of one or more of the factors described in subparagraph (B) is so substantial as to justify an order under subparagraph (A), the court may question the minor in chambers, or at some other comfortable place other than the courtroom, on the record for a reasonable period of time with the child attendant, the prosecutor, the child’s attorney, the guardian ad litem, and the defense counsel present.
 - (D) If the court orders the taking of testimony by television, the attorney for the Government and the attorney for the defendant not including an attorney pro se for a

party shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are—

- (i) the child's attorney or guardian ad litem appointed under subsection (h);
- (ii) persons necessary to operate the closed-circuit television equipment;
- (iii) a judicial officer, appointed by the court; and
- (iv) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the defendant, jury, judge, and public. The defendant shall be provided with the means of private, contemporaneous communication with the defendant's attorney during the testimony. The closed circuit television transmission shall relay into the room in which the child is testifying the defendant's image, and the voice of the judge.

(2) Videotaped deposition of child.

(A) In a proceeding involving an alleged offense against a child, the attorney for the Government, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subsection (h) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

(B)

(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the defendant, jury, judge, and public for any of the following reasons:

- (I) The child will be unable to testify because of fear.
- (II) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.
- (III) The child suffers a mental or other infirmity.
- (IV) Conduct by defendant or defense counsel causes the child to be unable to continue testifying.

(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are—

- (I) the attorney for the Government;
- (II) the attorney for the defendant;
- (III) the child's attorney or guardian ad litem appointed under subsection (h);
- (IV) persons necessary to operate the videotape equipment;
- (V) subject to clause (iv), the defendant; and
- (VI) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

The defendant shall be afforded the rights applicable to defendants during trial, including the right to an attorney, the right to be confronted with the witness against

the defendant, and the right to cross-examine the child.

(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of the defendant, the court may order that the defendant, including a defendant represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that the defendant be excluded from the deposition room, the court shall order that 2-way closed circuit television equipment relay the defendant's image into the room in which the child is testifying, and the child's testimony into the room in which the defendant is viewing the proceeding, and that the defendant be provided with a means of private, contemporaneous communication with the defendant's attorney during the deposition.

(v) Handling of videotape. The complete record of the examination of the child, including the image and voices of all persons who in any way participate in the examination, shall be made and preserved on video tape in addition to being stenographically recorded. The videotape shall be transmitted to the clerk of the court in which the action is pending and shall be made available for viewing to the prosecuting attorney, the defendant, and the defendant's attorney during ordinary business hours.

(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal including Supreme Court review. The videotape shall become part of the court record and be kept by the court until it is destroyed.

(c) Competency examinations.

(1) Effect of Federal Rules of Evidence. Nothing in this subsection shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

(2) Presumption. A child is presumed to be competent.

(3) Requirement of written motion. A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

(4) Requirement of compelling reasons. A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

(5) Persons permitted to be present. The only persons who may be permitted to be present at a competency examination are—

(A) the judge;

- (B) the attorney for the Government;
 - (C) the attorney for the defendant;
 - (D) a court reporter; and
 - (E) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.
- (6) Not before jury. A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.
- (7) Direct examination of child. Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorney for the Government and the attorney for the defendant including a party acting as an attorney pro se. The court may permit an attorney but not a party acting as an attorney pro se to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.
- (8) Appropriate questions. The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.
- (9) Psychological and psychiatric examinations. Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.
- (d) Privacy protection.
- (1) Confidentiality of information.
- (A) A person acting in a capacity described in subparagraph (B) in connection with a criminal proceeding shall—
- (i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and
 - (ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information.
- (B) Subparagraph (A) applies to—
- (i) all employees of the Government connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the Government to provide assistance in the proceeding;
 - (ii) employees of the court;
 - (iii) the defendant and employees of the defendant, including the attorney for the defendant and persons hired by the defendant or the attorney for the defendant to provide assistance in the proceeding; and
 - (iv) members of the jury.
- (2) Filing under seal. All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court—
- (A) the complete paper to be kept under seal; and
 - (B) the paper with the portions of it that disclose the name of or other information

concerning a child redacted, to be placed in the public record.

(3) Protective orders.

(A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

(B) A protective order issued under subparagraph (A) may—

(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

(ii) provide for any other measures that may be necessary to protect the privacy of the child.

(4) Disclosure of information. This subsection does not prohibit disclosure of the name of or other information concerning a child to the defendant, the attorney for the defendant, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

(e) Closing the courtroom. When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate. Such an order shall be narrowly tailored to serve the Government's specific compelling interest.

(f) Victim impact statement. In preparing the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, the probation officer shall request information from the multidisciplinary child abuse team and other appropriate sources to determine the impact of the offense on the child victim and any other children who may have been affected. A guardian ad litem appointed under subsection (h) shall make every effort to obtain and report information that accurately expresses the child's and the family's views concerning the child's victimization. A guardian ad litem shall use forms that permit the child to express the child's views concerning the personal consequences of the child's victimization, at a level and in a form of communication commensurate with the child's age and ability.

(g) Use of multidisciplinary child abuse teams.

(1) In general. A multidisciplinary child abuse team shall be used when it is feasible to do so. The court shall work with State and local governments that have established multidisciplinary child abuse teams designed to assist child victims and child witnesses, and the court and the attorney for the Government shall consult with the multidisciplinary child abuse team as appropriate.

(2) Role of multidisciplinary child abuse teams. The role of the multidisciplinary child abuse team shall be to provide for a child services that the members of the team in their professional roles are capable of providing, including—

(A) medical diagnoses and evaluation services, including provision or interpretation of x-rays, laboratory tests, and related services, as needed, and documentation of findings;

- (B) telephone consultation services in emergencies and in other situations;
- (C) medical evaluations related to abuse or neglect;
- (D) psychological and psychiatric diagnoses and evaluation services for the child, parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child victim or child witness case;
- (E) expert medical, psychological, and related professional testimony;
- (F) case service coordination and assistance, including the location of services available from public and private agencies in the community; and
- (G) training services for judges, litigators, court officers and others that are involved in child victim and child witness cases, in handling child victims and child witnesses.

(h) Guardian ad litem.

(1) In general. The court may appoint, and provide reasonable compensation and payment of expenses for, a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

(2) Duties of guardian ad litem. A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. (The extent of access to grand jury materials is limited to the access routinely provided to victims and their representatives.) A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

(3) Immunities. A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties described in paragraph (2).

(i) Adult attendant. A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child. The image of the child attendant, for the time the child is testifying or being deposed, shall be recorded on videotape.

(j) Speedy trial. In a proceeding in which a child is called to give testimony, on motion by the attorney for the Government or a guardian ad litem, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the court shall, consistent with these rules, expedite the proceeding and ensure that it takes precedence over any other. The court shall ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement with the criminal process. When deciding whether to grant a continuance,

the court shall take into consideration the age of the child and the potential adverse impact the delay may have on the child's well-being. The court shall make written findings of fact and conclusions of law when granting a continuance in cases involving a child.

(k) Stay of civil action. If, at any time that a cause of action for recovery of compensation for damage or injury to the person of a child exists, a criminal action is pending which arises out of the same occurrence and in which the child is the victim, the civil action shall be stayed until the end of all phases of the criminal action and any mention of the civil action during the criminal proceeding is prohibited. As used in this subsection, a criminal action is pending until its final adjudication in the trial court.

(l) Testimonial aids. The court may permit a child to use anatomical dolls, puppets, drawings, mannequins, or any other demonstrative device the court deems appropriate for the purpose of assisting a child in testifying.

(m) Prohibition on reproduction of child pornography.

(1) In any criminal proceeding, any property or material that constitutes child pornography (as defined by section 2256 of this title [18 USCS § 2256]) shall remain in the care, custody, and control of either the Government or the court.

(2)

(A) Notwithstanding Rule 16 of the Federal Rules of Criminal Procedure, a court shall deny, in any criminal proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes child pornography (as defined by section 2256 of this title [18 USCS § 2256]), so long as the Government makes the property or material reasonably available to the defendant.

(B) For the purposes of subparagraph (A), property or material shall be deemed to be reasonably available to the defendant if the Government provides ample opportunity for inspection, viewing, and examination at a Government facility of the property or material by the defendant, his or her attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial.

(3) In any criminal proceeding, a victim, as defined under section 2259(c)(4), shall have reasonable access to any property or material that constitutes child pornography, as defined under section 2256(8), depicting the victim, for inspection, viewing, and examination at a Government facility or court, by the victim, his or her attorney, and any individual the victim may seek to qualify to furnish expert testimony, but under no circumstances may such child pornography be copied, photographed, duplicated, or otherwise reproduced. Such property or material may be redacted to protect the privacy of third parties.

[Added Nov. 29, 1990, P. L. 101-647, Title II, Subtitle D, § 225(a), 104 Stat. 4798; Sept. 13, 1994, P. L. 103-322, Title XXXIII, §§ 330010(6), (7), 330011(e), 330018(b), 108 Stat. 2143, 2145, 2149; Oct. 11, 1996, P. L. 104-294, Title VI, § 605(h), 110 Stat. 3510; July 27, 2006, P. L. 109-248, Title V, §§ 504, 507, 120 Stat. 629, 631; May 7, 2009, P. L. 111-16, § 3(11), 123 Stat. 1608; Dec. 7, 2018, P.L. 115-299, § 6, 132 Stat. 4388.]

18 U.S.C. § 3663. Order of restitution

(a) (1) (A) The court, when sentencing a defendant convicted of an offense under this title, section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863) (but in no case shall a participant in an offense under such sections be considered a victim of such offense under this section), or section 5124, 46312, 46502, or 46504 of title 49, other than an offense described in section 3663A(c) [18 USCS § 3663A(c)], may order, in addition to or, in the case of a misdemeanor, in lieu of any other penalty authorized by law, that the defendant make restitution to any victim of such offense, or if the victim is deceased, to the victim's estate. The court may also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.

(B)

(i) The court, in determining whether to order restitution under this section, shall consider—

(I) the amount of the loss sustained by each victim as a result of the offense; and

(II) the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate.

(ii) To the extent that the court determines that the complication and prolongation of the sentencing process resulting from the fashioning of an order of restitution under this section outweighs the need to provide restitution to any victims, the court may decline to make such an order.

(2) For the purposes of this section, the term "victim" means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.

(3) The court may also order restitution in any criminal case to the extent agreed to by the parties in a plea agreement.

(b) The order may require that such defendant—

(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

(A) return the property to the owner of the property or someone designated by the owner; or

(B) if return of the property under subparagraph (A) is impossible, impractical, or inadequate, pay an amount equal to the greater of—

(i) the value of the property on the date of the damage, loss, or destruction, or

(ii) the value of the property on the date of sentencing,

less the value (as of the date the property is returned) of any part of the property that is returned;

(2) in the case of an offense resulting in bodily injury to a victim including an offense under

chapter 109A or chapter 110 [18 USCS § 2241 et seq. or 2251 et seq.]—

(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

(C) reimburse the victim for income lost by such victim as a result of such offense;

(3) in the case of an offense resulting in bodily injury also results in the death of a victim, pay an amount equal to the cost of necessary funeral and related services;

(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense;

(5) in any case, if the victim (or if the victim is deceased, the victim's estate) consents, make restitution in services in lieu of money, or make restitution to a person or organization designated by the victim or the estate; and

(6) in the case of an offense under sections 1028(a)(7) or 1028A(a) of this title [18 USCS §§ 1028(a)(7) or 1028A(a)], pay an amount equal to the value of the time reasonably spent by the victim in an attempt to remediate the intended or actual harm incurred by the victim from the offense.

(c)

(1) Notwithstanding any other provision of law (but subject to the provisions of subsections (a)(1)(B) (i)(II) and (ii) []), when sentencing a defendant convicted of an offense described in section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863), in which there is no identifiable victim, the court may order that the defendant make restitution in accordance with this subsection.

(2)

(A) An order of restitution under this subsection shall be based on the amount of public harm caused by the offense, as determined by the court in accordance with guidelines promulgated by the United States Sentencing Commission.

(B) In no case shall the amount of restitution ordered under this subsection exceed the amount of the fine which may be ordered for the offense charged in the case.

(3) Restitution under this subsection shall be distributed as follows:

(A) 65 percent of the total amount of restitution shall be paid to the State entity designated to administer crime victim assistance in the State in which the crime occurred.

(B) 35 percent of the total amount of restitution shall be paid to the State entity designated to receive Federal substance abuse block grant funds.

(4) The court shall not make an award under this subsection if it appears likely that such award would interfere with a forfeiture under chapter 46 or chapter 96 of this title [18 USCS §§ 981 et seq. or 1961 et seq.] or under the Controlled Substances Act (21 U.S.C. 801 et seq.).

(5) Notwithstanding section 3612(c) [18 USCS § 3612(c)] or any other provision of law, a penalty assessment under section 3013 [18 USCS § 3013] or a fine under subchapter C of chapter 227 [18 USCS §§ 3571 et seq.] shall take precedence over an order of restitution under this subsection.

(6) Requests for community restitution under this subsection may be considered in all plea agreements negotiated by the United States.

(7)

(A) The United States Sentencing Commission shall promulgate guidelines to assist courts in determining the amount of restitution that may be ordered under this subsection.

(B) No restitution shall be ordered under this subsection until such time as the Sentencing Commission promulgates guidelines pursuant to this paragraph.

(d) An order of restitution made pursuant to this section shall be issued and enforced in accordance with section 3664 [18 USCS § 3664].

[Added Oct. 12, 1982, P. L. 97-291, § 5(a), 96 Stat. 1253; Oct. 12, 1984, P. L. 98-473, Title II, Ch II, § 212(a)(1), (3), 98 Stat. 1987, 2010; Oct. 30, 1984, P. L. 98-596, § 9, 98 Stat. 3138; Nov. 10, 1986, P. L. 99-646, §§ 8(b), 20(a), 77(a), 78(a), 79(a), 100 Stat. 3593, 3596, 3618, 3619; Dec. 7, 1987, P. L. 100-182, § 13, 101 Stat. 1268; Dec. 11, 1987, P. L. 100-185, § 12, 101 Stat. 1285; Nov. 18, 1988, P. L. 100-690, Title VII, Subtitle B, § 7042, 102 Stat. 4399; Nov. 29, 1990, P. L. 101-647, Title XXV, Subtitle A, § 2509, Title XXXV, § 3595, 104 Stat. 4863, 4931; July 5, 1994, P. L. 103-272, § 5(e)(12), 108 Stat. 1374; Sept. 13, 1994, P. L. 103-322, Title IV, Subtitle E, §§ 40504, 40505, 108 Stat. 1947; April 24, 1996, P. L. 104-132, Title II, Subtitle A, § 205(a), 110 Stat. 1229; Oct. 11, 1996, P. L. 104-294, Title VI, §§ 601(r)(1), (2), 605(l), 110 Stat. 3502, 3510; Oct. 17, 2000, P. L. 106-310, Div B, Title XXXVI, Subtitle A, Part I, § 3613(c), 114 Stat. 1230; Aug. 10, 2005, P. L. 109-59, Title VII, Subtitle A, § 7128(b), 119 Stat. 1910; Sept. 26, 2008, P. L. 110-326, Title II, § 202, 122 Stat. 3561.]

§ 3663A. Mandatory restitution to victims of certain crimes

(a)

(1) Notwithstanding any other provision of law, when sentencing a defendant convicted of an offense described in subsection (c), the court shall order, in addition to, or in the case of a misdemeanor, in addition to or in lieu of, any other penalty authorized by law, that the defendant make restitution to the victim of the offense or, if the victim is deceased, to the victim's estate.

(2) For the purposes of this section, the term "victim" means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.

(3) The court shall also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.

(b) The order of restitution shall require that such defendant—

(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

(A) return the property to the owner of the property or someone designated by the owner;

or

(B) if return of the property under subparagraph (A) is impossible, impracticable, or inadequate, pay an amount equal to—

(i) the greater of—

(I) the value of the property on the date of the damage, loss, or destruction; or

(II) the value of the property on the date of sentencing, less

(ii) the value (as of the date the property is returned) of any part of the property that is returned;

(2) in the case of an offense resulting in bodily injury to a victim—

(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

(C) reimburse the victim for income lost by such victim as a result of such offense;

(3) in the case of an offense resulting in bodily injury that results in the death of the victim, pay an amount equal to the cost of necessary funeral and related services; and

(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

(c)

(1) This section shall apply in all sentencing proceedings for convictions of, or plea agreements relating to charges for, any offense—

(A) that is—

(i) a crime of violence, as defined in section 16 [18 USCS § 16];

(ii) an offense against property under this title, or under section 416(a) of the Controlled Substances Act (21 U.S.C. 856(a)), including any offense committed by fraud or deceit;

(iii) an offense described in section 1365 [18 USCS § 1365] (relating to tampering with consumer products); or

(iv) an offense under section 670 [18 USCS § 670] (relating to theft of medical products); and

(B) in which an identifiable victim or victims has suffered a physical injury or pecuniary loss.

(2) In the case of a plea agreement that does not result in a conviction for an offense described in paragraph (1), this section shall apply only if the plea specifically states that an offense listed under such paragraph gave rise to the plea agreement.

(3) This section shall not apply in the case of an offense described in paragraph (1)(A)(ii) if the court finds, from facts on the record, that—

(A) the number of identifiable victims is so large as to make restitution impracticable; or

(B) determining complex issues of fact related to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process.

(d) An order of restitution under this section shall be issued and enforced in accordance with 18 USCS § 3664. *[Added April 24, 1996, P. L. 104-132, Title II, Subtitle A, § 204(a), 110 Stat. 1227; Oct. 17, 2000, P. L. 106-310, Div B, Title XXXVI, Subtitle A, Part I, § 3613(d), 114 Stat. 1230; Oct. 5, 2012, P. L. 112-186, § 6, 126 Stat. 1430.]*



Office for Victims of Crime

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Helping Crime Survivors Find Their Justice

What do we do?

The Office for Victims of Crime (OVC) awards millions of dollars annually in victim compensation and assistance in every U.S. state and some territories, as well as for training, technical assistance, and other capacity-building programs to enhance service providers' ability to support victims of crime in communities across the Nation. We also connect victim service providers and crime victims with resources, develop research-informed training and publications, and support innovative programs, promising practices, and resource centers.

In all that we do, we make every effort to ensure *all* victims of crime have access to rights, options, and services that are delivered in culturally relevant, victim-centered, and trauma-informed ways.

Formula Funding

OVC administers the [Victims of Crime Act \(VOCA\)](#) [formula grant programs](#) to states and territories for supporting crime victim compensation and

Formation of OVC

Created in 1983 to implement recommendations from the President's Task Force on Victims of Crime, the Office for Victims of Crime (OVC) was authorized in 1988 through an amendment to the [Victims of Crime Act](#) of 1984 to administer the [Crime Victims Fund](#).

The Crime Victims Fund

The [Crime Victims Fund](#) (CVF), established by the [Victims of Crime Act of 1984](#), is composed primarily of fines, penalties, special assessments, and bond forfeitures from federal convictions, not tax dollars. The CVF supports thousands of programs annually with millions of dollars invested in services provided directly to crime victims who have suffered physical, emotional, and financial harm from victimization.





assistance—the cornerstone of support for victims throughout the Nation. OVC is also charged by Congress with administering set-aside funds from the Crime Victims Fund for a [Tribal Victim Services Set-Aside program](#) that provides support to Tribal communities to enhance services for victims of crime.

Discretionary Funding

Organizations compete for OVC's [discretionary funds](#) by [applying](#) for specific funding opportunities designed to support local victim service providers or national-scope demonstration and service projects. Funds are distributed directly to the recipient organizations. OVC's [most recent awards](#) have included funding to advance hospital-based victim services, to expand Sexual Assault Nurse Examiner services, and to enhance access to services for all victims of crime including people with disabilities and with limited English proficiency.

OVC also disseminates Trafficking Victims Protection Act funding, making OVC the largest federal funder of anti-trafficking programs in the United States. OVC funding supports services for adult and minor survivors of sex and labor trafficking, including housing, health, education, employment, and legal services.

Learn More

- Listing of OVC-funded projects: ovc.ojp.gov/funding/awards
- Funding opportunities: ovc.ojp.gov/funding/current-funding-opportunities
- The application process: <https://justicegrants.usdoj.gov/>
- Training and technical assistance: ovc.ojp.gov/training-and-technical-assistance
- Events: ovc.ojp.gov/events
- OVC programs and initiatives: ovc.ojp.gov/programs
- Help for victims: ovc.ojp.gov/help-for-victims/overview
- Responding to mass violence incidents: ovc.ojp.gov/program/terrorism-mass-violence/overview
- 2023 Report to the Nation: <https://ovc.ojp.gov/2023-report-nation>

Mission

OVC is committed to enhancing the Nation's capacity to assist crime victims and to providing leadership in changing attitudes, policies, and practices to promote justice and healing for all victims of crime.

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- **Other Resources**

- ▶ **PowerPoint: “Crime Victim Rights and Victim Assistance in Indiana” (07/01/2020) by Steve Stewart, Clark County Deputy Prosecuting Attorney.**
- ▶ **Victim Advocate Handbook: A Reference and Resource Guide for Victim Advocates, Office of the Indiana Attorney General, Victim Services and Outreach Division 2016.**
- ▶ **Domestic Violence in Indiana: 2017 Offender Overview, Indiana Criminal Justice Institute, Research & Planning Division.**
- ▶ **Mary Margaret Giannini, The Swinging Pendulum of Victims’ Rights: The Enforceability of Indiana’s Victims’ Rights Laws, 34 Indiana Law Review 1157 (2001).**
- ▶ **Paul G. Cassell and Margaret Garvin, Protecting Crime Victims in State Constitutions: The Example of the New Marsy’s Law for Florida, 110 J. CRIM. L. & CRIMINOLOGY 99 (Spring 2020).**
- ▶ **Fundamentals Of Victims’ Rights: A Summary of 12 Common Victims’ Rights, National Crime Victim Law Institute, Victim Law Bulletin 2011.**
- ▶ **Miguel A. Méndez, The Victims’ Bill of Rights - Thirty Years Under Proposition 8, 25 Stanford Law & Policy Review 379 (2014).**
- ▶ **Finally Getting Victims Their Due: A Process Evaluation of the NCVLI Victims’ Rights Clinics, by Robert C. Davis, James Anderson, Julie Whitman, Susan Howley, National Center for Victims of Crime (2009).**
- ▶ **A Courtroom for All: Creating Child and Adolescent-Fair Courtrooms, by Allie Phillips, and Susanne Walters. (National District Attorneys Association 2013).**

Victim Rights Organizations and Agencies (websites, contact information)

**Indiana Attorney General
Victim Services and Outreach Division**
<https://www.in.gov/attorneygeneral/2340.htm>
Indiana Government Center South
302 W. Washington St., 5th Floor
Indianapolis, IN 46204
Phone: (317) 232-6201
Fax: (317) 232-7979

Indiana Coalition Against Domestic Violence (ICADV)
<https://icadvinc.org/>
1915 West 18th Street, Suite B
Indianapolis, IN 46202
(317) 917-3685

**Indiana Coalition to End Sexual Assault
and Human Trafficking (ICESAHT)**
<https://icesaht.org/>
9245 North Meridian Street
Suite 227
Indianapolis, IN 46260
317-624-2370

Indiana Coalition for Crime Victims Rights (ICCVR)
<https://www.facebook.com/ICCVR>

The Center for Women & Families
<http://www.thecenteronline.org/>
P.O. Box 248
Sellersburg, IN 47172
Phone: (812) 944-6743

**Indiana Criminal Justice Institute (ICJI)
Victim Services Division**
<https://www.in.gov/cji/2328.htm>
Devon McDonald, Executive Director
Kim Lambert, Victim Services Director
101 W Washington Street Suite 1170
Indianapolis, IN 46204
(317) 232-1233

Indiana Violent Crime Victim Compensation Fund (ICVI)
<https://www.in.gov/cji/2333.htm>

Indiana Sex and Violent Offender Registry
<https://www.icrimewatch.net/indiana.php>

Indiana Protection Order Forms and Registry
<https://www.in.gov/judiciary/admin/2654.htm>

Indiana Department of Correction Offender Search
<https://www.in.gov/apps/indcorrection/ofs/ofs>

**Indiana Victim Information and Notification
Everyday (VINE) for County Jails**
<https://www.vinelink.com/classic/#/home/site/15000>
(866) 959-8463

**Indiana Statewide Automated Victim
Information & Notification (SAVIN) for IDOC**
<https://indianasavin.in.gov>

**National Crime Victim Law Institute (NCVLI)
Lewis & Clark Law School**
https://law.lclark.edu/centers/national_crime_victim_law_institute
10101 S. Terwilliger Boulevard
Portland, Oregon 97219
(503) 768-6600

**U.S. Department of Justice
Office for Victims of Crime (OVC)**
<https://ovc.ojp.gov/>
810 7th St. NW, 2d Floor
Washington, D.C. 20531
(202) 307-5983

**Office for Victims of Crime
Training and Technical Assistance Center**
9300 Lee Highway
Fairfax, VA 22031-6050
(866) 682-8822
TTAC@ovcttac.org
<https://victimlaw.org>

**National Criminal Justice
Reference Service (NCJRS) - Victims**
<https://www.ncjrs.gov/App/Topics/Topic.aspx?TopicID=179>

National Organization for Victim Assistance (NOVA)
<https://www.trynova.org/>
Claire Ponder Selib, Executive Director
510 King Street, Suite 424
Alexandria, VA 22314
(703) 535-6682

Mothers Against Drunk Driving (MADD) - Indiana
<https://www.madd.org/indiana/>
(317) 781-6233
in.state@madd.org
madd.org/in

Wisconsin Office of Crime Victim Services

<https://www.doj.state.wi.us/ocvs>

Prevent Child Abuse Clark / Floyd

<https://www.facebook.com/PCAclarkfloyd/?pnref=lhs>

Clark County Victim Assistance

<https://www.clarkprosecutor.org/html/victim/victim.htm>

(812) 285-6264

Monroe County Victim Assistance

www.monroeprosecutor.us/victims-assistance-program/

(812)349-2893

Elkhart County Victim Assistance

www.elkhartcountyprosecutor.com/programs-services/victim-assistance

(574) 523-2237

Allen County Victim Assistance

<http://www.allencountyprosecutor.com/criminal/victimnotification.html>

602 South Calhoun Street

Fort Wayne, IN 46802

Phone (260) 449-7641

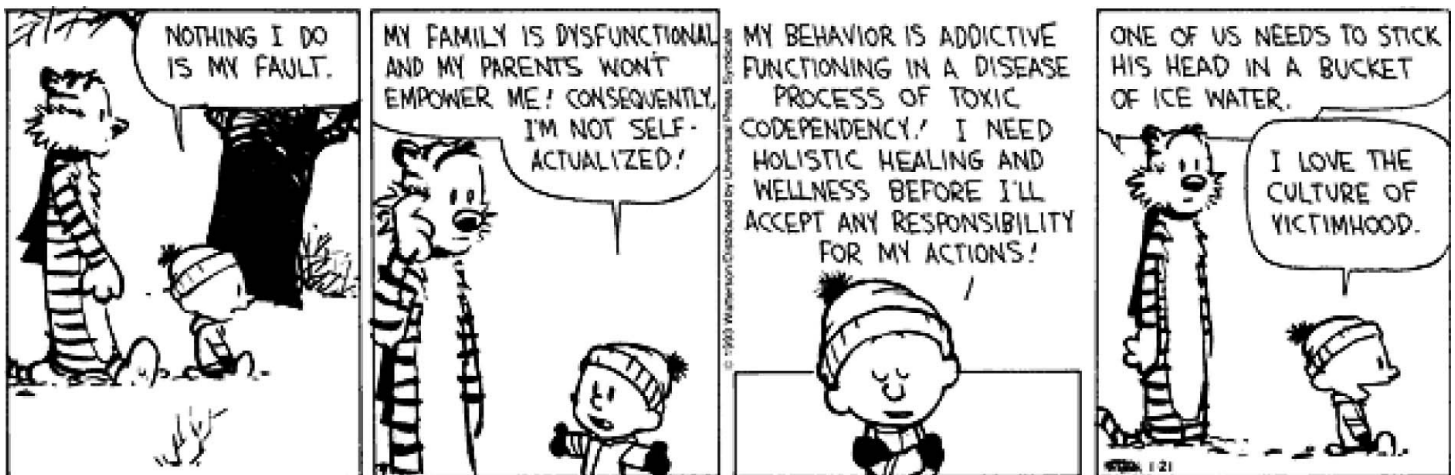
Vanderburgh County Victim Assistance

http://www.vanderburghprosecutor.org/?page_id=92

(812) 435-5158

Victim Services Links (national, state) by Appriss

<http://vine-ng.pdf.prod.appriss.com.s3-website-us-east-1.amazonaws.com/VictimResources.pdf>



Thoughts about victims, crime, punishment and justice.

Everybody wants to be a victim, don't they? Or at least identified as a victim. After all, it immediately engenders a strong feeling of sympathy towards you. It makes you the center of attention. People who are ordinarily indifferent to you are suddenly friendly, kind, and generous. It offers up to you an automatic excuse for very destructive behavior, and gives you a socially and personally acceptable explanation for any future failure you may experience.

Curiously, as a victim you feel a sincere kinship with all others who have been victimized the same way you have, and you are much more likely to believe in their victimization. In fact, you tend to unquestionably accept any person and any story that mirrors yours. As a group, you begin to carry this victim's burden like a badge of honor that shapes everything you do in life. You are now a social warrior speaking out on behalf of all victims. After all, how can anyone really understand what you have gone through, without having been a victim themselves? Other victims - they just want to forget.

Are you any less a victim if you made bad choices, surrounded yourself with bad people, and failed to take even elementary precautions to reduce your risk of becoming a victim? Are you any less a victim if you were insulting, rude, disrespectful or verbally abusive to someone who escalates your words into violence upon you? Should a victim ever be blamed? Should we not direct our focus upon the abuser who commits a crime, instead of on the victim's shortcomings or possible failure to foresee a criminal response.

Yes, there really are unprovoked and horrific criminal acts committed upon truly innocent victims. Yes, there really is evil in the world. If you don't see it, you're not looking. Sometimes, all the therapy, counseling, mediation, community service and probation in the world will not result in rehabilitation of the criminal, nor justice for the victim. But aren't we taught that no person is evil, and that only the horrific acts they commit are evil? And therefore, we should seek to reform and rehabilitate the person, rather than concentrating on punishment. At some point, does it really make any difference? At some point, the offender has forfeited their right to live amongst us. Why should society have to risk the probable future victimization of more innocent victims, all for the sake of the criminal. Should our primary objective not be to isolate and incapacitate the criminal for as long as possible?

Should the victim be the one who decides what the appropriate punishment should be for the criminal? It sounds reasonable. We should remove the government bureaucrat from the equation and allow the common sense of the victim to prevail. All the stakeholders should get together and talk in hopes of reaching a consensus. Some victims are full of Jesus and forgiveness, and do not want to judge the one who caused their suffering. Others want the criminal to have a second or third chance and probation, because the Defendant looks just like and reminds them of the boy next door or their nephew Stanley. Others demand the maximum possible sentence under the harshest conditions and longest term in prison.

How can anything close to justice ever result if the punishment for exactly similar cases is so completely different, and is decided by the level of kindness and forgiveness of the victim?

My basic philosophy as a Prosecuting Attorney was that it was far more important for there to be consistent sentences for similar criminal acts, and for there to be strongly aggravated sentences for repeat offenders. The result, in the final analysis, is a fairer one, and one which results in greater deterrence - and in the long term, greater justice.

There must also be a practical recognition that not all criminals can be or should be sent to prison at all, whether based upon financial reasons or the existence of other mitigating circumstances. Understandably, this recognition often does not go over well with many victims.

The Prosecutor is there to keep the criminals from winning. To help stop the criminals from preying upon and victimizing the rest of society, especially the weak and powerless. The criminals are the bullies, with very little reason to care, and who will continue as long as they can get away with it.

I do have a word or two about restitution. It is often a sincere attempt to "make the victim whole." I understand that. But doesn't it put those offenders who are truly poor at a great disadvantage to others who have wealth, or at least wealthy families. Favorable terms on a Plea Agreement often follow an offer of full restitution. On the other hand, some victims are in dire financial difficulty even before becoming a victim, and if they suffer serious losses as a result of a crime, they stand to lose everything without restitution. So, is the answer to limit restitution to cases where the Defendant has financial resources and the victim is indigent?

Almost always: If you cannot convince the victim that a certain Plea Agreement is the right path to follow, it likely is not the right path. Sometimes there are no "right" answers to these difficult questions. There is no perfect solution. There is no complete and true justice for everyone involved. It's hard. All you can do is try to be fair, honest, and reasonable and to do the right thing!

(Al Pacino in Scent of a Woman (1992) - "I always knew what the right path was. Without exception, I knew, but I never took it. You know why? It was too damn hard.")