



January 19, 2017

SENATE BILL No. 314

DIGEST OF SB 314 (Updated January 18, 2017 11:20 am - DI 106)

Citations Affected: IC 34-26.

Synopsis: Protective orders concerning animals. Allows a court to grant an order of protection to: (1) grant possession and care of an animal to a petitioner; (2) prohibit a respondent from taking action against the animal; and (3) direct a law enforcement officer to accompany the petitioner to retrieve the animal.

Effective: July 1, 2017.

Becker, Hershman, Grooms

January 9, 2017, read first time and referred to Committee on Judiciary.
January 18, 2017, amended, reported favorably — Do Pass.

SB 314—LS 6230/DI 128



January 19, 2017

First Regular Session 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

SENATE BILL No. 314

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

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

- 1 SECTION 1. IC 34-26-5-9, AS AMENDED BY P.L.1-2010,
2 SECTION 135, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) If it appears from a petition
4 for an order for protection or from a petition to modify an order for
5 protection that domestic or family violence has occurred or that a
6 modification of an order for protection is required, a court may:
7 (1) without notice or hearing, immediately issue an order for
8 protection ex parte or modify an order for protection ex parte; or
9 (2) upon notice and after a hearing, whether or not a respondent
10 appears, issue or modify an order for protection.
11 (b) A court may grant the following relief without notice and
12 hearing in an ex parte order for protection or in an ex parte order for
13 protection modification:
14 (1) Enjoin a respondent from threatening to commit or
15 committing acts of domestic or family violence against a
16 petitioner and each designated family or household member.
17 (2) Prohibit a respondent from harassing, annoying, telephoning,

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- 1 contacting, or directly or indirectly communicating with a
 2 petitioner.
- 3 (3) Remove and exclude a respondent from the residence of a
 4 petitioner, regardless of ownership of the residence.
- 5 (4) Order a respondent to stay away from the residence, school, or
 6 place of employment of a petitioner or a specified place
 7 frequented by a petitioner and each designated family or
 8 household member.
- 9 **(5) Order that a petitioner has the exclusive possession, care,
 10 custody, or control of any animal owned, possessed, kept, or
 11 cared for by the petitioner, respondent, minor child of either
 12 the petitioner or respondent, or any other family or household
 13 member.**
- 14 **(6) Prohibit a respondent from removing, transferring,
 15 injuring, concealing, harming, attacking, mistreating,
 16 threatening to harm, or otherwise disposing of an animal
 17 described in subdivision (5).**
- 18 ~~(7)~~ (7) Order possession and use of the residence, an automobile,
 19 and other essential personal effects, regardless of the ownership
 20 of the residence, automobile, and essential personal effects. If
 21 possession is ordered under this subdivision **or subdivision (5)**,
 22 the court may direct a law enforcement officer to accompany a
 23 petitioner to the residence of the parties to:
- 24 (A) ensure that a petitioner is safely restored to possession of
 25 the residence, automobile, **animal**, and other essential
 26 personal effects; or
- 27 (B) supervise a petitioner's or respondent's removal of personal
 28 belongings **and animal**.
- 29 ~~(8)~~ (8) Order other relief necessary to provide for the safety and
 30 welfare of a petitioner and each designated family or household
 31 member.
- 32 (c) A court may grant the following relief after notice and a hearing,
 33 whether or not a respondent appears, in an order for protection or in a
 34 modification of an order for protection:
- 35 (1) Grant the relief under subsection (b).
- 36 (2) Specify arrangements for parenting time of a minor child by
 37 a respondent and:
- 38 (A) require supervision by a third party; or
 39 (B) deny parenting time;
 40 if necessary to protect the safety of a petitioner or child.
- 41 (3) Order a respondent to:
- 42 (A) pay attorney's fees;



- 1 (B) pay rent or make payment on a mortgage on a petitioner's
 2 residence;
 3 (C) if the respondent is found to have a duty of support, pay
 4 for the support of a petitioner and each minor child;
 5 (D) reimburse a petitioner or other person for expenses related
 6 to the domestic or family violence, including:
 7 (i) medical expenses;
 8 (ii) counseling;
 9 (iii) shelter; and
 10 (iv) repair or replacement of damaged property;
 11 (E) pay the costs and expenses incurred in connection with the
 12 use of a GPS tracking device under subsection (i); or
 13 (F) pay the costs and fees incurred by a petitioner in bringing
 14 the action.
- 15 (4) Prohibit a respondent from using or possessing a firearm,
 16 ammunition, or a deadly weapon specified by the court, and direct
 17 the respondent to surrender to a specified law enforcement agency
 18 the firearm, ammunition, or deadly weapon for the duration of the
 19 order for protection unless another date is ordered by the court.
- 20 An order issued under subdivision (4) does not apply to a person who
 21 is exempt under 18 U.S.C. 925.
- 22 (d) The court shall:
 23 (1) cause the order for protection to be delivered to the county
 24 sheriff for service;
 25 (2) make reasonable efforts to ensure that the order for protection
 26 is understood by a petitioner and a respondent if present;
 27 (3) electronically notify each law enforcement agency:
 28 (A) required to receive notification under IC 5-2-9-6; or
 29 (B) designated by the petitioner;
 30 (4) transmit a copy of the order to the clerk for processing under
 31 IC 5-2-9;
 32 (5) indicate in the order if the order and the parties meet the
 33 criteria under 18 U.S.C. 922(g)(8); and
 34 (6) require the clerk of court to enter or provide a copy of the
 35 order to the Indiana protective order registry established by
 36 IC 5-2-9-5.5.
- 37 (e) An order for protection issued ex parte or upon notice and a
 38 hearing, or a modification of an order for protection issued ex parte or
 39 upon notice and a hearing, is effective for two (2) years after the date
 40 of issuance unless another date is ordered by the court. The sheriff of
 41 each county shall provide expedited service for an order for protection.
 42 (f) A finding that domestic or family violence has occurred



1 sufficient to justify the issuance of an order under this section means
 2 that a respondent represents a credible threat to the safety of a
 3 petitioner or a member of a petitioner's household. Upon a showing of
 4 domestic or family violence by a preponderance of the evidence, the
 5 court shall grant relief necessary to bring about a cessation of the
 6 violence or the threat of violence. The relief may include an order
 7 directing a respondent to surrender to a law enforcement officer or
 8 agency all firearms, ammunition, and deadly weapons:

- 9 (1) in the control, ownership, or possession of a respondent; or
 10 (2) in the control or possession of another person on behalf of a
 11 respondent;

12 for the duration of the order for protection unless another date is
 13 ordered by the court.

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

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

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

- 23 (1) require a respondent to wear a GPS tracking device; and
 24 (2) prohibit the respondent from approaching or entering certain
 25 locations where the petitioner may be found.

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

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

32 SECTION 2. IC 34-26-5-10 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. (a) Except as
 34 provided in subsection (b), if a court issues:

- 35 (1) an order for protection ex parte; or
 36 (2) a modification of an order for protection ex parte;

37 and provides relief under section 9(b) of this chapter, upon a request by
 38 either party not more than thirty (30) days after service of the order or
 39 modification, the court shall set a date for a hearing on the petition. The
 40 hearing must be held not more than thirty (30) days after the request for
 41 a hearing is filed unless continued by the court for good cause shown.
 42 The court shall notify both parties by first class mail of the date and



- 1 time of the hearing.
- 2 (b) A court shall set a date for a hearing on the petition not more
3 than thirty (30) days after the filing of the petition if a court issues an
4 order for protection ex parte or a modification of an order of protection
5 ex parte and:
- 6 (1) a petitioner requests or the court provides relief under section
7 9(b)(3), 9(b)(5), ~~or 9(b)(6)~~, **9(b)(7), or 9(b)(8)** of this chapter; or
8 (2) a petitioner requests relief under section 9(c)(2), 9(c)(3), or
9 9(c)(4) of this chapter.
- 10 The hearing must be given precedence over all matters pending in the
11 court except older matters of the same character.
- 12 (c) In a hearing under subsection (a) or (b):
- 13 (1) relief under section 9 of this chapter is available; and
14 (2) if a respondent seeks relief concerning an issue not raised by
15 a petitioner, the court may continue the hearing at the petitioner's
16 request.



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 314, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 11, delete "or".

Page 2, line 12, delete "respondent." and insert "**respondent, or any other family or household member.**".

Page 2, line 13, after "removing," insert "**transferring,**".

Page 2, line 14, after "harming," insert "**attacking, mistreating, threatening to harm,**".

Page 2, line 14, after "or" insert "**otherwise**".

and when so amended that said bill do pass.

(Reference is to SB 314 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

