

IC 34-26-6

Chapter 6. Workplace Violence Restraining Orders

IC 34-26-6-0.5

Application

Sec. 0.5. 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"

Sec. 1. 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"

Sec. 2. 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"

Sec. 3. 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"

Sec. 4. 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"

Sec. 5. 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

Sec. 6. 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

Sec. 7. 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**

Sec. 8. 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**

Sec. 9. 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**

Sec. 10. 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**

Sec. 11. 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

Sec. 12. 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

Sec. 13. (a) The division of state court 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 division of state court 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 division of state court 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 division of state court 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.

IC 34-26-6-14

Fees

Sec. 14. 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

Sec. 15. 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.