



Legally Brief-FACT SHEET:

PO Jurisdiction: Where Survivors Can File for a Protection Order

Have you ever tried to help a survivor file for a PO only to have the screening clerk or court representative tell you it can't be filed there and to "go back to XXX county?"

It happens all the time and it's frustrating for all, but most importantly it is disheartening and discouraging for the survivor you are working with.

And often it's just wrong.

Indiana's Civil Protective Order Act (ICPOA, IC 34-26-5 et seq.) specifically gives survivors flexibility in where to file, specifically to protect their safety:

34-26-5-4. Jurisdiction.

- (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) [IC 34-26-5-2(b) or IC 34-26-5-2(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.

What this means: a survivor who has to flee their home county to seek safety can file where they flee; it does NOT mean any divorce or paternity case will follow, or that the PO action won't be moved later to an existing divorce or paternity court, but it does allow for flexibility with the intention of keeping that person safe.

It is important to know that Indiana law mandates that the same judge that hears allegations of DV is also the judge hearing the divorce/paternity issue, so the PO WILL be transferred to that court where the divorce or paternity is.

For more information or with questions, please contact ICADV Legal Counsel Kerry Hyatt Bennett at kbennett@icadvinc.org