

Domestic Violence Network

2010 Session of the Indiana General Assembly

Final legislative report: March 19, 2010

After a very contentious final 2 weeks, the Indiana General Assembly adjourned sine die in the early morning of March 13, 2010. At the end, 115 pieces of legislation passed the legislature. This extremely low number can be ascribed partly to budgetary woes, which killed any bill with a listed fiscal impact. Also, the parties in control of the Indiana House and Senate next year will draw election district maps, establishing the state political landscape for the next 10 years. Consequently, there was an intensified level of political rancor as legislators vied for issue sound bites going into November's critical elections.

This session was extremely active relating to issues affecting those who experience domestic violence. We were able to obtain passage of two pieces of legislation, and to also secure amendments in many other bills. First was enactment of a change to HIV testing law so that Indiana is in compliance with federal law and will no longer be penalized by withholding of federal funds for programs addressing domestic violence and sexual assault. Thanks for this change is owed primarily to Rep. Linda Lawson, but with gratitude also to Sen. Brent Steele, Sen. Vaneta Becker, and Rep. Scott Reske for helping see this language through to passage. Initially the change in HIV testing law was amended by Rep. Lawson into **HB 1276**, and passed both the House and Senate. However, during conference committee, **HB 1276** was stripped to provide a home for French Lick gambling language, and Rep. Lawson and Rep. Reske helped amend the HIV testing language into Rep. Reske's bill relating to no contact orders: **HB 1234**, which the Governor signed yesterday. **HB 1234** also provides that if a person charged with a violent crime is released on bail without a hearing that bail conditions must include a no contact order for ten days following release or the initial hearing, whichever is earlier; that a person charged with domestic violence may be required to wear a GPS as a condition of bail, enhancing last year's law allowing courts to order wearing of a GPS upon a finding that an order of protection has been violated; and that a court may require a person convicted of domestic battery to complete a certified batterer's intervention program.

Advocates also succeeded in securing passage of "Heather's Law": **SB 316**, with prodigious assistance from authors Sen. Earline Rogers and Sen. Dennis Kruse (also the Senate Education Committee Chair), and from sponsors Rep. Greg Porter (also the House Education Committee Chair) and Rep. Bob Behning. **SB 316** requires the Department of Education to develop a model dating violence curriculum for grades 6-12, and a model dating violence response policy by July 1, 2011, in consultation with organizations having expertise in domestic violence and sexual assault. The tireless heart and soul advocate for **SB 316** bill was Debbie Norris, whose daughter Heather was brutally murdered by a boyfriend she starting dating in high school.

Additionally, we were able to obtain and keep an exemption for domestic violence shelters in **HB 1065**, which prohibits most employers from having policies prohibiting employees from keeping guns in their cars at the workplace, a bill continually opposed by all employer groups and many human service providers (including domestic violence service providers). Further, **SB 163** (a child support enforcement bill) was amended to include continued address confidentiality for participants in the Attorney General's program, **SB 178** (a paternity affidavit/joint legal custody bill) was amended significantly (see summary below), and even though **SB 213** (immigration) ultimately died in the House, Sen. Boots and Sen. Delph agreed to amend **SB 213's** penalties relating to harboring and concealing to exempt providers who receive federal or state funding to provide services to a victim of domestic violence, sexual assault, human trafficking, or stalking.

Other new laws of interest are: **SB 222**, technically correcting differing versions of the protection order statutes created after last session, and **HB 1271**, allowing courts to create problem solving courts, including those for domestic violence. Summaries of these and other pieces of legislation in discussion through the end of session are listed below. Legislation that ultimately passed is followed by actions in bolded green print. Bills that died are followed by bolded italicized notations.

I. Priority Legislation

HB1234 No contact orders. (Reske, Becker, Lanane) Requires a court to include as a condition of bail the requirement that a defendant charged with a violent crime that results in bodily injury to a person refrain from any direct or indirect contact with the victim for 10 days after release or until the initial hearing, whichever occurs first, if the defendant is released to bail without the court having held a bail hearing in open court. Prohibits certain persons from making certain determinations concerning the remains of a decedent if the decedent had filed a protection order against the person and the protection order currently is in effect. Provides that a pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance may not dispense a controlled substance in a retail pharmacy to a person who is not personally known to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance unless the person taking possession of the controlled substance provides documented proof of the person's identification to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance. Provides that a court may require a person convicted of domestic battery to complete a certified batterer's intervention program. Provides that a court may require a person charged with domestic violence to wear a GPS tracking device as a condition of bail. Provides that 211 telephone services shall include assistance with parental stress issues. Specifies that: (1) records concerning communicable diseases may be disclosed; and (2) patient records that have been classified as confidential are not required to be made available for inspection after 75 years (as required for other confidential records). Sets parameters that a public agency must follow when creating exceptions for the disclosure of records. Provides an exception to the human immunodeficiency virus (HIV) testing consent statute. Provides that if a victim of certain crimes requests that a defendant be tested for HIV, the defendant must be tested.

03/04/2010 H: Conf Report Adopted(94-0) H

03/05/2010 S: Conf Report Adopted(48-2) S

03/18/2010 Signed by the Governor

SB0316 Dating violence education and policies. (Rogers, Kruse, Porter, Behning, Simpson) Requires the department of education, in collaboration with organizations that have expertise in dating violence, domestic violence, and sexual abuse, to develop or identify model dating violence educational materials and a model for dating violence response policies and reporting. Requires the department to make the model dating violence educational materials and model for dating violence response policies developed or identified available to assist schools with the implementation of dating violence education programs for grades 6 through 12 and dating violence response policies by July 1, 2011.

02/02/2010 S: 3rd Reading Pass (41-8)

02/25/2010 H: 3rd Reading Pass (66-31)

03/04/2010 H: Conf Report Adopted(82-14) H

03/04/2010 S: Conf Report Adopted(45-5) S

03/18/2010 Signed by the Governor

II. Other legislation affecting domestic violence

HB1065 Various provisions concerning firearms. (Bischoff, Nugent) Prohibits a person, including an individual, a corporation, and a governmental entity, from adopting or enforcing a policy or rule that prohibits or has the effect of prohibiting an employee of the person, including a contract employee, from legally possessing a firearm or ammunition that is locked in the trunk of the employee's vehicle, kept in the glove compartment of the employee's locked vehicle, or stored out of sight in the employee's locked vehicle while the vehicle is in or on the person's property, unless the firearm or ammunition requires a certain federal license to possess. **Exempts possession of a firearm or ammunition: (1) on school property, on property used by a school for a school function, or on a school bus; (2) on certain child care and shelter facility property; (3) on penal facility property; (4) in violation of federal law; (5) on property belonging to an approved postsecondary educational institution; (6) on the property of a domestic violence shelter; (7) at a person's residence; (8) on the property of a person that is subject to the United States Department of Homeland Security's Chemical Facility Anti-Terrorism Standards and licensed by the United States Nuclear Regulatory Commission; (9) on property owned by a public utility that generates and transmits electric power or a department of public utilities; and (10) in an employee's personal vehicle if the employee is a direct support professional who uses the employee's personal vehicle while transporting an individual with developmental disabilities.** Provides that a court does not have jurisdiction over an action that: (1) is brought against an employer who is in compliance with the prohibition against adoption or enforcement of a policy or rule that prohibits the possession of a firearm in a locked vehicle; and (2) is brought to recover for any injury or damage

resulting from the employer's compliance. Authorizes a person harmed by a violation to bring a civil action for damages, costs, attorney's fees, and injunctive relief to remedy a violation. Prohibits the state, a political subdivision, or any other person from prohibiting or restricting the lawful possession, transfer, sale, transportation, storage, display, or use of firearms or ammunition during a declared disaster emergency, energy emergency, or local disaster emergency, subject to exceptions that apply to the prohibition against adoption or enforcement of a policy or rule that prohibits the possession of a firearm in a locked vehicle. Repeals provisions that allow certain political subdivisions to adopt emergency ordinances to regulate firearms if a local disaster emergency has been declared. Deletes an outdated reference.

01/26/2010 H: 3rd Reading Pass (76-21)
02/22/2010 S: 3rd Reading Pass (41-9)
03/04/2010 H: Conf Report Adopted(75-20) H
03/04/2010 S: Conf Report Adopted(41-9) S
03/18/2010 Governor Signed

SB0178 Paternity affidavits. (Steele, VanDenburgh) Requires a paternity affidavit to contain: (1) a provision that allows the mother and the man identified as the father to agree to share joint legal custody of the child; (2) a statement explaining joint legal custody; (3) a provision stating that if the parties do not agree to share joint legal custody, the mother has sole legal custody; (4) a provision stating that even if the parties agree to share joint legal custody, the mother has primary physical custody; (5) a provision stating that an agreement to share joint legal custody is void unless the result of a genetic test performed by an accredited laboratory: (A) indicates that the man identified as the child's biological father is the child's biological father; and (B) is submitted to a local health officer not later than 60 days after the child's birth; and (6) a statement with signature lines that affirms that the child's mother or the person identified as the child's father, if less than 18 years of age, has had an opportunity to consult with an adult chosen by that individual. Provides that the man who is identified as the father has parenting time in accordance with the parenting time guidelines. Provides that, if a paternity affidavit is executed, the mother has primary physical custody of the child. Requires that an action to establish custody or parenting time brought by a party who has agreed in a paternity affidavit to share joint legal custody be tried de novo. Requires that a paternity affidavit be presented separately to the child's mother and the man who reasonably appears to be the child's biological father before it is signed. Provides that an agreement in the paternity affidavit to share joint legal custody is void if: (1) a genetic test performed by an accredited laboratory indicates that the man identified as the child's biological father is not the biological father of the child; or (2) the man fails to submit the genetic test results to a local health officer not later than 60 days after the date of the child's birth. Provides that an individual who: (1) is the child's mother or a man identified as the child's biological father; and (2) is less than 18 years of age; must be given the opportunity to consult with an adult chosen by the individual regarding the contents of the paternity affidavit before signing the affidavit.

03/04/2010 S: Conf Report Adopted(48-0) S
03/04/2010 H: Conf Report Adopted(90-0) H
03/12/2010 Governor Signed

HB1271 Courts. (Koch, Bray, Lanane, Head) Provides that certain courts may establish a problem solving court for alternative treatment and rehabilitation. Requires the board of directors of the judicial center to adopt rules for the certification and operation of problem solving courts. Repeals certain provisions regarding drug courts and reentry courts.

03/12/2010 S: Conf Report Adopted(37-13) S
03/12/2010 H: Conf Report Adopted(94-0) H
03/16/2010 H: Signed By the Speaker

SB0163 Various child support matters. (Bray, Zakas, L. Lawson) Requires persons who own or operate a river boat licensed as a gambling operation or a horse racetrack licensed for gambling games to withhold cash winnings of obligors for amounts the obligors are delinquent in child support. Allows persons who own or operate a river boat licensed as a gambling operation or a horse racetrack licensed for gambling games to deduct and retain an administrative fee in relation to withholding the obligor's delinquent child support. Requires the: (1) gaming commission to place on probationary status, suspend, and deny licenses for gambling games at horse racetracks; and (2) the alcohol and tobacco commission to place on probationary status, suspend, and deny employee's permits; of certain obligors who are delinquent in child support. Provides that a person whose driving license is suspended because of delinquent child support is not required to pay a reinstatement fee to have the person's driving license

reinstated. Provides that the child support bureau (bureau) and certain contractors of the bureau may be granted access to information in certain state systems and in certain records of state agencies and other entities, subject to policies adopted to prevent disclosure of certain law enforcement information. Requires a court to immediately withhold income under a child support order established in any proceeding. Provides that a parent, custodian or guardian of child who refuses to cooperate in: (1) a paternity action; or (2) the establishment or enforcement of a child support order; is subject to sanctions or revocation or suspension of Temporary Assistance for Needy Families. Requires a guardian or custodian of a child to make a good faith effort to cooperate with the bureau and certain other agencies regarding certain paternity and child support matters. Requires a custodial parent and noncustodial parent to provide certain information to the clerk of the court. Provides that a court may consider a child emancipated if the child is on active duty in the United States armed forces. (Current law provides that a court may consider a child emancipated if the child has joined the United States armed forces). Provides that the income withholding provisions apply to any proceeding in which child support is established. Requires an employer to transfer the National Medical Support Notice to the employer's health insurance plan within 20 days after the date of the National Medical Support Notice. Requires an income withholding order form to contain certain information. Provides that an income payor may not distribute income in a manner that would result in one of the current child support obligations not being honored. Provides that an income payor is not required to vary the income payor's normal pay and distribution cycles in order to comply with the income withholding provisions. Requires that a court or administrative agency deem due process met if certain requirements have been met. Provides that various persons are immune from civil and criminal liability for certain acts or for failures to act. Prohibits a person from disclaiming an interest in property up to the extent of the person's child support arrearage. Prohibits a court from considering a parent's absence or relocation due to active military duty as a factor in determining custody or permanently modifying a child custody order. Provides that if a court temporarily modifies a custody order due to a parent's active duty service, the order temporarily modifying the custody order terminates automatically not later than 10 days after the date the parent notifies the temporary custodian in writing that the parent has returned from active duty service. Makes a technical correction.

01/28/2010 **S: 3rd Reading** **Pass (48-0)**
02/25/2010 **H: 3rd Reading** **Pass (98-0)**
03/04/2010 **S: Ret 1st House** **Concur(49-0)**
03/11/2010 **Received** **Received by the Governor**

SB0222 Technical corrections. (Holdman, Bartlett) Resolves: (1) conflicts between differing 2009 amendments to Indiana Code sections; and (2) other technical problems in the Indiana Code, including incorrect statutory references, the presence in the Code of provisions that have expired by their own terms, nonstandard tabulation, the presence in the Code of references to sections that have been or are being repealed, grammatical problems, the absence of words needed for sense, and misspellings. Repeals certain sections of the Indiana Code that: (1) have expired by their own terms; (2) define certain terms for the purposes of other statutes that were previously repealed; (3) have no purpose apart from their relation to other statutes that have been repealed; (4) are repealed to resolve a conflict involving the enactment of different text at the same location in the Indiana Code; or (5) are repealed to correct errors concerning the alphabetical order of definitional provisions. (The introduced version of this bill was prepared by the code revision commission.)

01/28/2010 **S: 3rd Reading** **Pass (48-0)**
02/15/2010 **H: 3rd Reading** **Pass (91-2)**
03/12/2010 **Governor Signed**

HB1068 Access to handgun license information. (Welch, Steele, Deig, Walker) Provides that, for purposes of the law concerning access to public records: (1) information submitted by a person to obtain or renew a license to carry a handgun; (2) information obtained by a federal, state, or local government entity in the course of an investigation concerning a person who applies to obtain or renew a license to carry a handgun; and (3) the name, address, and any other information that may be used to identify a person who holds a license to carry a handgun; is confidential, may not be published, and is not open to public inspection. Specifies that: (1) any information concerning an applicant for or a person who holds a license to carry a handgun may be released to a federal, state, or local government entity for law enforcement purposes or to determine the validity of a license to carry a handgun; or (2) general information concerning the issuance of licenses to carry handguns in Indiana may be released to a person conducting journalistic or academic research but only if all personal information that could disclose the identity of any person who holds a license to carry a handgun has been removed from the general information. Provides that the

period during which an application for the renewal of an existing handgun license may be filed begins 365 days (instead of 180 days) before the date the license expires.

01/26/2010 H: 3rd Reading Pass (85-11)

02/18/2010 S: 3rd Reading Pass (48-0)

03/12/2010 Governor Signed

Not passed:

SB0213 Unauthorized aliens. (Kruse, Delph, Boots) Requires the department of correction to: (1) evaluate the citizenship and immigration status of a committed offender; and (2) notify and assist the United States Department of Homeland Security under certain conditions. Provides that the fact that a defendant is a foreign national not lawfully admitted to the United States is a fact relevant to the risk of nonappearance a judicial officer must consider in setting bail. Requires a sheriff to make a reasonable effort to determine the citizenship or immigration status of certain persons confined in a county jail. Prohibits a governmental body from enacting an ordinance, resolution, rule, or policy that prohibits or limits another governmental body from sending, receiving, maintaining, or exchanging information on the citizenship or immigration status of an individual. Allows a person to bring an action to compel a governmental body to comply with the prohibition. Requires the department of workforce development to verify through the Systematic Alien Verification for Entitlements (SAVE) program the lawful presence of certain individuals who apply for unemployment benefits. Requires a state agency or political subdivision to verify employees through the E-Verify program unless the E-Verify program no longer exists. Prohibits a state agency or political subdivision from entering into or renewing a public contract for services with a contractor unless the contract requires the contractor to verify employees through the E-Verify program if the E-Verify program exists. Provides that: (1) a state agency or political subdivision may terminate a public contract for services under certain conditions regarding the knowing employment or retention of unauthorized aliens; and (2) if a public contract for services is terminated, a contractor is liable for actual damages. Allows a contractor of a public contract for services to terminate a contract with a subcontractor if the subcontractor employs or contracts with unauthorized aliens. Makes it, except in certain circumstances, a: (1) Class C infraction for a person to knowingly or intentionally offer in writing, accept, or record a consular identification for any public purpose; or (2) Class C infraction for a person to knowingly or intentionally offer in writing, accept, or record an individual taxpayer identification number as a valid form of identification for any public or private purpose. Increases penalties for certain crimes. Establishes additional penalties for certain crimes. Makes making a false identity statement a Class A misdemeanor. Makes it a: (1) Class A misdemeanor to knowingly or intentionally transport or move; and (2) Class A misdemeanor to knowingly or intentionally conceal, harbor, or shield from detection; an alien, for purposes of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law. **(Exempts a provider that receives federal or state funding to provide services to victims of domestic violence, sexual assault, human trafficking, or stalking; and is providing the services.)** Requires the office of management and budget to, not later than July 1, 2011, calculate an estimate of the costs of illegal aliens to the state and make a written request to the Congress of the United States to reimburse the state for those costs.

02/02/2010 S: 3rd Reading Pass (46-4)

02/09/2010 H: 1st Reading *Assigned Interstate and International Cooperation. Not heard in the House and language was not passed in conference committee. Bill died.*

B. Sexual Assault

SB0224 Electronic dissemination of indecent material. (Merritt, Lanane, Kruse, Wyss, L. Lawson) Requires the sentencing study policy committee to study and make recommendations regarding the sending of sexually suggestive or sexually explicit material over the Internet or by use of a cellular telephone or similar device. Provides that a school corporation may offer classes or instruction regarding the risks and consequences of creating and sharing sexually suggestive or sexually explicit materials electronically. Provides filing and notice requirements for a petition to remove a person's designation as a sex offender or to require the person to register under less restrictive conditions.

03/05/2010 S: Conf Report Adopted(50-0) S

03/10/2010 H: Conf Report Adopted(95-0) H

03/16/2010 H: Signed By the Speaker

SB0342 Bodily substance samples. (Lanane, Pierce) Specifies that certain procedures for taking a bodily substance sample do not apply if the sample is taken in a hospital.

03/12/2010 Governor Signed

III. Other Family Law

HB1047 Change of name requirements. (Cheatham, Bray, Lewis) Requires that a petition for a change of name must: (1) include certain information for persons at least 17 years of age; (2) if filed by a person at least 17 years of age, be subscribed and sworn to (or affirmed) under the penalties of perjury and before a notary public or other person authorized to administer oaths; and (3) be filed with the circuit court of the county in which the person resides. Specifies that a petition for a change of name for a person at least 17 years of age must include: (1) the person's date of birth; (2) the person's current residence address and, if different, mailing address; (3) the person's valid Indiana driver's license or identification card number; (4) a list of all previous names used by the person; (5) proof that the person is a United States citizen; (6) a statement concerning whether the person holds a valid United States passport; and (7) a description of all judgments of criminal conviction of a felony under the laws of any state or the United States that have been entered against the person. Removes a provision that requires a parent or guardian of a minor child who wishes to change the name of the minor child to publish the first notice of the petition for the name change not more than seven days after the date the petition is filed.

03/17/2010 **Signed by the Governor**