

Testimony in support of SB 708

Chair Williamson, Vice-chair Gorsek, Vice-chair Sprenger, and Members Barker, Bynum, Greenlick, Lewis, McLane, Piluso, Power, and Stark:

My name is Judi Sanders and I live in Corvallis, Oregon. I am submitting this testimony in support of SB 708 which would exempt a petitioner from having to pay prevailing party fees in a stalking protective order proceeding unless the court finds the petitioner acted maliciously.

Winning a permanent stalking protective order in Oregon is difficult. Often victims are reluctant to file for such orders because of fears for their personal safety or fears of being revictimized by the court process. When they do file, chances of securing a protective order are small. A 2004 study in Multnomah County found that only approximately 49% of the ex parte requests for temporary (stalking protective) orders were granted but when temporary orders came on for hearings for permanent orders, only about 30% were granted (in other words, that's about 15% of the original requests for orders).¹ This difficulty is likely partly due to the proof standards required (at least 2 stalking incidents must be proven) and also due to the fact that the contested hearings are often "he said/she said" kinds of hearings where the law requires that a tie be awarded to the defendant (and no order granted). A third factor weighing against success is that petitioners are rarely represented by attorneys but respondents often have counsel. It is hard to win against a skilled adversary. When a petitioner is only able to prove a single incident or cannot meet the preponderance of the evidence standard, awarding court costs against the petitioner further victimizes that person and can have a chilling effect of discouraging others from seeking relief in the courts. It is clear that the Legislature did not intend a financial barrier to such actions since filing fee is required and petitioners may appear without counsel. Consequently, the award of court costs violates this legislative principle. Using the standard proposed in SB 708 will protect defendants against malicious filings but will also not discourage or revictimize stalking victims. Consequently, I urge you to support SB 708.

Sincerely,

Judi Sanders
Corvallis, Oregon

¹ Multnomah County Family Violence Coordinating Council, Stalking Courtwatch Project: Improving the Effectiveness of Court Processes for Individuals Seeking Stalking Protective Orders, (January 2004), <https://multco.us/file/30017/download> retrieved 3-25-2019.