

SB 708 STAFF MEASURE SUMMARY

Carrier: Sen. Gelser

Senate Committee On Judiciary

Action Date: 03/27/19

Action: Do pass.

Vote: 6-1-0-0

Yeas: 6 - Bentz, Fagan, Gelser, Manning Jr, Prozanski, Thatcher

Nays: 1 - Linthicum

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Gillian Fischer, Counsel

Meeting Dates: 3/27

WHAT THE MEASURE DOES:

Prohibits courts from awarding prevailing party fees to a respondent of a stalking order petition unless the court finds that the petitioner initiated the proceedings with malicious intent.

ISSUES DISCUSSED:

- Measure removes potential barriers to individuals seeking stalking order
- majority of parties seeking restraining orders or stalking orders are unrepresented
- Increases access to courts for vulnerable individuals

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

A person may bring a civil action in a circuit court for a court's stalking protective order or for damages, or both, against a person if the person engages in repeated and unwanted contact with the complainant or a member of that complainant's immediate family, it is objectively reasonable for a person in the victim's situation to have been alarmed or coerced by the contact, and the unwanted contact causes the victim reasonable apprehension regarding the personal safety of the complainant or a member of the complainant's family (ORS 30.866). At the time the petition is filed, the court, upon a finding of probable cause based on the allegations in the petition, shall enter a temporary court's stalking protective order prohibiting contact. The petition and the temporary order shall be served upon the respondent with an order requiring the respondent to personally appear before the court to show cause why the temporary order should not be continued for an indefinite period. If, after a hearing, the court does not uphold the temporary protection order, ORS 20.190 allows for courts to order prevailing party fees against the petitioner of the protection order.

Senate Bill 708 would require courts to make a finding that a petition was filed with malicious intent before ordering prevailing party fees.