

LEGAL SERVICES

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MEMORANDUM

March 10, 2011

SUBJECT: HB 76 -- Stalking and Sexual Assault Protective Orders Costs and Fees (Work Order No. 27-LS0067\A)

TO: Representative Carl Gatto
Chair of the House Judiciary Committee
Attn: Sarah Munson

FROM: Gerald P. Luckhaupt
Assistant Revisor

You have asked if sec. 1 of the bill amends a court rule (specifically Civil Rule 79) and if so should a court rule change be noticed in the title and in the bill. In my opinion HB 76 does not amend a court rule and notice of a court rule change is not necessary. HB 76 merely provides that the court when issuing a stalking and sexual assault protective order may order the respondent to pay the costs and fees incurred by the petitioner. This provision does not change the costs and fees that may be awarded under the civil rules nor, for that matter, does it change the way costs and fees may be awarded.

I would also direct your attention to AS 18.66.100(c)(14) upon which this bill is based. AS 18.66.100(c)(14) provides for the awarding of costs and fees in a domestic violence protective order and was enacted as § 33, ch. 64, SLA 1996. Numerous court rule changes were noticed and contained in ch. 64, SLA 1996 although none related to AS 18.66.100(c)(14) and the inclusion of a requirement that the respondent pay the costs and fees of the petitioner. I have not heard of a case where this provision has been questioned as improperly amending a court rule.¹

GPL:plm
11-134.plm

¹ Rarely will costs and fees ever be awarded as most of the costs and fees that are normally awarded in civil actions (such as filing fees and service fees) are not charged to a petitioner for a protective order.