



House Bill 12 – An Act Relating to Protective Orders Explanation of Changes

To date HB 12 has had three versions:

1. Version U was prefiled.
2. The House State Affairs Committee adopted a committee substitute—Version K—and passed it out of committee.
3. House Judiciary accepted an amendment and passed Version E out of committee.

The bill proposes to amend two different protective order statutes

- The domestic violence protective order statute (AS 18.66.100), and
- The sexual assault and stalking protective order statute (AS 18.65.850).

Bill section 1 contains the operative fix for the problem identified in the *Whalen v Whalen* decision. Specifically new paragraph (e)(2).

Version K added “stalking or” after the first word of (e)(2) on line 7, page 1. Without “stalking” in this paragraph, the bill would not provide for extension of protective orders issued for stalking.

Version E contains language requested by the Court system. It adds the language

“if the petition alleges a change in circumstances since the court’s previous finding”

to new (3) of subsection (e) of both the sexual assault and stalking protective order statute and the domestic violence protective order statute.

The new (e)(3) is a new provision of both protective order statutes and is required because it addresses situations revealed by the *Whalen v. Whalen* decision. Specifically, instances exist where a court might find that an incident of violence had occurred, but at the time of the petition the threat of continued harm may not have been present. For example, the respondent could have moved out of state. The new (e)(3) would be required if the respondent unexpectedly moved back to Alaska. Because of the *Whalen* decision, the prior act of violence would not be able to be used to issue a protective order.

The language added in the E version provides that a change in circumstance is required to secure a protective order based on the prior act of violence. In the example above, the change in circumstance would be the respondent moving back to Alaska and in close proximity to the petitioner/victim.