

**HB**

**64**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/5/93

FURTHER:

DATE TURNED INTO OFFICE: 4-23-93

The Finance Committee considered CS FOR HOUSE BILL NO. 64(FIN)

Crimes of stalking in the first and second degrees and providing penalties for their violation; providing a peace officer with the authority to arrest without a warrant a person the peace officer has reasonable cause to believe has committed stalking; the release before trial of a person accused of stalking; suspension of imposition of sentence of a person convicted of stalking; relating to the crime of assault in the third degree; efd.

and recommends:

replace with 5 CS CS HB 64 (FINANCE)  
 or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_  
 attaches amendment(s)

same title  
 new title  
 technical title change (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal
DOA (PD)	4/12/93	0	
DOA (OPA)	4/12/93	0	
DPS	4/9/93	0	
DOHAW	4/9/93	0	
DO Corrections	4/12/93	0	

**PREVIOUS FISCAL NOTES**

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS.

OTHER RECOMMENDATIONS:

\_\_\_\_\_  
 \_\_\_\_\_  
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 \_\_\_\_\_

\_\_\_\_\_  
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 \_\_\_\_\_  
 \_\_\_\_\_

1. Tom Kelly  
 Co-Chair: Signature/Recommendation

2. \_\_\_\_\_  
 Co-Chair: Signature/Recommendation

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. SCSCS HB 64 (Sta)

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act creating the crimes of stalking in the first \_\_\_\_\_ BRU: Public Defender  
 and second . . . ." \_\_\_\_\_ Component: Public Defender  
 Sponsor: Representative Toohey  
 Requestor: Senate Finance COMPONENT SERIAL NO. 1631

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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**FUNDING:**

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: \$ none

ANALYSIS: (attach a separate page if necessary.)

Prepared By: John Salemi, Public Defender Phone: 279-7541  
 Division: Public Defender Agency Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usura Date: 4/12/93  
 Agency: Department of Administration

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# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. SCSCSHB 64 (STA)

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act creating the crimes of stalking in the first and second degree ..." BRU: Office of Public Advocacy  
 Component: Office of Public Advocacy  
 Sponsor: Reps. Toohey, Phillips, et al.  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 43

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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**FUNDING:**

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTA	0	0	0	0	0	0
Other	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: \$ None

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Brant McGee, Public Advocate Phone: 274-1684  
 Division: Office of Public Advocacy Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usera Date: 4/12/93  
 Agency: Department of Administration

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# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO: SCS CSHB 64(STA)

Revision 4/9/93 Dept. Affected: Public Safety  
 Title: "An Act creating the crimes of stalking... in the first and second degree..." BRU: Alaska State Troopers  
 Sponsor: Representative Toohey Component: Detachments  
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 799

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE:						
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**FUNDING: (Thousands of Dollars)**

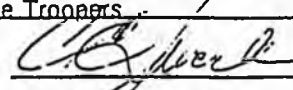
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: \$ \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)  
 No significant fiscal impact is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691  
 Division: Alaska State Troopers Date: 4/9/93  
 Approved by Commissioner:  Date: 4/9/93  
 Agency: Richard I. Burton, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. SCS CSHB 64 (STA)

Revision Date: April 9, 1993  
 Title: "An Act creating the crimes of stalking in the first and second degrees..."  
 Sponsor: Representative Toohy  
 Requestor: Senate Finance

Department Affected: Department of Law  
 BRU: Prosecution  
 Component: All  
 COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared by: Richard I. Peques, Director  
 Division: Administrative Services Division

Phone: 465-3672  
 Date: April 9, 1993

Approved by Commissioner: Charles E. Cole, Attorney General  
 Agency: Department of Law

Date: April 9, 1993

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. SCS CSHB 64 (STA)

ANALYSIS (Continued):

The Senate State Affairs Committee substitute for the CS for HB 64 adds a new subsection for proposed AS 11.41.270, in Section 1, that provides defendants with an affirmative defense if a defendant affirmatively shows that an act of the defendant is a constitutionally protected activity. Upon this showing that act may not be considered in finding that the defendant engaged in a course of conduct in violation of the crimes of stalking in the first or second degree. The department believes that the bill's new affirmative defense language should be modified to make it clear that affirmative defense determinations are to be made by judges prior to trial. This is a question of law that properly requires a judicial decision. Otherwise, if left until trial, affirmative defense determinations could easily bog down the fact finding deliberations of juries. Although we cannot predict a measurable fiscal impact if this modification does not take place, any unnecessary slowdown in the criminal trial process adds to the state's cost for prosecuting criminal offenses, or results in less offenses being prosecuted.

# FISCAL NOTE

**STATE OF ALASKA**  
**1993 LEGISLATIVE SESSION**

**BILL NO. SEN CSHB 64 (STA)**

Revision Date: April 12, 1993 Dept. Affected: Corrections  
 Title: "An Act creating crime of stalking." BRU: Institutions  
 Component: \_\_\_\_\_  
 Sponsor: Rep. Toohy  
 Requestor: Senate Finance COMPONENT SERIAL NO. 1860

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

<b>CAPITAL</b>						
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<b>REVENUE FUND SOURCE</b>						
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**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	-0-	-0-	-0-	-0-	-0-	-0-
1005 GF/Program Receipts						
1006 GF/MHTA						
Other						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ -0-

**ANALYSIS:** (Attach a separate page if necessary)

The Department's position is that there is no fiscal impact because the number of cases that will result in convictions for stalking is not easily quantifiable, although the Department assumes that the number will not be significant.

Prepared by: Dana LaTour, Special Assistant  
 Division: Office of the Commissioner  
 Approved by Commissioner: Lloyd G. Rupp, Commissioner  
 Agency: Department of Corrections

Phone: 465-3376  
 Date: 4-12-93  
 Date: 4-12-93

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*Fin*

SENATE CS FOR CS FOR HOUSE BILL NO. 64(~~STA~~)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 4/5/93  
Referred: FINANCE

Sponsor(s): REPRESENTATIVES TOOHEY, Phillips, Olberg, Ulmer, Hudson, Porter, B.Davis, Mackie, Carney, Nordlund, Parnell, Sitton, Brown

SENATORS Leman, Ellis, Donley, Little, Salo

A BILL

FOR AN ACT ENTITLED

1 "An Act creating the crimes of stalking in the first and second degrees and  
2 providing penalties for their violation; providing a peace officer with the authority  
3 to arrest without a warrant a person the peace officer has reasonable cause to  
4 believe has committed stalking; relating to the release before trial of a person  
5 accused of stalking; prohibiting the suspension of imposition of sentence of a  
6 person convicted of stalking; relating to the crime of assault in the third degree;  
7 and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 11.41 is amended by adding new sections to article 2 to read:

10 Sec. 11.41.260. STALKING IN THE FIRST DEGREE. (a) A person commits  
11 the crime of stalking in the first degree if the person violates AS 11.41.270 and

12 (1) the actions constituting the offense are in violation of an order  
13 issued under AS 25.35.010(b) or 25.35.020;

1 (2) the actions constituting the offense are in violation of a condition  
2 of probation, release before trial, release after conviction, or parole;

3 (3) the victim is under 16 years of age;  
4 ~~(4)~~ at any time during the course of conduct constituting the offense  
5 the defendant possessed a deadly weapon;

6 (5) the defendant has been previously convicted of a crime under this  
7 section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another  
8 jurisdiction with elements similar to a crime under this section, AS 11.41.270, or  
9 AS 11.56.740; or

10 (6) the defendant has been previously convicted of (A) a crime, or an  
11 attempt or solicitation to commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 -  
12 11.41.460, AS 11.56.810, AS 11.61.120, or (B) a law or an ordinance of this or  
13 another jurisdiction with elements similar to a crime, or an attempt or solicitation to  
14 commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 - 11.41.460,  
15 AS 11.56.810, or AS 11.61.120, involving the same victim as the present offense.

16 (b) In this section, "course of conduct" and "victim" have the meanings given  
17 in AS 11.41.270(b).

18 (c) Stalking in the first degree is a class C felony.

19 Sec. 11.41.270. STALKING IN THE SECOND DEGREE. (a) A person  
20 commits the crime of stalking in the second degree if the person knowingly engages  
21 in a course of conduct that recklessly places another person in fear of death or physical  
22 injury, or in fear of the death or physical injury of a family member.

23 (b) It is an affirmative defense to a prosecution under this section or  
24 AS 11.41.260 that the course of conduct engaged in by the defendant is  
25 constitutionally protected. If a defendant affirmatively shows that an act of the  
26 defendant is a constitutionally protected activity, that act may not be considered in  
finding that a defendant engaged in a course of conduct in violation of this section.

28 (c) In this section,

29 (1) "course of conduct" means repeated acts of nonconsensual contact  
30 involving the victim or a family member;

31 (2) "family member" means a

*Amend  
1/21/02*

*Handwritten notes and signatures in the right margin.*

1 (A) spouse, child, grandchild, parent, grandparent, sibling, uncle,  
2 aunt, nephew, or niece, of the victim, whether related by blood, marriage, or  
3 adoption;

4 (B) person who lives, or has previously lived, in a spousal  
5 relationship with the victim;

6 (C) person who lives in the same household as the victim; or

7 (D) person who is a former spouse of the victim or is or has  
8 been in a dating, courtship, or engagement relationship with the victim;

9 (3) "nonconsensual contact" means any contact with another person that  
10 is initiated or continued without that person's consent, that is beyond the scope of the  
11 consent provided by that person, or that is in disregard of that person's expressed  
12 desire that the contact be avoided or discontinued; "nonconsensual contact" includes

13 (A) following or appearing within the sight of that person;

14 (B) approaching or confronting that person in a public place or  
15 on private property;

16 (C) appearing at the workplace or residence of that person;

17 (D) entering onto or remaining on property owned, leased, or  
18 occupied by that person;

19 (E) contacting that person by telephone;

20 (F) sending mail or electronic communications to that person;

21 (G) placing an object on, or delivering an object to, property  
22 owned, leased, or occupied by that person;

23 (4) "victim" means a person who is the target of a course of conduct.

24 (d) Stalking in the second degree is a class A misdemeanor.

25 \* Sec. 2. AS 11.41.220(a) is amended to read:

26 (a) A person commits the crime of assault in the third degree if that person

27 (1) recklessly

28 (A) [(1)] places another person in fear of imminent serious  
29 physical injury by means of a dangerous instrument;

30 (B) [(2)] causes physical injury to another person by means of  
31 a dangerous instrument; or

1                    ~~(C)~~ [(3)] while being 18 years of age or older

2                    (i) [(A)] causes physical injury to a child under 10 years  
3 of age and the injury reasonably requires medical treatment;

4                    (ii) [(B)] causes physical injury to a child under 10 years  
5 of age on more than one occasion; or

6                    (2) with intent to place another person in fear of death or serious  
7 physical injury to the person or the person's family member makes repeated  
8 threats to cause death or serious physical injury to another person.

9 \* Sec. 3. AS 11.41.220 is amended by adding a new subsection to read:

10                    (c) In this section, "the person's family member" means

11                    (1) a spouse, child, grandchild, parent, grandparent, sibling, uncle, aunt,  
12 nephew, or niece, of the person, whether related by blood, marriage, or adoption;

13                    (2) a person who lives or has lived, in a spousal relationship with the  
14 person;

15                    (3) a person who lives in the same household as the person; or

16                    (4) a person who is a former spouse of the person or is or has been in  
17 a dating, courtship, or engagement relationship with the person.

18 \* Sec. 4. AS 11.56.810(a) is amended to read:

19                    (a) A person commits the crime of terroristic threatening if the person

20                    [(1)] knowingly makes a false report that a circumstance dangerous to  
21 human life exists or is about to exist and

22                    (1) [(A)] places a person in fear of physical injury to any  
23 person;

24                    (2) [(B)] causes evacuation of a building; or

25                    (3) [(C)] causes serious public inconvenience ; OR

26                    (2) WITH INTENT TO PLACE ANOTHER PERSON IN FEAR OF  
27 DEATH OR SERIOUS PHYSICAL INJURY TO THE PERSON OR THE PERSON'S  
28 IMMEDIATE FAMILY, MAKES REPEATED THREATS TO CAUSE DEATH OR  
29 SERIOUS PHYSICAL INJURY TO ANOTHER PERSON].

30 \* Sec. 5. AS 12.25.030(b) is amended to read:

31                    (b) In addition to the authority granted under (a) of this section, a peace officer

1 without a warrant may arrest a person when the peace officer has reasonable cause for  
2 believing that the person has committed a crime under

3 (1) AS 11.41.270 or AS 11.56.740; or

4 (2) AS 11.41, AS 11.46.330, or AS 11.61.120, or has violated an  
5 ordinance with elements substantially similar to the elements of a crime under  
6 AS 11.41, AS 11.46.330, or AS 11.61.120, when the victim is a spouse or former  
7 spouse of the person who committed the crime; a parent, grandparent, child, or  
8 grandchild of the person who committed the crime; a member of the social unit  
9 comprised of those living together in the same dwelling as the person who committed  
10 the crime; or another person who is not a spouse or former spouse of the person who  
11 committed the crime but who previously lived in a spousal relationship with the person  
12 who committed the crime or is in or has been in a dating, courtship, or engagement  
13 relationship with the person who committed the crime.

14 \* Sec. 6. AS 12.30.025 is amended to read:

15 Sec. 12.30.025. **RELEASE BEFORE TRIAL IN CASES INVOLVING**  
16 **DOMESTIC VIOLENCE OR STALKING**. (a) In determining the conditions of  
17 release under AS 12.30.020 in cases involving domestic violence or stalking, the court  
18 shall consider the following conditions and impose one or more conditions it considers  
19 reasonably necessary to protect the alleged victim of the domestic violence or  
20 stalking, including ordering the defendant

21 (1) not to subject the victim to further domestic violence or stalking;

22 (2) to vacate the home of the victim;

23 (3) not to contact the victim other than through counsel;

24 (4) to engage in counseling; if the court directs the defendant to engage  
25 in personal counseling, the court shall provide in the order that the counseling must  
26 propose alternatives to aggression if that type of counseling is available; if the court  
27 directs the defendant to participate in family counseling, it shall make a finding that  
28 family counseling will not result in additional domestic violence or stalking;

29 (5) to refrain from the consumption of alcohol or the use of drugs.

30 (b) As used in this section,

31 (1) "domestic violence" means a crime specified in AS 11.41 when the

1 victim is a spouse or a former spouse of the defendant; a parent, grandparent, child,  
2 or grandchild of the defendant; a member of the social unit comprised of those living  
3 together in the same dwelling as the defendant; or a person who is not a spouse or  
4 former spouse of the defendant but who previously lived in a spousal relationship with  
5 the defendant or is in or has been in a dating, courtship, or engagement relationship  
6 with the defendant;

7 (2) "stalking" means a violation of AS 11.41.260 or 11.41.270.

8 \* Sec. 7. AS 12.55.085(f) is amended to read:

9 (f) The court may not suspend the imposition of sentence of a person who

10 (1) is convicted of a violation of AS 11.41.410 - 11.41.455;

11 (2) uses a firearm in the commission of the offense for which the  
12 person is convicted; or

13 (3) is convicted of a violation of AS 11.41.210 - 11.41.270  
14 [AS 11.41.210 - 11.41.250] or 11.41.510 - 11.41.530, and the person has, within the  
15 10 years preceding the commission of the offense for which the person has been  
16 convicted, one or more prior convictions for a violation of AS 11.41 or for a violation  
17 of a law in this or another jurisdiction having substantially similar elements to an  
18 offense defined in AS 11.41; for the purposes of this paragraph, a person shall be  
19 considered to have a prior conviction even if that conviction has been set aside under  
20 (e) of this section or under the equivalent provision of the laws of another jurisdiction.

21 \* Sec. 8. APPLICABILITY. AS 11.41.260 and 11.41.270, enacted by sec. 1 of this Act,  
22 apply to acts committed on or after the effective date of this Act. However, to the extent a  
23 previous conviction is an element of the offense under AS 11.41.260, that previous conviction  
24 may have occurred before, on, or after the effective date of this Act.

25 \* Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

4-23-93  
SR  
Amend  
Adopted

SCS CSHB 64 (STA)

Proposed Department of Law amendment to affirmative defense amendment:

Page 2, Line 27

After "section," add "Whether an act of the defendant is a constitutionally protected activity is a question of law to be determined by the court ~~before~~ trial."

*Amend to*

4-23-93  
SR  
Amend  
A duplied

SCS CSHB 64 (STA)

Proposed Department of Law amendment to affirmative defense amendment:

Page 2, Line 27

After "section," add "Whether an act of the defendant is a constitutionally protected activity is a question of law to be determined by the court before trial."

grip to

Faxed 4/23/93  
am

To: Legal Services  
From: Kathy  
Senate Finance

Date: 4-23-93

Re: SCS CSHB 64 (Fin)

Please add the above amendment to the Senate State Affairs version to produce a SCS CSHB 64 (Fin) and return final to Kathy, Room 520, Capitol Bldg.

Thank You  
2618

Back up

## SECTIONAL ANALYSIS OF SCS CSHB64 (STA)

Section 1 of the bill creates the crimes of stalking in the first and second degrees. Stalking in the first degree is a class C felony and stalking in the second degree is a class A misdemeanor.

Section 2 of the bill amends AS 11.41.220(a) adds intent to place another person in fear of death or serious physical injury by making repeated threats to cause death or serious physical injury to another person as another form of assault in the third degree. This language was taken from AS 11.56.810(a) (See Section 3 of the bill.) and was moved as this conduct is basically an assault type of offense and is more properly placed in AS 11.41 as a crime against a person.

Section 3 of the bill amends AS 11.41.220 by adding a definition of "the person's family member."

Section 4 of the bill amends AS 11.56.810(a) removes intent to place another person in fear of death or serious physical injury by making repeated threats to cause death or serious physical injury to another person

Section 5 of the bill amends AS 12.25.030(b) to provide a peace officer with the authority to arrest without a warrant a person the peace officer has reasonable cause to believe has committed stalking in the second degree.

Section 6 of the bill amends AS 12.30.025 to extend the provisions of that section that relate to conditions of release before trial in cases involving domestic violence to stalking cases.

Section 7 of the bill amends AS 12.55.085(f) by extending the provisions of that subsection, that prohibit the suspension of imposition of sentence, to stalking cases.

Section 8 of the bill is an applicability section regarding Sections 1 and 2 of the bill and the effective date.

Section 9 of the bill provides for an immediate effective date.



Official Business

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

REPRESENTATIVE CYNTHIA D. TOOHEY

State Capitol  
Juneau, AK 99801-1182

DISTRICT 13

SPONSOR STATEMENT

HOUSE BILL 64

Reports across the country of victims being stalked by estranged boyfriends, husbands, acquaintances, or strangers has motivated states to take action against the perpetrators of such offenses. Stalking affects not only the victim, but often other members of the victim's household.

The stalking law was birthed in California. in 1990. The year before, actress, Rebecca Schaeffer, had been murdered by a fan who stalked her. Early in 1990 five Orange County women were murdered. In each case, the victim had been stalked and threatened and had a temporary restraining order against her assailant. One victim asked police, "What does he have to do--shoot me?" A few days later that is just what happened.

Alaska is not free of stalkers. A Homer woman was stalked by her ex-husband and it resulted in her friend being murdered by him. In Anchorage, a woman was stalked and eventually shot to death in her office by a former boyfriend. The stalker often knows the victim and, in the majority of cases, the estranged husband or boyfriend is the stalker.

HB64 creates the crimes of stalking in the first and second degree. In the first degree, it is a class C felony and in the second degree, a class A misdemeanor. A peace officer has the authority to arrest without a warrant. Like cases of domestic violence, stalking defendants are given conditions regarding their release before trial.

HB64 is modelled after the Michigan law which was passed in December 1992 and considered one of the toughest in the nation. There are now 32 states which have stalking laws and legislation is pending in 15 other states.

HB64 passed the House unanimously and also both Senate Judiciary and State Affairs Committees unanimously.

BILL NO: SCS CSHB 64(STA)

DATE: April 13, 1993

TITLE: "An Act creating the crimes of stalking. . ."

CONTACT: C.E. Swackhammer  
Deputy Commissioner  
465-4322

Section one of this legislation amends AS 11.41. Offenses Against the Person by adding a new section 11.41.260 Stalking in the First Degree. A person commits Stalking in the First Degree if the person violates Stalking in the Second Degree (new section AS 11.41.270) and 1) the action is in violation of the domestic violence order, or 2) the action is in violation of probation, release before trial, release after conviction or parole, or 3) the victim is under sixteen (16) years of age, or 4) the defendant at any time while committing the offense is in possession of a deadly weapon, or 5) the defendant has been previously convicted of a similar crime of stalking or violation of a domestic violence order, or 6) the defendant has been previously been convicted of the following crimes wherein the victim in the offense of stalking was the victim: murder in any degree, assault in any degree, kidnapping in any degree, sexual abuse, indecent exposure, terroristic threatening, or harassment.

Stalking in the First Degree is a class C felony.

Stalking in the Second Degree is committed when a person "recklessly places another person in fear of death or physical injury, or in fear of the death or physical injury of a family member."

Stalking in the second degree is class A misdemeanor. A family member is defined as:

- (A) a spouse, child, grandchild, parent, grandparent, sibling, uncle, aunt, nephew or niece of the victim, whether related by blood, marriage, or adoption;
- (B) a person who lives or has previously lived in a spousal relationship; or
- (C) a person who lives in the same household, or
- (D) a former spouse of the victim or is or has been in a dating, courtship, or engagement relationship with the victim.

Stalking in the second degree includes the definition of "nonconsensual contact" and lists seven activities which would apply.

"Victim" means a person who is the target of a course of conduct.

Section Two of this legislation amends AS 11.41.220, Assault in the Third Degree, paragraph (a)(2), to include "with intent to place another person in fear of death or serious physical injury to the person or person's family member [makes] repeated threats to cause death or serious physical injury to another person."

Section three amends AS 11.41.220 by adding the same definition of "family member" as is found in A-D, above.

Section four amends AS 11.56.810, Terroristic Threatening, paragraph (a) by moving language from this statute to AS 11.41.220 described in Section two, above.

Section five amends AS 12.25.030, Grounds for Arrest by Private Person or Peace Officer Without Warrant, to add AS 11.41.270 (Stalking in the Second Degree) to the crimes for which an officer may arrest without a warrant.

Section six amends AS 12.30.025, Release Before Trial in Cases Involving Domestic Violence, to include stalking and addresses prohibitions which include provisions against stalking the victim prior to trial.

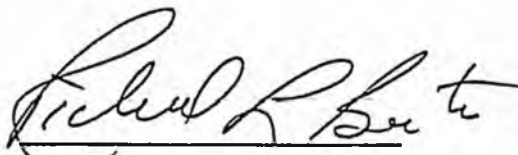
Section seven amends AS 12.55.085, Suspending Imposition of Sentence, paragraph (f) by adding Stalking in the First or Second degree to crimes for which a court may not suspend the imposition of sentence.

Section eight provides that the commission of Stalking I or II apply only to offenses committed after this legislation is passed, but that convictions as an element of Stalking I can have occurred prior to this legislation becoming law.

Section nine provides for the act to take effect immediately.

This legislation is a needed addition to the statutes which involve domestic violence as well as those less frequent situations where a fixation on the part of a individual creates fear and a possibly dangerous situation on the part of the victim.

The Department of Public Safety would support an amendment to modify the affirmative defense provision added by Sec. 11.41.270-(b) which would allow the court to determine as a question of law prior to trial whether the defendant's act is constitutionally protected behavior.



Richard L. Burton  
Commissioner

Bill No. SCS CSHB 64 (STA)

Date: April 12, 1993  
Contact: Joanne F. Lopez  
465-4356

Title: " An Act creating the crimes of stalking....."

SCS CSHB 64 (STA) provides added protection for victims of domestic violence and sexual assault from violent pursuers who stalk the victim and thereby place them in fear of death or serious physical injury. The Council on Domestic Violence and Sexual Assault supports the concept of a bill that would create the crime of stalking, and provide police with the ability to make arrests based on probable cause.

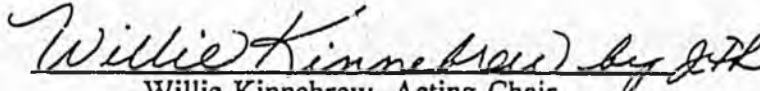
Violent, harassing and threatening behaviors toward innocent citizens have always been a serious problem particularly for victims of domestic violence and sexual abuse. While laws such as protective restraining orders exist to protect victims from violent pursuers, law enforcement officers may not intervene until such orders have been violated. By then, it is usually too late to prevent the offenders from harming or even killing those whom such orders were designed to protect.

Each year an estimated six million women are beaten by the men they live with. A third of the women who are murdered each year are killed by husbands or boyfriends. National statistics show that 30% of all female homicide victims were stalked prior to their murders. Leaving a bad relationship is often the most dangerous time for women. A national study reports that 75% of domestic assaults occur after the couple separate. More women are killed when the relationship breaks up than at any other time. A few stalkers fixate on co-workers or complete strangers, and not all victims are female, but the vast majority of cases involve former lovers or spouses.

SCS CSHB 64 (STA) covers gaps that restraining orders cannot. It gives more leverage against people who ignore restraining orders. If the offender is arrested and convicted for a felony crime they would be more likely to be subject to parole supervision after release.

California passed the nation's first "stalking law" in 1990, a year after five Orange County women were murdered in separate incidents despite temporary restraining orders against the assailants who were stalking them, their husbands or boyfriends. The bill had impetus from cases involving Hollywood celebrities who were stalked by obsessed fans. But California also uses its stalking law for domestic violence cases, and 27 other states have followed suit.

The Council on Domestic Violence & Sexual Assault supports passage of this legislation, but is concerned about the affirmative defense provision included in the Senate State Affairs Committee version. No other statute includes this type of provision because constitutionally protected behavior is *always* a defense to prosecution. The purpose of the Senate State Affairs amendment appears to be to allow a defense that the statute is overly broad, but there is already case law dealing with this concern, and there is no need for this specific provision. The Council recommends that Section 11.41.270 (b) be deleted from SCS CSHB 64 (STA). Alternatively, the Council would support an amendment to this bill which would allow the court to determine as a question of law prior to trial whether the defendant's act is constitutionally protected behavior.

  
Willie Kinnebrew, Acting Chair  
Council on Domestic Violence  
and Sexual Assault

03/15/93

HOUSE JOURNAL

PAGE 0652

CSHB 64 (FIN)  
Third Reading  
Final Passage

YEAS: 37 NAYS: 0 EXCUSED: 2 ABSENT: 1  
03/15/93 HOUSE JOURNAL

PAGE 0653

CSHB 64

Yeas: Barnes, Brice, Brown, Bunde, Carney, Davidson, Davies,  
B. Davis, G. Davis, Foster, Green, Grussendorf, Hanley, Hudson, James,  
Kott, Larson, Mackie, MacLean, Martin, Menard, Mulder, Navarre,  
Nicholia, Nordlund, Olberg, Parnell, Phillips, Porter, Sanders,  
Sitton, Therriault, Toohy, Ulmer, Vezey, Williams, Willis

Excused: Finkelstein, Hoffman

Absent: Moses

And so, CSHB 64 (FIN) passed the House.

Representative Phillips moved and asked unanimous consent that the  
roll call on the passage of the bill be considered the roll call on the  
effective date clauses. There being no objection, it was so ordered.

CSHB 64 (FIN) was referred to the Chief Clerk for engrossment.

**Departmental Contacts:**

Dept. of Law:	Margot Knuth
Dept. of Public Safety:	LeAnn Lucas
Council on Domestic Violence & Sexual Assault	Marcia McKenzie
Dept. of Corrections:	Dana Latour
Dept. of Admin., Office of Public Advocacy	Brant McGee
Dept. of Admin., Public Defender's Office	John Salemi

**Other contacts**

Network on Domestic Violence & Sexual Assault.	Cindy Smith
Alaska Association of Chiefs of Police	Ron Otte
Department of Public Safety, Fairbanks	Michael Pulice
City of Homer Police Department	Andy Klamser
Anchorage Police Department	Duane Udlund

**Administration Personnel Who Have Testified**

Dept. of Law	Margot Knuth
Dept. of Public Safety's Council on Domestic Violence and Sexual Assault	Marcia McKenzie
Dept. of Corrections	Sam Trivette
Dept. of Admin., Public Defender's Office	John Salemi

February 10, 1993

Representative Cynthia Toohey  
State Capitol, Room 104  
Juneau, Alaska 99801-1182

Re: Senate Bill # 64

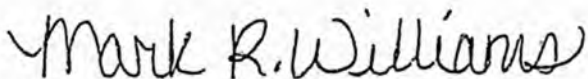
Dear Representative Toohey,

Thank you for introducing Senate Bill # 64. I am writing all the Senators and Representatives to solicit their support to promptly pass this bill. This new bill is long overdue and should be approved immediately. Women have been abused much too long and this must be stopped now. The stalkers must be penalized for their actions. We can no longer ignore this very important issue that is affecting so many women.

I personally appreciate your vote and support of Senate Bill # 64.

I appreciate your concern and assistance in this very serious matter.

Sincerely,



Mark R. Williams  
Executive Vice President, COO

P.S. Thanks for your role in this very serious and important matter, Cynthia. Thank you!

D. Elizabeth Cuadra  
P. O. Box 33678  
Juneau, AK 99803

February 16, 1993

The Honorable Cynthia Toohey  
Alaska House of Representatives  
State Capitol  
Juneau, AK 99801-1182

Re: Anti-Stalking Legislation

Dear Representative Toohey:

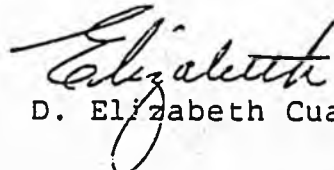
Thank you for sponsoring legislation that would make stalking another person unlawful.

Enclosed is an article from a national newspaper, which I thought might be of help to you in presenting the problem to committees which will be considering your legislation.

If you are looking for personal testimony, please feel free to call on me. I can testify from personal experience (in Kansas) as to the terror such a situation causes. I can also testify as to my own attempts (in Virginia) to save my daughter (then newly graduated from high school) from a stalker who eventually gave her a broken nose and threatened to kill her if she reported it to the police. Needless to say, I shipped her out of the State of Virginia (to the west coast) immediately, in order to place her out of further danger from this man who was already awaiting trial for felonious assault (with a deadly weapon) against another person. The police had been of no help whatsoever, indicating that they could do nothing with respect to a stalker, nor could they provide any sort of help unless she could overcome her fear sufficiently to file a complaint.

I applaud what you are doing and wish you every success. I suspect there are many women who could provide personal testimony concerning similar events here in Alaska, and similarly "helpless" police absent a law that makes stalking a criminal offense.

Sincerely,

  
D. Elizabeth Cuadra

DEC/k11.212  
Enclosure

## Efforts to Protect Women From 'Stalkers' Gain Momentum at State, Federal Levels

By David Holmstrom

Staff writer of The Christian Science Monitor

BOSTON

**T**HE many incidents of domestic violence in the United States, like frayed parts of a fabric, continue to challenge the viability of hundreds of thousands of families and relationships.

In an effort to stop more unraveling, Congress approved a plan in October to create a model antistalking law. The objective is to help states deal effectively with the estimated 200,000 people, mostly men, who stalk someone each year —

usually an estranged wife or girlfriend.

Since 1990, when California passed the first antistalking law after actress Rebecca Schaeffer was shot and killed by a stalker, 29 states have followed suit — despite claims that some of the laws are not constitutional. Five more states are preparing such legislation. Studies indicate that the leading cause of injury today for American women is the result of being beaten by a man.

According to Sen. William Cohen (R) of Maine, the sponsor of the congressional bill, each year in the US an estimated 4 million men kill or violently attack women they live with, date, or were formerly intimate with. "Women who seek protection," he said when the bill was passed, "often

*See STALKING page 4*

THE CHRISTIAN SCIENCE MONITOR

Tuesday, December 22, 1992

## STALKING from page 1

face a judicial system that has traditionally viewed such violence as 'domestic disputes.' "

Some argue that a pervasive male attitude that women should be subservient, and a judiciary inclined to see domestic violence not as a crime, but rather as a domestic issue, place many women in peril. Of all those women murdered by their ex-husbands or boyfriends, studies indicate that 90 percent had called the police at least once for protection, and more than half had called five times or more. The Federal Bureau of Investigation reports that 30 percent of female murder victims in 1990 were slain by husbands or boyfriends.

The congressional bill, signed by President Bush, directs the National Institute of Justice - a government criminal-justice research agency - to develop a statute against stalking that will be constitutional and based on recommendations from a number of law enforcement agencies and governmental public interest groups. Many law enforcement agencies could not take action against stalkers until now because they had not committed a crime.

The growing awareness of stalking as a crime is the product of recent, well-publicized deaths of several women. In suburban Boston, 21 year old Kristin Gardner was shot to death by her ex-boyfriend on the street recently. Last week, two more women were slain here by stalkers.

Earlier this year in Elmhurst, Ill., a couple was shot to death in their driveway by a man who had been stalking the woman.

In Maine, a man who has been in and out

of mental hospitals, and repeatedly violated restraining orders, has been stalking Kimberly Poland for eight years. He first saw her photo in a newspaper and continues to stalk her. (In most cases, the men do not have mental disorders.)

In Massachusetts, officials say at least 40 women have been killed this year because of domestic violence, with several deaths preceded by stalking. In Minnesota last year 26 women were killed in domestic violence in-

### States with 'Stalking' Laws

Stalking is typically defined as willful, malicious, and repeated following and harassing of another person.

Alabama	Iowa	Oklahoma
California	Kentucky	Rhode Island
Colorado	Louisiana	South Carolina
Connecticut	Massachusetts	South Dakota
Delaware	Mississippi	Tennessee
Florida	Nebraska	Utah
Hawaii	New York	Virginia
Kansas	North Carolina	Washington
Illinois	Ohio	West Virginia
Indiana		Wisconsin

idents. Half of the Minnesota women had sought help from the state. "Whenever the woman takes a step to end an abusive relationship," says Janet Fine, chief of the Victim Witness Service in the Suffolk County, Mass., district attorney's office, "she is potentially at greater risk."

Typically, after being regularly battered, a woman obtains a restraining order against her abuser and tries to separate herself from him. In Massachusetts since September, when a new state record-keeping system went into effect, of the 2,000 restraining

orders issued, more than a third had been violated in the first few days. Often the order triggers men to stalk and harass the women.

Michael Paymar, training coordinator with the Duluth, Minn., Domestic Abuse Intervention Project, says: "There are a certain percentage of men who are extremely afraid of the law."

A battered and frightened woman seeking to end such a relationship needs help and support. In Massachusetts, the legislature has earmarked funds for support necessitated by domestic violence.

"In the courts here where the greatest number of restraining orders are issued," Ms. Fine says, "we have a program to assist women and assess their level of risk. We can help them get to a shelter or figure out another safe plan for them and provide other kinds of services. But there are so many victims here, and nationally, too, that we are nowhere near where we should be in terms of services."

In Minnesota, Mr. Paymar says, "the state has committed a lot of money to shelters and legal advocacy for women." Transitional housing is provided to abused women. For some

women a two-year program in an apartment style complex helps them reorient their lives. Duluth also has programs to try to reform perpetrators of violence.

Paymar says: "It has been sanctioned in society for a thousand years that a man has control over his woman.... We confront those beliefs and ask him where does he get the right to do it? What do you want a woman in your life for? You are depersonalizing her, humiliating and injuring her, yet you say you love her. It doesn't make sense. We help them learn how to live differently."

STAFF



Tom Fink, Mayor

# ANCHORAGE POLICE DEPARTMENT

4501 SOUTH BRAGAW STREET ♦ ANCHORAGE, ALASKA 99507-1599  
TELEPHONE (907) 786-8500



Service since 1921

February 19, 1993

The Honorable Cynthia Toohey  
Representative for the State of Alaska  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Toohey,

As a member of the Anchorage Police Department in charge of the Patrol Division, and as Co-Chair for Anchorage Task Force on Sexual Assault, as well as Chair for the Anchorage Domestic Violence Committee I would like to extend my support, my encouragement, my urging in the passage of House Bill No. 64 which would make stalking a crime.

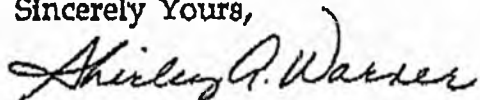
This bill would enable officers to take quick and sure action in situations that could be very volatile, or life-threatening in nature. Officers deal with many cases per year in which they are forced to tell victims of stalking there is nothing they can do. It is only after someone feared takes aggressive action toward the completion of a criminal act that officers may arrest.

Recently one of our officers was finally able to obtain a charge of disorderly conduct against a suspect who had repeatedly followed the victim. At one point the victim's husband took action by firing his weapon at the suspect. The family, as well as the officer, reported their frustration over the inability of the police to do anything to protect them. This situation had the potential for having a tragic ending as has been realized in our community in the past. This is one of many cases our officers have had to handle only to tell the victim other threatening events must occur before the police can protect them.

Aside from being able to protect the victim, this law would send a very clear message to people who feel they can violate the freedom of another. No matter the actions, intentions, or demeanor of those who choose to stalk another, their actions are threatening and they restrict the movements and alter the lives of our citizens.

Thank you for your foresight in the creation of this bill. We appreciate your support for our efforts in protecting citizens.

Sincerely Yours,



Captain Shirley A. Warner  
Patrol Division  
786-8558



# CITY OF HOMER

## POLICE DEPARTMENT

4060 HEATH STREET

HOMER, AK 99603-7609

EMERGENCY 911  
TELEPHONE (907) 235-3150  
TELECOPIER (907) 235-3151

February 18, 1993

Rep. Cynthia Toohey  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Toohey;

I am writing in support of House Bill 64, the so-called "Stalking" bill.

I have been a police officer for fifteen years and for the last three years I have served on the state Council on Domestic Violence and Sexual Assault. I strongly believe that this is necessary and important legislation and I support the version of the law contained in HB 64.

Our agency has had to deal with a significant increase in domestic violence crimes during the last decade and I have found that "stalking" conduct is often a part of a pattern that develops during the final, and most lethal, stages of family violence. Perpetrators filled with anger after being divorced or separated, and after being charged with other family violence crimes and being served with domestic violence restraining orders, often resort to stalking their former partners.

We've dealt with a handful of these cases in the last few years that were extremely frustrating because there was nothing we could do to intervene and yet it was clear that the potential for violence was very great and the victim was terrified. In several of the cases the victim was forced to simply pull up roots and move out of state. In the most notorious local case, a man stalked his ex-wife for two years in spite of five restraining orders convictions and an assault conviction. He followed her to restaurants and waited outside in his car with binoculars or sat at a nearby table and stared at her. He accosted her at work. He often followed her in his car. He even followed her out of state on one occasion and police had to meet his plane in Seattle and Portland. Even though he had been convicted of repeatedly violating restraining orders and assaulting her, his "stalking" conduct was lawful and there was nothing we or the district attorney's office could do. Finally, an incident triggered an extraordinary outburst of violence during one of his stalking forays. He drove by her home at about 2:30 in the morning and saw a visitor's truck parked in her driveway. He drove home and loaded a 30.06 hunting rifle and then returned to her neighborhood. He parked two blocks away and walked to her house. The victim heard him at one of her doors and grabbed a handgun she kept nearby because of

his threats. He kicked a door in and confronted her with his rifle and convinced her to give up her gun. She fled the house as he walked down the hallway and shot and killed her companion. He chased her to a neighbor's house, burst in and threatened to kill the neighbors and their children. While they fled, he attacked the woman, who was on the phone with a 911 operator. He was out of bullets and tried to kill the woman by beating her in the face with his gun and boots. He dragged her out of the house and dumped her in the yard. The damage to her face was so severe that the first arriving officers thought that she had been shot in the face. She required several operations to her face during the next year.

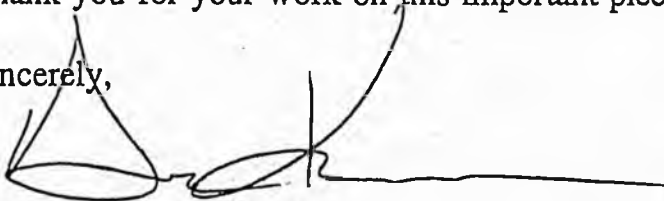
I think that it is possible that his tragedy would not have happened if we had been able to charge this man with an appropriately serious crime during the period of his stalking behavior. I believe that any law enforcement agency would have similar horror stories that involve this type of conduct.

I also strongly endorse the language of the bill that defines stalking as that conduct that includes violations of probation, release before trial, release after conviction or parole. It has been my experience that stalking conduct often violates existing conditions of release or probation but police are powerless to do much about it. Most people don't realize that law enforcement officers cannot arrest on probable cause for such violations; we are required to document the violation and submit it to the district attorney for action. This is a process that can take weeks or months. In situations involving such a high degree of danger the police need the ability to make immediate arrests.

I also applaud the fact that HB 64 creates a separate crime of "Stalking". One of the problems with tagging such a law onto an existing statute (such as Terroristic Threatening) is that it is often difficult or impossible to discern from a computerized criminal history printout which part of the overall statute has been violated in the past. For example, if a perpetrator has been charged with stalking under a subsection of Terroristic Threatening in the past and is arrested again and is at arraignment, the computer printout for the defendant's criminal history that is available through the APSIN system will not show whether the prior arrest(s) were for stalking or threatening to blow up a building. This was one of the reasons that the statute covering the violation of domestic violence restraining orders was removed from the umbrella of "Harassment" and a new, stand alone crime of "Violating a Domestic Violence Restraining Order" was created.

Thank you for your work on this important piece of legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Andy Klamser", written over a horizontal line.

Sgt Andy Klamser

# STATE OF ALASKA

## DEPARTMENT OF LAW

CRIMINAL DIVISION/THIRD JUDICIAL DISTRICT  
OFFICE OF THE DISTRICT ATTORNEY

February 18, 1993

Rep. Cynthia Toohey  
Alaska State Legislature  
Box V  
Juneau, AK 99801

FAX 465-2137

Dear Representative Toohey:

Thank you very much for eliciting the District Attorney's Office input in committee substitute for House Bill No. 64, the stalking bill. I spoke with Marvena yesterday and informed her that our offices comments will be incorporated into the suggestions by the Department of Law's representative in Juneau, Margo Knuth.

As a felony attorney in the sexual assault and domestic violence unit in the Anchorage District Attorney's office I am very pleased to see the effort your office is putting into this bill. As you know from your experience speaking with constituents in the Anchorage area, this bill is very necessary. In my own experience and that of other prosecutors in this area it is very difficult to successfully prosecute people who are "stalking" their victims under the law as it presently stands. This bill you have sponsored is a very important step in addressing this ever increasing problem. In my experience in this office, I have seen numerous cases both in domestic violence situations as well as between parties that were, initially, virtual strangers. In both situations, reliance on existing law has been frustrating for both law enforcement as well as the victims.

For example, victims of domestic violence who have lawfully obtained restraining orders often times are not protected. The reasons being, restraining orders cannot stop someone from following a person in their car, from parking at their place of work and observing them for the entire eight hour period, following them home from work, and sometimes parking one block away, or within visible range night and day. Victims of this crime have attempted to use all lawful means to get this activity to cease, and our existing framework has no answers. Victims, at this point, have two choices, (a) they can live in fear day after day or (b) they can attempt to leave their homes, their families and often

WALTER J. HICKEL, GOVERNOR

REPLY TO:

- 1031 WEST 4TH AVENUE, SUITE 520  
ANCHORAGE, ALASKA 99501-5906  
PHONE: (907) 277-8622
- P.O. BOX 470  
DILLINGHAM, ALASKA 99576-0470  
PHONE: (907) 842-2482
- 145 MAIN STREET LOOP, ROOM 201  
KENAI, ALASKA 99611-9998  
PHONE: (907) 283-3131
- 326 CENTER AVENUE, SUITE 205  
KODIAK, ALASKA 99615-9998  
PHONE: (907) 486-5744
- 809 S. CHUGACH STREET, SUITE 3  
PALMER, ALASKA 99645-9998  
PHONE: (907) 745-5027
- P.O. BOX 3429  
VALDEZ, ALASKA 99686-0671  
PHONE: (907) 835-2462

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February 18, 1992  
Rep. Cynthia Toohey Letter

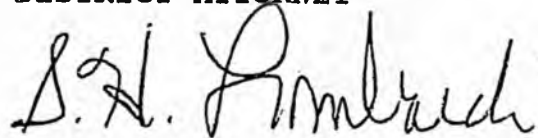
times their friends in a last desperate attempt to escape the person stalking them.

It is hoped that your continuing efforts as well as those in law enforcement and victim support groups will be able to again to address this serious need. Thank you again for soliciting our input and if I can be of any further assistance, for example with testimony from victims or my experience in prosecuting these cases, please feel free to contact me at 263-0169.

Sincerely yours,

CHARLES E. COLE  
ATTORNEY GENERAL

EDWARD E. MCNALLY  
DISTRICT ATTORNEY



Suzanne H. Lombardi  
Assistant District Attorney

SHL:raa



DEPARTMENT OF PUBLIC SAFETY  
City of Fairbanks  
656 7th Avenue  
Fairbanks, Alaska 99701  
(907) 459-6500



R. JOHN SHOVER, DIRECTOR

March 22, 1993

The Honorable Representative Toohy  
Alaska State Legislature  
House of Representatives  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Toohy:

The Fairbanks Department of Public Safety, Police Bureau, supports the passage by the Senate of CSHB64 (FIN). The addition of an anti-stalking law in Alaska will be a tool that aids law enforcement in investigating and prosecuting criminals exhibiting this type of behavior.

Stalking is not a frequent crime, but it is a terrifying crime to the victim. I urge Senate support of this bill. Further, I add my thanks to you and your co-sponsors for the work on this bill.

Sincerely,

A handwritten signature in dark ink, appearing to read "M. Pulice".

MICHAEL E. PULICE  
Director

MEP:VRG:rlc

# Alaska Association Chiefs of Police



March 5, 1993

Representative Cynthia Toohey  
State Capitol  
Room 104  
Juneau, Alaska 99801-1182

Dear Representative Toohey:

On behalf of the Alaska Association of Chiefs of Police I would like to express our support for House Bill 64b. The Chiefs Association has supported other bills that deal with this issue. We believe that a Criminal Statute that identifies Stalking as a crime is long overdue in the State of Alaska.

All Chiefs from around the State can cite repeated examples from their communities of persons who have been seriously beaten, injured, or killed as a result of "family" or "domestic" violence. For many of these victims their injuries were preceded by periods of time wherein the offender stalked, harassed, threatened and intimidated before acting. Being able to intervene during this earlier conduct would be a welcome relief for law enforcement as well as the hundreds of victims.

There are many bills this year that address the Crime of Stalking. While they all have merit, HB64b seems to incorporate the best approach and language. If we can be of any assistance in the passage of your bill, please let me know.

Very truly yours,

A handwritten signature in cursive script, which appears to read "Ronald L. Otte", is written over a horizontal line.

Ronald L. Otte  
President

RLO/lp

## SECTION B

ADW 4-11-73

# Stalker law would help fill legal gap

## Experts say legislation gives police needed tool

By LIZ RUSKIN  
Daily News reporter

Seven months before Robert Fletcher Jr. shot his ex-wife and killed himself on the UAA campus, Ann Fletcher started lodging complaints against him.

Two of the four petitions for domestic violence restraining orders she filed were not granted. One was in effect on the day of the April 6 shooting, but he ignored it.

In March, he was charged with burglary for breaking into her house and stealing her property, but Robert Fletcher was never arrested for the harassing phone calls, the stalking, the death threats she reported.

To those who work with victims of domestic violence, the case illustrates the need for an anti-stalking law.

"The trick with domestic violence, if there is one, is to intervene as early as possible," said Cindy Smith, director of the Alaska Network on Domestic Violence and Sexual Assault. "The way the law is right now, if you're being schematically stalked by a person, you can't do anything until he actually hurts you."

An assault charge can be brought if a person "by words or other conduct ... places another person in fear of imminent physical injury." But that provision apparently wasn't applied to the Fletcher case.

On Oct. 31, Robert Fletcher went to his ex-wife's house taking birthday presents for their 8-year-old daughter, Ann Fletcher reported in her second petition for a restraining order.

"We argued and he became aggressive, threatening to kill me, trying to get the kids to go in another room so they would not watch him hurt me. They refused. I ran outside. Then he left. I called APD (Anchorage Police Department)."

Detective Joe Hoffbeck said an officer was sent to the house, but Robert Fletcher wasn't charged. Technically, he said, the event Ann Fletcher described in her petition

Please see Page B-2, STALKER

# STALKER: Proposed harassment law would aid police, courts

Continued from Page B-1

would constitute misdemeanor assault, but it's not unusual for police not to bring charges when the assault alleged doesn't rise above the level of verbal threats.

"Keep in mind, he hasn't done anything," Hoffbeck said. "How many times does a person say things just out of anger and not actually carry through with it?"

An anti-stalking law would probably stop a less-determined man, but probably not someone like Fletcher, Hoffbeck said.

"What law is going to stop him? He didn't stop at burglary. That's a pretty serious charge," he said.



In fact, the anti-stalking bill that has passed the Alaska House of Representatives and is speeding through the Senate would make stalking at worst a Class C felony. Burglary can be a Class B felony, one notch more serious.

But — as Hoffbeck, Smith and others agree — an anti-stalking law would fill a gap in the laws, a gap that some

men now exploit to make life miserable for their prey.

The bill, modeled after the Michigan law, defines misdemeanor stalking as placing another person in fear of death or injury by repeated acts of nonconsensual contact. The behavior can include following, showing up at the person's home or work, calling or sending letters.

The offense would be a felony if the offender already has one stalking conviction or the offense was committed in violation of a restraining order.

Assistant Attorney General Margot Knuth said the bill would broaden the boundaries of what is illegal by removing the require-

ment in the assault statute that the victim fear "imminent" injury. Judges have interpreted imminent to mean that unless the injury could take place within seconds, a threat doesn't amount to assault, Knuth said.

Smith said police sometimes fail to enforce the threat provisions of the assault law. Like that provision, the stalking definition depends on the victim's perception of fear.

"It's going to have to be serious enough to convince the police to act," she said. Passing the stalking law and making serious cases felonies will focus more police and prosecutor attention on

the crime, she said.

Municipal prosecutor Jim Wolf said some perpetrators have learned how to tread the edge of law, staying just far enough away to avoid violating the conditions of their restraining order, behaving themselves just enough to avoid criminal charges while still ruining their victims' lives.

"It's almost like putting the victim in a hostage situation," he said.

He said he didn't know how many stalkers are slipping through the gaps in the current law, but he said he believes there are many.

"There's a lot of sickles out there," he said.



JIM LAVRAKAS / Anchorage Daily News

Gary Petersen apologizes to the judge during his sentencing Wednesday. His attorney, Sue Ellen Tatter, stands at his side.

## Antagonist cops plea

Alleged stalker gets 15 days for scaring woman with car

By LIZ RUSKIN  
Daily News reporter

A federal worker who police say obsessively stalked an Eagle River woman for more than a year was sentenced in District Court on Wednesday to 15 days in jail for frightening her with his automobile.

Gary Woodrow Petersen, a 56-year-old employee of the Federal Aviation Administration, pleaded no contest to misdemeanor assault as part of a plea agreement with municipal prosecutors.

"All I wanted to do is just talk to her," Petersen told Judge John Lohff.

Police say the woman — who was not named in court — first met Petersen about three years ago when he went to the chiropractic clinic where she works as a massage therapist. She and her husband befriended him and she continued to treat him at the clinic.

Eventually, though, Petersen started following her. He told her in October 1991 that he was obsessed with her because she reminded him of his deceased wife, according to a complaint filed against him in January.

The police and the clinic's law firm told him to leave her alone, but he didn't. He would wait for her at work and watch her house at

*The police and the clinic's law firm told him to leave her alone, but he didn't. He would wait for her at work and watch her house at night, police say.*

night, police say.

In January 1992, he parked his car in the driveway of her home around 1 a.m., ignoring a restraining order that she had obtained to keep him away. Her husband approached Petersen with a gun and fired two warning shots. Petersen left and was cited for trespassing, but the woman's husband was cited for weapons misconduct.

The assault charge that was the subject of Wednesday's sentencing stems from a Jan. 6, 1993, incident in which she spotted him watching her when she left work one night. According to municipal prosecutors, he followed her and she sped away, only to find his car waiting

Please see Page B-3, PETERSEN

## PETERSEN: Sentenced

Continued from Page B-1

for her in a parking lot near her house. Petersen gunned the accelerator and drove toward her car, forcing her to swerve out of the way to avoid being rammed.

Petersen's lawyer, Sue Ellen Tatter, said the police officer who wrote the complaint was overly dramatic. She said her client is not a stalker but a gentle, nonviolent man.

"He fell in love and he pestered," Tatter said. "He thought she was interested in him. At a certain point he should have realized it wasn't true, but he didn't.... He lost some judgment."

She said Petersen became depressed after his wife died of cancer. He is now being treated by a psychiatrist and understands why the massage therapist reacted as she did, Tatter said.

Tuesday, a woman who

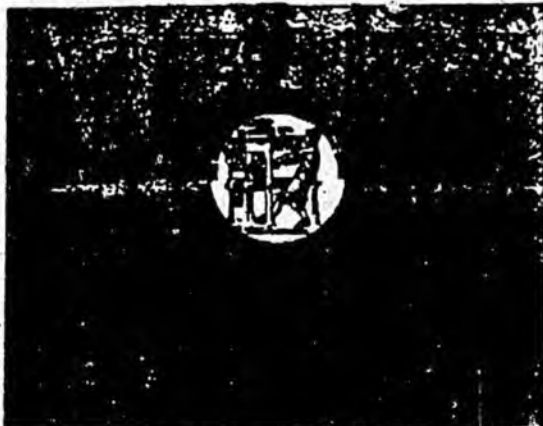
had complained to authorities that her ex-husband had been stalking her was shot in the eye by the man, who then turned the gun on himself.

Municipal Prosecutor Jim Wolf said the Petersen case is one more example of why Alaska needs an anti-stalking law of the sort that is now making its way through the legislature.

Without such laws, he said, stalkers can keep their victims virtual hostages without crossing the line that would bring them assault or harassment charges.

Petersen's sentence includes five years of probation and a requirement that he continue psychiatric treatment, have no contact with the victim and not go within one block of her house or her work places.

"This is really something I regret. I wish I could take it all back," Petersen told the judge.



## Domestic violence

### *Alaska should look at stalker laws*

Anyone familiar with domestic violence knows that leaving a relationship can be a risky act. One national study says that three-quarters of domestic assaults occur after the couple separated. More women are killed when leaving than at any other time.

We don't need statistics to understand this fact. Here in Anchorage over the last year, one woman was murdered by her ex-boyfriend when she went back to their apartment to pick up her belongings. Another barely escaped with her life after the man she'd broken up with stalked her with a bomb.

The law does what it can to safeguard women in these dangerous circumstances. Women can request restraining orders, and most of the time — but not always — their boyfriends or husbands obey a court order to stay away. The community also provides shelters for women who so fear their ex-partners they need a place to hide.

But ~~these~~ these measures don't work, we end up asking ourselves, is there more we can do?

Nineteen other states have answered, yes. They have passed stalker laws.

These originated in California, partly in response to a disturbed fan's stalking and murdering a Hollywood star. But California also uses its stalking law for domestic violence cases, and other states have started to follow suit.

The stalking law applies to anyone who follows or harasses another person and threatens violence. Stalking is considered a felony rather than a misdemeanor if the behavior is repeated, or if a restraining order already has been issued.

Stalking laws cover gaps that restraining orders don't fill. For example, say a man has never abused his ex-wife, and even keeps his distance from her. But he tells her that he'll kill her when she least suspects it, and every day she sees him waiting in the parking lot where she works. He could be arrested for stalking her.

California's stalking law also gives the state more leverage against people who ignore restraining orders. Say a woman gets a restraining order and her ex-partner continues to follow her. Under a stalking law, such behavior would be a felony, and the man, if convicted, would be more likely to serve jail time and would be subject to parole supervision afterwards.

The Alaska Network on Domestic Violence and Sexual Assault is looking into California's and other states' laws to see if a stalking law would be useful here. No one pretends it would guarantee safety. A person obsessed with revenge and indifferent to authority can still elude arrest or get out on bail. He will not stop being a danger.

But a stalking law could be one more tool to control this needless violence.

# Man stalks, shoots ex-wife, kills self



Anchorage police Detectives Nancy Polter and Scott Jossen check the UAA parking lot where Bob Fletcher shot his ex-wife and himself Tuesday.

## 2-week-old court order couldn't stop gunman

By PETER BLUMBERG  
Daily News reporter

Robert Fletcher Jr. repeatedly threatened his ex-wife and once declared he wouldn't leave her alone "until death do us part," according to court records.

Ann Fletcher had asked the courts four times since last September for emergency restraining orders against Robert Fletcher out of fear that he would make good on his threats, according to domestic violence files at Superior Court.

Two requests were denied for lack of evidence that Robert Fletcher was violent, another was granted but canceled three weeks later at Ann Fletcher's request, and a 90-day restraining order was finally approved March 22. That was after the court had received a letter from a visitor to Ann Fletcher's home who said he had witnessed her being threatened.

"Since the divorce, Bob (Fletcher) has talked to me several times saying that he was not accepting the divorce and was angry with Ann

blaming him for the whole situation," Charles Robinson said in a handwritten letter to the court. "He has said at different times that jail was better than the situation he was in and that he had nothing to lose."

Ann Fletcher wrote in her own March 22 note to the court: "I believe that my life is in danger. I am not taking these threats lightly from my ex-husband."

Six days later, Robert Fletcher was in court again, this time on charges of burglarizing his wife's home late last year. Police said he admitted breaking into the home and stealing Ann's fur coat and other valuables, according to a tape recording of the March 28 hearing before Magistrate Geoffrey Comfort. Fletcher was released on \$1,000 bail.

Now, because of a Tuesday-morning shootout in a university parking lot, Ann Fletcher, 35 years old and the mother of two young girls, is in Providence Hospital in serious condition. A bullet from Robert Fletcher

Please see Page B-3, THREATS

## Woman loses eye to attack near office

By PAMELA DOTO  
Daily News reporter

Robert Fletcher Jr. stalked his ex-wife for more than six months, then shot out one of her eyes, exchanged fire with a university police officer and killed himself Tuesday morning, according to court records and Anchorage police.

Fletcher was unemployed and was divorced from Ann Fletcher last fall, according to court records. His family said he was upset because Ann would not let him see his two daughters.

City police, who took over the case from campus officers at the University of Alaska Anchorage after the shooting, say Robert Fletcher, 38, was waiting for Ann in the parking lot when she arrived at her job as a university office manager about 8 a.m.

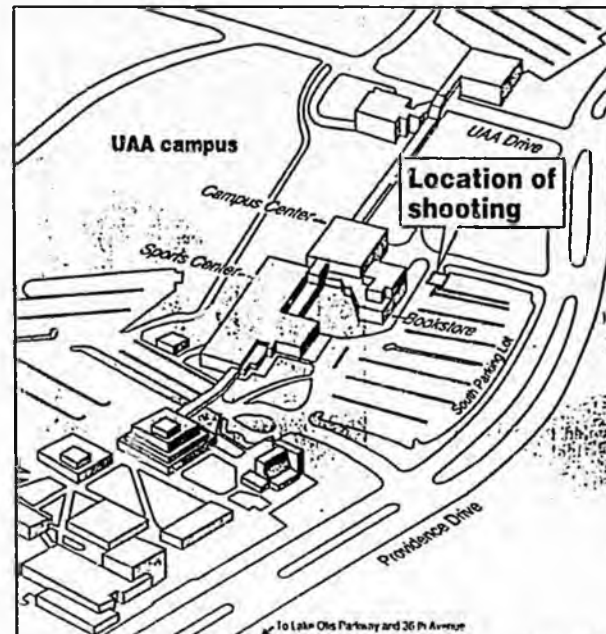
Student Richard Jason Brunt heard screaming from a car parked near the Campus Center and bookstore. He said that all he could make out was a woman saying, "I'm not going to give them to you."

City police said Fletcher first sprayed the woman with Mace, then fastened a handcuff to her right wrist.

When a campus police officer got there at about 8:30 a.m., he parked several feet behind Ann Fletcher's sedan. Both doors of the car were open, but all the officer could see was the woman's hair hanging out one of the doors and Fletcher in the back seat with a .44-caliber Ruger pistol.

"He backed off and got behind his patrol vehicle for protection," Detective Nick Veur said.

Please see Page B-3, SHOOTING



Map of UAA campus

ROTHENSTROM Anchorage Daily News

## THREATS: Woman went to court seeking protection

Continued from Page B-1

er's gun took out one eye, according to city police. And Robert Fletcher is dead. Police say he shot himself in the head after shooting Ann and being struck by two bullets from a campus police officer's gun.

In her first petition for court protection, filed on Sept. 2, Ann Fletcher claimed that her husband — who by then had moved out of their Eagle River home — was making threatening comments over the phone and refusing to let their divorce go forward.

But a handwritten note on the petition that appears to have been written by a judge says "Denial and d.v. (domestic violence), no history of d.v." The judge's signature was not legible.

On Nov. 2, shortly after the couple divorced, Superior Court Judge Dana Fabe granted Ann Fletcher's second petition for a restraining order against Robert.

"He has specifically made threats to kill Ms. Fletcher if she sought a J.V. order," Fabe wrote.

But Ann Fletcher asked the court to cancel the restraining order against her ex-husband on Nov. 22 after telling a judge that Robert "agrees to be civil," according to a court document.

Three months later, on Feb. 22, Ann Fletcher filed another petition for a restraining order. This time she complained of harassing phone calls at work and home, and she reported that Robert Fletcher was contacting her friends in an effort to find her.

"Seems to follow me, knowing my location both at

## Anti-stalking bill moves

By RALPH THOMAS  
Daily News reporter

Alaska may soon have an anti-stalking law. Legislation that would make it a crime to stalk a person passed the state House unanimously last month and has since moved speedily through two committees in the Senate.

The bill — House Bill 64 — would make stalking a felony or misdemeanor, depending on the case. It would also give police the authority to arrest stalking suspects without a warrant.

Supporters say the bill could prevent some murders. When the bill was discussed last month in the House, Rep. Jerry Mackle, D-Craig and a former police officer, talked about his inability to help victims of domestic violence who were being stalked by an estranged spouse.

"I don't know how many times I was asked, 'Do I have to be killed first before you can do anything,'" Mackle said.

The bill has one more committee to clear in the Senate before facing a vote of the full chamber. If the Senate approves the bill, Hinkel administration officials have said it would likely be signed.

Seven anti-stalking bills have been introduced during this year's legislative session, but HB64 is the only one that has passed either chamber.

It defines stalking as repeatedly threatening someone with violence, putting that person in fear of death or injury.

work and at home," she wrote "I fear for myself and others around me."

But Judge Nolan Shortell rejected the request, saying that Ann Fletcher had not shown sufficient proof that she was a victim of domestic violence.

Then, on March 15, Ann Fletcher submitted a new petition listing some of the same complaints she'd filed previously, but describing Robert Fletcher's threats more ominously and in more detail. She alleged that he was stalking her constantly.

Robert "called threatening that he believed in our wedding vows, till death do us part, I hung up phone," she wrote. "Again called to day at work and again at 8:30 p.m. at home saying the same and that children are not to be around my friends, saying that I will pay the piper and will not know when or how."

Although Robert Fletcher protested his innocence in a written statement and called his ex-wife's accusations "lies," Magistrate Comfort sided with Ann Fletcher and granted the emergency

restraining order she requested.

A week later, Magistrate William Hitchcock extended the order for 90 days, barring Robert Fletcher from any contact with Ann except to arrange visits with their 8- and 10-year-old daughters.

On the evening of March 28, Fletcher again appeared before Comfort, this time on the burglary charge. He was accused of stealing a fur coat, a necklace, some jewelry and \$148 in cash from Ann's house.

According to a tape of the proceeding, police Officer Rod Bennett told the magistrate that Fletcher had admitted the crime and also that Fletcher had shown a history of "threatening his ex-wife."

Bennett said he believed Ann Fletcher was telling the truth when she mentioned the "till death do us part" comment. He also spoke of an incident the week before in which police were called to a Muldoon bar because Robert Fletcher had a gun and was threatening to shoot Ann's new boyfriend.

After hearing Bennett, Comfort then listened to Fletcher deny that he had violated the restraining order. The magistrate offered Fletcher the choice of paying \$1,000 bail or allowing himself to be supervised by a third party until his April 16 court date on burglary and theft charges.

Fletcher, who said his parents were out of town at the time, told the judge he had \$1,000 in his pocket and could make bail immediately.

Comfort was not at his office Tuesday and could not be reached for comment.

## SHOOTING: Man shoots ex-wife, then kills himself

Continued from Page B-1

Police said Fletcher then dragged the woman about 10 feet from her sedan.

Fletcher got on the ground with her and pointed the weapon at her head. Police said the campus officer did not actually see him shoot her, but another witness did. The bullet went through her left eye socket, police said.

"She will probably be OK," Van der Veur said. But "the eye was pretty much destroyed."

Fletcher got up and walked several feet around a pickup truck, then fired one bullet at the campus officer, according to Van der Veur.

The officer, who was behind his patrol car and was not injured, fired six shots from his .357-caliber Smith & Wesson revolver. One of the bullets hit Fletcher in the leg, and the other struck him in the chest as he fell.

Before ducking behind his car to reload his weapon, the campus policeman saw Fletcher stick the gun in his mouth. When the officer stood up, Fletcher was dead.

Van der Veur, who interviewed the officer after the shooting, thinks he acted properly.

"It looks like he was both protecting his own life and the life of the female victim," he said. "He seems satisfied that he did what he had to do."

The name of the campus policeman is being withheld for three days while he is on administrative leave, standard procedure for most law enforcement officials involved in a shooting, police said.

UAA spokesman Mel Kalkowski said the officer has 12 years of experience and has been at UAA for about one year. Campus officers are certified by the state and must have police academy training to get their jobs, he said.

Police taped off a large section of the parking lot Tuesday as they investigated the death. Fletcher's body lay face down on the asphalt near the pickup truck.

Some students were rattled by the early morning

shooting and the possibility that more people could have been injured.

"I guess people in the mode to commit suicide don't think about how many people they take with them," education student Carol McNeil said. "Bullets can travel a long way."

Ann Fletcher, 35, a well-known and longtime employee at the campus, was listed in serious condition late Tuesday at Providence Hospital.

A woman in the hospital's waiting room who identified herself as her roommate said Ann Fletcher's family was on their way from the Lower 48. She did not want to talk about the shooting.

Court records show Robert Fletcher was unemployed in March, but was working at a Mountain View auto repair shop last fall. He had recently been house-sitting at his parents' Muldoon area home.

Since last fall, Ann Fletcher had repeatedly sought court restraining orders against him because of his threats against her and their daughters, and he was under such an order at the time of Tuesday's shooting. In addition, he was facing charges of burglarizing his wife's house.

His mother, Shirley Cordle, said her son only wanted to see the girls, ages 8 and 10, and was not stalking his ex-wife.

"He was a very loving man," Cordle said tearfully. "He loved his girls more than anything in the world and that was part of the problem. Ann wouldn't let him see them."

Fletcher's younger sister, Susan Jensen, last met with her brother over the weekend, when he told her he had spoken to two attorneys.

"She wouldn't even allow him to talk to the girls on the phone," she said. "The only thing he lived for was those kids."

LI Daily News reporter Peter Blumberg contributed to this story.

# Murderous

Can new laws deter spurned lovers a

**B**arbara Erjavec and Grace Beach sometimes take a rug to the cemetery and have lunch by the graves of their children, sharing a sad litany of what ifs. What if they had known that Kenneth Kopecky had talked openly about his plans to kill the young lovers? What if the law now awaiting the Illinois governor's signature had been in place—could the police have done something then? Grace and Barbara will never know the answers. All they do know is that Kopecky became infatuated with Karen Erjavec last summer when they were both members of a wedding party, and that for the next six months Karen and her boyfriend, Glenn Beach, lived in fear. They received anonymous letters and bizarre, threatening phone calls. Glenn's car was vandalized, and there were tire tracks across the lawn of the house where he lived with his parents. Karen's father, a policeman, knew that the law was powerless against what seemed like just a persistent creep. Even the surveillance lights Glenn's parents installed around their home had no effect last Feb. 16. The Beaches returned from a movie that night to a bustling crime scene in their driveway. Glenn had been shot six times in the back and stabbed twice; Karen had been shot in the head at close range. Two days later, police tracked Ken Kopecky to a motel in Michigan. He shot himself to death as the cops moved in.

The stories sound like the plot lines of hit movies, from "Fatal Attraction" to "Sleeping With the Enemy" to "Cape Fear." But increasingly, state legislators are hearing real-life versions, and they are responding with astonishing speed. California passed the first "anti-stalking" law in 1990, making it a crime to repeatedly follow or harass someone with a "credible threat" to cause fear of bodily harm. Since then, 20 more states have enacted similar laws, and at least a dozen others are considering them. Most make the first stalking offense a misdemeanor, punishable by up to one year in jail and a \$1,000 fine, with felony counts and stiffer penalties for repeat offenses. Florida's law, which went into effect last week, even allows police to make arrests without obtaining a warrant.

Behind almost every state bill has been at least one local tragedy. Wisconsin lawmakers acted after Shirley Lowery was fa-

tally stabbed 19 times  
boyfriend in a M  
where she had gone  
order. Virginia law  
ter Regina Butkow  
that her daughter ha  
months by a weight  
her, set her body on f  
a creek, where it wa  
later. Georgia's prop  
more support after  
Durden, whose estra  
out his repeated dea  
He gunned her down  
taught mentally d  
then shot himself in

# ssion

g'—or worse?

*: A battered wife living  
mpa, grieving mothers  
nd Erjavec*

ving examples aside, no one  
despread a problem stalking  
cause it has never been a  
before. The new laws aim at  
ern of threats and harass-  
n precedes violent acts, from  
child molestation and mur-  
e most publicized cases have  
rities, like actress Rebecca  
ly shot by an obsessed fan,  
ardo, in 1989. A few stalkers

fixate on co-workers or complete strangers, and not all victims are female; women sometimes stalk men. But the vast majority of cases involve former lovers or spouses. Nearly one third of all women killed in America are murdered by their husbands or boyfriends, and, says Ruth Micklem, codirector of Virginians Against Domestic Violence, as many as 90 percent of them have been stalked.

Some civil-liberties experts argue that the new laws are overly vague and carry a potential for misuse, particularly in marital disputes. "There are very often false allegations made in all sorts of contexts against spouses or former spouses," says Miami criminal-defense attorney Jeffrey Weiner, who thinks Florida's no-warrant provision may be unconstitutional. Critics also say that people who fear for their safe-

Will the laws actually deter such crimes? Much depends on what twisted logic motivates the stalker. "A lot of these people are just caught up in the emotion of a bad breakup," says David Beatty of the National Victim Center in Arlington, Va. "Sitting someone down in jail for a while may make him rethink his actions." But some stalkers are mentally deranged. Stanton Samenow, a Virginia clinical psychologist and author of "Inside the Criminal Mind," says that many have disturbed self-images in which they see themselves as irresistible or complete zeros. When they are rejected, they resort to intimidation in a desperate attempt to try to regain self-esteem. The threat of prison may deter some of them, but for others, says Samenow, "it's like putting fuel on a fire."

For the anti-stalking laws to have a real impact, courts must take them seriously and apply the new legal muscle they provide. Ironically, the first person sentenced under California's law, Mark David Bleakley, was put on probation and ordered to serve time in a psychiatric facility. Unsupervised, he wandered away and was found waiting outside his victim's health club. Fortunately, he was reapprehended before he could harm her and sentenced to three years in prison.

**"Won't hunt":** Kristin Lardner wasn't so lucky. The 21-year-old Brookline, Mass., art student was murdered by her former boyfriend in May, just two weeks after the state's anti-stalking law went into effect. Michael Cartier had already served six months in jail and was on probation for attacking another ex-girlfriend. He was attending a violence-treatment program when he began beating Lardner. She reported the



NICK UT-AP

Bardo behind bars

## Where Stalking Is Illegal

- California
- Colorado
- Connecticut
- Delaware
- Florida
- Hawaii
- Idaho
- Iowa
- Kentucky
- Massachusetts
- Mississippi
- Nebraska
- Oklahoma
- South Carolina
- South Dakota
- Tennessee
- Utah
- Virginia
- Washington
- West Virginia
- Wisconsin

SOURCE: NATIONAL CONFERENCE OF STATE LEGISLATURES

ABOVE: BILL GENTILE FOR NEWSWEEK, BELOW: DAVID WALBERG



ty can already apply to the civil courts for restraining orders. But such orders are notoriously hard to enforce, and all too often, the first violation is fatal. The California law was drafted after five Orange County women were killed in a six-week period in early 1990. All but one had sought help in vain from authorities. "What does he have to do—shoot me?" 19-year-old Tammy Marie Davis asked police just days before an ex-boyfriend did just that, fatally, in Huntington Beach. When Patricia Kastle, a onetime Olympic skier from Newport Beach, was shot by her former husband, police found a restraining order in her purse.

incidents to the police, who issued a warrant for his arrest. She also obtained two restraining orders from civil-court judges, but they were unaware of the outstanding warrant and merely barred Cartier from going within 200 feet of her. That didn't faze him. On May 30, Cartier waited outside the liquor store where Lardner worked and shot her repeatedly as she walked down Boston's Commonwealth Avenue. Police found him in his apartment, dead from a self-inflicted gunshot wound. "The restraining orders don't restrain, and I strongly suspect the new anti-stalking order won't hunt," says Kristin's father, Washington Post reporter George Lardner.

Massachusetts has since instituted a number of reforms—including computerizing all records of restraining orders and violations. By fall, any police officer or judge should be able to cross-reference them to pinpoint repeat offenders. In Brookline, civil-court judges now routinely look at criminal records of all accused batterers. A committee of the chief justice's office is also studying the idea of outfitting stalkers and their victims with electronic monitoring devices, like those used in house-arrest cases, that would automatically sound an alarm if a stalker came within a certain range.

ADT Security Systems is testing another kind of personal-alarm system for battered women. The victim wears a pendant around her neck, and if she spots her stalker, she presses a button that triggers an alarm at an ADT monitoring station, which in turn alerts police. The system isn't foolproof, however. It works only in close range of a receiving device installed in her home, and a determined stalker could foil it by disconnecting the phone lines. Six Tampa, Fla., women, all former residents of The Spring women's shelter, have been wearing the beepers for the last six months. But only one has used it, when her ex-husband turned up at her home, daring her to shoot him. Police arrived, but the episode left the woman so shaken that she handed in her beeper and went underground. Staffers at The Spring say they don't know what's become of her.

**Packing weapons:** Other desperate victims have taken to packing their own weapons. Sabine Tsang, 27, had filed numerous futile complaints about a former co-worker. Last month, when Irineo Dominguez allegedly accosted her in a parking lot and ordered her into her car, she pulled out a handgun and shot him twice in the abdomen. Dominguez, now recovering in a Houston hospital, has been charged with attempted kidnapping, according to police. But they have not charged Tsang. "I don't think you'd find a jury in Texas that would convict her, so why try?" says Houston homicide Sgt. Doug Bacon.

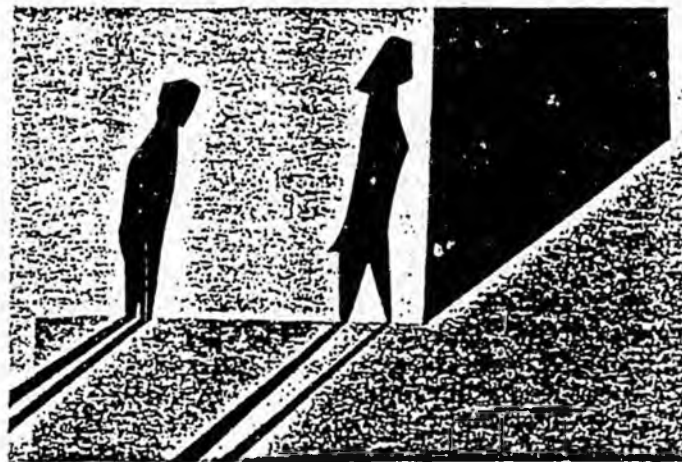
The prospect of more victims arming themselves is no comfort to law-enforcement officials. Yet most admit there is very little they can do in the face of a persistent stalker. "You can put a person in jail for a year or so, but they eventually will get out," says Det. John Lane, part of a four-member anti-stalking unit established by the Los Angeles police after Schaeffer's murder. Even so, the new laws do give police one more weapon to employ against stalkers—and if they deter even a small percentage of crimes, that's better than none.

MELINDA BECK with DEBRA ROSENBERG in Boston, FARAI CHIDEYA in Chicago, SUSAN MILLER in Houston, DONNA FOOTE in Los Angeles, HOWARD MANLY in Atlanta and PETER KATZ in Tampa

## California Law Targets Obsessed Fans, Vengeful Lovers

In separate cases this summer two California men were convicted for repeatedly harassing their former girlfriends, marking the first time in the nation that people have been prosecuted successfully under a felony "stalking" law.

The legislation was passed by California lawmakers last year to give police and court authority to intervene when victims are being seriously and repeatedly threatened but before they are attacked. Senator Ed Royce introduced the stalking bill after five Orange County women were murdered in 1989, even though they had obtained temporary restraining orders against their assailants and had reported threats of violence to police. Without a law prohibiting harassment, police had been powerless to act until victims were actual-



ly assaulted.

The new law, which went into effect Jan. 1, defines stalking as "willfully, maliciously and repeatedly following or harassing another person" and making credible threats that create a fear of death or serious injury. If the victim has obtained a temporary restraining order against the assailant, stalking is a felony. If no restraining

order is in effect, a first offense of stalking is a misdemeanor; a second similar conviction becomes a felony.

The law also permits judges to establish high bail in some stalking cases to ensure that dangerous individuals are not released to continue to harass, terrorize and possibly kill their victims. The maximum penalty for felony stalking is three years

in prison and a fine of up to \$10,000.

The most sensational stalking cases involved celebrities harassed by obsessed fans. David Letterman, Michael J. Fox and Sharon Gless were recent victims; and two actresses, Rebecca Schaeffer and Theresa Saldana, were brutally attacked by men who lay in wait for them. Schaeffer died. The legislation was strongly supported by groups representing Hollywood stars.

The usual stalking victim, however, is a woman terrorized by a vengeful ex-husband or boyfriend. Senator Royce cites a 1987 report of the U.S. Department of Justice, stating that 31 percent of all female murder victims are killed in incidents of domestic violence; many of the women were harassed or terrorized before being murdered. Although men are stalked less often than women, male victims of harassment received some notoriety in the movie "Fatal Attraction."

In one California case, the court found that the victim's former boyfriend had repeatedly violated a restraining order and had threatened to "blow her head off." The man was sentenced to two years in prison. In the other stalking case, a woman's former boyfriend allegedly poured acid on her car and slashed its tires, abducted her dog, confronted her on the street and shoved her into a pole, and made threatening phone calls. He was awaiting sentencing at press time.

## Checks May Stop Criminals from Buying Guns

In its first year, Oregon's new gun law kept almost 1,000 firearms out of the hands of people prohibited from owning them, according to a study by the Oregon State Police. The state's 15-day handgun waiting period and mandatory background check on all firearm sales uncovered convicted felons and other prohibited purchasers trying to buy firearms from licensed gun dealers.

The report demonstrates that a handgun waiting period combined with a mandatory background check of

criminal and mental health records works," said Representative Vera Katz, who sponsored the law.

For the study, the first of its kind conducted by a law enforcement agency in the nation, the Oregon State Police screened all firearm sales during 1990 by federally licensed firearm dealers in Oregon. The report, "The 1990 Study of Retail Firearm Sales and Concealed Handgun Licensing in Oregon," indicated that at least 968 people who attempted to buy firearms from licensed

gun dealers had been convicted of felony crimes, convicted during the past four years of violent misdemeanor crimes or committed to a state mental hospital for mental illness.

The state police report was mandated by a law that regulates the sale and possession of firearms, passed in 1989 by the Oregon legislature. The bill had support from the National Rifle Association, local gun organizations, law enforcement agencies in Oregon and gun control advocates.

## LUCILLE BROWN: BRINGING PEACE



Over the course of the 1980s, cities all over the country lived through the phenomenon of the razzle-dazzle school superintendent: arrival from out-of-state, accompanied by high hopes and a glittering résumé; promises of instant change and dramatic educational improvement; bitter quarrels with the existing power structure; and finally, after only a couple of years, a disillusioned community and one more fired superintendent.

Richmond, Virginia, has been through all that. But last year, when Albert L. Jones became the latest in a long string of highly touted failures in the superintendent's office, the city went for somebody completely different: Lucille M. Brown.

Lucille Brown is no newcomer. She has been in the Richmond school system since her days there as a pupil, and she has worked there as teacher, principal and administrator for the past 34 years.

She not only doesn't court the press, she doesn't even want to be interviewed. She offers no promises of dramatic change, only a promise to go slow and keep things calm.

And the city seems to like it. When the *Richmond Times-Dispatch* profiled Brown recently, just about everyone said she was just what Richmond needed after years of educational turmoil. "She's bringing some peace that needed to be back," said the school board chairman. "We had too many new initiatives coming out too fast," said a principal. "She saw the need to slow down the pace."

Brown has faced her share of problems, such as a serious equipment shortage and a protest by senior teachers who feel the salary scale discriminates against them. A few critics complain that she is so slow-moving as to border on indecisiveness. But Brown clearly has some priorities. She has launched an interdisciplinary science program at the high-school and middle-school levels. She surprised some observers by staking out a pro-neighborhood school policy and reversing an earlier decision to turn a large neighborhood high school into a regional school exclusively for the gifted.

Mostly, though, Lucille Brown seems to be doing well because of what she isn't: a flashy and charismatic salesperson of the sort that has failed too many times in too many places in America in the last few years.

—Alan Ehrenhalt

person faculty includes teachers, a medical director and support staff. The school will admit 20 students by June, and hopes to hold a maximum of 100 by 1993. After spending time in this transitional, non-diploma program, students can then transfer credits back to Albuquerque's other high schools.

Principal Hayes has received positive feedback from participants thus far. For students who used to spend their days on drugs, a day in this school "is a whole different situation," says Hayes. "but they are kept busy, and the day goes by fast."

—Jeanne Ponessa

For more information, contact Marijo Rymer, Public Information Director, Albuquerque Public Schools, P.O. Box 25704, Albuquerque, NM 87125.

## A High School Just for Kids Kicking the Drug Habit

Don't look for football or cheerleaders at a new Albuquerque high school. From its name, Recovery High, to some of its activities, including extensive therapy sessions, the school is anything but traditional.

Recovery High, which opened in February, is believed to be the only high school in the country dedicated exclusively to former substance abusers.

The school offers a regular curriculum for

grades 9 through 12. But along with math and English, the program includes art therapy, group discussions about recovery and weekly meetings with students' families. "We also have experiential or adventure therapy such as rock climbing or ropes courses all day every Wednesday," says Principal Jan Hayes.

The idea for Recovery High was first developed by an Albuquerque neighborhood anti-drug organization in 1990. The

Robert Wood Johnson Foundation awarded an \$800,000 grant for the school's first 18 months, and the school district provided the remaining \$267,000 needed to open the doors.

Students are admitted to Recovery High on a voluntary basis after referral from a counselor or treatment center—and after passing a drug test. "What we're looking for is an interest and a commitment to recovery," says Hayes. And the idea seems to be catching on—so far, the school has been swamped with referrals.

Recovery High's 12-

## Stalking 'Stalkers' With Tough New Laws

For nearly a year, Carrie Prickett successfully shielded herself from harassment by an ex-boyfriend, moving in with friends and having them screen her telephone calls. Her efforts, however, could not prevent an outcome that is all too familiar in "stalking" cases: Police recovered Prickett's charred body from a creek near her Virginia home and charged the man with her slaying.

## Stalking Legislation Sweeps the Nation

Violent, harassing and threatening behaviors toward innocent citizens have always been a serious problem particularly for victims of domestic violence and sexual abuse. Yet it has taken a series of high profile cases during the last few years — often involving celebrity victims — to focus public attention on stalking as a serious crime problem.

While laws such as protective injunctions and stay-away orders do exist to protect victims from violent pursuers, law enforcement officers may not intervene until such orders have been violated. By then, it is usually too late to prevent the offenders from harming or even killing those whom such orders were designed to protect.

In recognition of the ineffectiveness of such orders and in response to a series of tragic crimes committed by perpetrators who stalked and harassed their victims before turning to violence, California passed the nation's first "stalking" law in 1990. In simple terms, the law makes it a crime to engage in a pattern of behavior that harasses and/or threatens other people. Its purposes are twofold: to eliminate behaviors which disrupt normal life for the victim, and to prevent such behaviors from escalating into violence.

In July 1991, the Center included the concept of stalking laws in its *Crime Victims and Corrections* training and technical assistance project sponsored by the U.S. Department of Justice Office for Victims for Crime. Two months later, Center staff appeared on NBC's *The Today Show* and *A Closer Look with Faith Daniels* to emphasize the importance of stalker laws. In September 1992, Center staff joined journalist Ted Koppel on ABC's *Nightline* to defend the constitutionality of such legislation.

California's landmark legislation has led to an unprecedented deluge of "anti-stalking" legislation nationwide. To date, twenty-seven states have passed laws based on the California model this year alone.

In most states, stalking is defined as the "willful, malicious and repeated following or harassing of another person, and requires the existence of a credible threat of violence." Penalties for violation vary; however, most carry a penalty of one year in jail and/or a \$1,000 fine.

Senator Bill Cohen (R-ME) has introduced legislation which charges the National Institute of Justice with developing a model stalking law which should pass constitutional muster. This model would then be made available to state legislators.

In Los Angeles, stalking laws have led to the creation of the four-member *Threat Management Division* of the Los Angeles Police Department. In the last year and a half, the Division has handled more than 150 stalking cases. In other states, law enforcement officials are already making arrests under these newly passed statutes.

The National Victim Center has acted as an information clearinghouse regarding stalking laws. By providing interested legislators with information and technical assistance, and heightening public awareness through the media, the Center has assisted many states in drafting and passing anti-stalking laws. The Center intends to keep abreast of all aspects of this significant and expedient legislative trend.

For additional information, please contact the Center's Director of Public Affairs, David Beatty, at (703) 276-2880.

## States With Anti-Stalking Laws

- California
- Colorado
- Connecticut
- Delaware
- Florida
- Idaho
- Iowa
- Illinois
- Hawaii
- Kentucky
- Louisiana
- Massachusetts
- Mississippi
- Nebraska
- New York
- North Carolina
- Ohio
- Oklahoma
- South Carolina
- South Dakota
- Tennessee
- Utah
- Virginia
- Washington
- West Virginia
- Wisconsin

# Police say anti-stalking law would protect women

THE ASSOCIATED PRESS

**ANCHORAGE** — An anti-stalking bill now before the Legislature would stiffen penalties against men who obsessively follow women, a move police and victims say is desperately needed.

Under laws now on the books, police often can only charge stalkers with misdemeanors like trespassing and disorderly conduct, sanctions victims and their families call inadequate.

That may change, however, because lawmakers have introduced legislation this session that would make stalking a felony in certain circumstances.

"This is a major concern," said state Rep. Cynthia Toohey, a sponsor of the stalking bill. "As women get more involved in working and supporting their families, they need more protection."

At least 27 states have passed such laws.

One case involving a 32-year-old Anchorage woman provides a compelling example.

Police say Gary Woodrow Petersen's obsession began in 1990 when he went to a chiropractic clinic and met a woman who looked like his late wife.

For more than a year, he didn't want to let her out

of his sight. Police say he would hang out in the parking lot of the building where she worked. He would follow her home. He would watch her house at night.

On Jan. 18, after the woman had filed six complaints with police, the 56-year-old Federal Aviation Administration employee was arrested and charged with disorderly conduct. He was released from jail four days later after posting \$2,000 bail.

Police won't release the name of the woman in the case.

According to the criminal complaint filed against Petersen, the woman and her husband befriended him until he began following her. At one point, the clinic where she worked issued him a notice not to trespass or bother employees. Then Petersen got a call from Anchorage police.

"The police officer called him and told him to stay away," APD spokeswoman Jo Kalkus said.

But police say that didn't stop Petersen, who continued to wait, follow and stare.

On Jan. 6, 1992, he parked his car in the driveway of the woman's home. Her husband turned on the floodlights outside, approached Petersen with a gun

and fired two warning shots. Petersen finally left, but police later cited him for trespassing.

Almost two weeks later, he called officers to report that one of the bullets fired that day had hit his car. The woman's husband was cited for misconduct involving weapons, police said.

Petersen, reached at his home recently, denied ever bothering the woman. He would not comment further and referred questions to his attorney, who would not talk about the case.

This year, exactly one year after the shooting incident, police say the woman had another confrontation with Petersen: She spotted him watching her when she left work Jan. 6, and he followed her in his car as she tried to speed away.

After a short chase at speeds that reached 80 mph, she was sure she had lost him. But when she got to an intersection near her home, she saw Petersen's car parked in a lot nearby, at South Birchwood and the Old Glenn Highway. Petersen gunned his accelerator and drove straight toward her. She veered out of the way and sped home.

Police arrested Petersen 12 days later.

If found guilty of disorderly conduct, Petersen would face up to 90 days in jail and a \$1,000 fine.

The proposed legislation would carry both misdemeanor and felony penalties. If someone continues to follow and harass a person in violation of a restraining order, he or she could be charged with a felony that carries up to five years in jail and a \$50,000 fine.

Petersen's victim had obtained a restraining order against him, but that failed to stop him.

Police Capt. Shirley Warner, who serves on the Anchorage Domestic Violence Committee and the Task Force on Sexual Assault, says a stalking law would help the efforts of both organizations.

Police generally can't do much if someone is on public property, but a stalking law would prevent someone from hanging around and intimidating the victim, even if the stalker is not violent.

"They are somebody who is just obsessed," Warner said.

Sometimes the obsession turns deadly. In 1990, 21-year-old Andy Nelson of Anchorage was charged and convicted of murder after he stalked his former girlfriend, then shot and killed her.

# Family keeps watch through murder trial

## 'Long, hard battle' for victim's kin, friends

By DON HUNTER  
Daily News reporter

It was Sandra Pogony who wanted to be a lawyer, not her father.

At 21, she had the tools. She was bright, a good student, a national debate champion. But it is Gary Pogony who has prowled the hallways and offices of the state courthouse the past 10 months, a guy in jeans and a weather-worn brown leather jacket among the suits and wingtips.

"There's not really much a person can say," Pogony said Thursday, a few moments after the state's case against the young man who killed Sandy Pogony last summer went to the jury.

"It's been a long, hard battle. Susan Parkes did a good job with

her presentation. She worked hard, and so did Jim Hanley."

The jury in Andy Nelson's case is deliberating today. Nelson, 22, has conceded firing the shots that killed Pogony and wounded Thomas Van Flein, a law clerk who was dating Pogony for the second time. But his attorneys and a psychiatrist who interviewed him this spring say Nelson was overcome by a psychotic depression and mentally unable to form the intent to kill necessary for a first-degree murder conviction.

At trial, the psychiatrist, Dr. G. Christian Harris, said Nelson was confused and uncertain when he opened fire, but told him he drove home with the sense that a burden

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JIM LAVRAKAS / Anchorage Daily News

Gary Pogony listens to opening arguments at the trial of Andy Nelson.

# MURDER TRIAL: Victim's family endures long ordeal

Continued from Page A-1

had been lifted from him. "When he said that he felt relieved after the killing," Gary Pogony said, "any compassion in our family for him was gone at that time."

For months, Gary Pogony had prodded and pushed to get the charges against Nelson to trial. He worried when Nelson's family hired Bill Bryson, a sought-after defense attorney with a reputation built on a steady diet of high-profile felony cases, fearing that Parkes, the less-experienced state prosecutor, might be out of her depth.

"I had a lot of concern about that," he said, although Parkes did a good job. "The victim's family should have some rights in

deciding who prosecutes the case."

By the time Nelson came to trial, the patience, and sometimes the composure, of the Pogony family was wearing thin.

Early in the trial, the judge warned that it was important for Sandy's family and friends to mask their feelings in the courtroom. It wasn't easy to keep a mask in place. The trial brought hurts and subtle affronts.

When the attorneys described how Nelson stalked Sandy at a couple of Anchorage nightspots before her death, reporters picked it up; the retelling seemed to make Sandy sound more like a carouser than the dutiful student who occasionally went dancing on weekends.

And then Harris, the defense expert, talked about the relationship between Nelson and Sandy Pogony: "I didn't feel the psychiatrist had a right to call Sandy by her first name when he always called Andy 'Mr. Nelson,'" said Sandy's brother, Steve Pogony. "And when they used the term 'making out,' they made it seem like she'd done a lot of that. She hadn't."

Steve testified early in the case and then joined his father in the first row behind the prosecution table for the duration of the trial.

A couple of days later, one of the alternate jurors complained to the judge that he felt pressured when Steve looked at him. If one juror felt pressured, another

seemed oblivious. An elderly woman who appeared to keep nodding off was eventually excused before deliberations began.

Harris also testified that the attack on Sandy early on the morning of Aug. 5 was one of several options racing through Nelson's mind. He also considered shooting Louise Pogony, Sandy's mother, thinking that hurting her mother would cause Sandy the kind of pain he felt, Harris said.

"We thought we knew him," Gary Pogony said. "But you couldn't read him. He called my wife up on July 15; he called her to wish her a happy birthday. And then in a matter of a couple of weeks later, he's thinking about killing her."

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# JUNEAU EMPIRE

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## 'Stalkers' must face punishment

**W**hat happens when a man repeatedly follows a woman down the street, lurks outside her house, tails her in his car or waits for her in the office parking lot? In Alaska, too often, the answer is nothing.

Thankfully, there are efforts under way in the Legislature to change that.

Several so-called "anti-stalking" measures are now under consideration. It's a good bet they'll be consolidated into a new law that will stiffen the penalties for such behavior.

That's good news, because stalking is a crime that terrorizes women and, sometimes, their families. On occasion the roles have been reversed, with women following men.

Usually it's a would-be boyfriend or angry ex-lover or estranged husband. Sometimes it's a stranger.

In the worst instances, their threats eventually escalate into violence. Even when they don't, the fear of what might happen is enough to terrify the victims of stalkers. No one should have to live like that.

Under current Alaska law, authorities can't do much to discourage stalking — trespassing and disorderly conduct charges aren't a

strong enough deterrent — until the incident turns violent. In other words, the victim isn't helped until it's too late.

There are seven bills in the Legislature to change the law. Although the proposals are different — some would expand the existing prohibition against terroristic threatening, others would create a new anti-stalking statute — the ideas generally are the same. First-time stalking offenses would be a misdemeanor and, notably, the crime would become a felony if it's repeated, if it's done in violation of a court order or if it involves a weapon.

The intent is clear: With an anti-stalking law on the books, authorities will be able to act before threats become violent.

As many as 30 states have adopted similar legislation in the past couple of years. Alaska needs to do so, too.

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**TOPIC:** Measures that would make 'stalking' a crime

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# Anchorage Daily News

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PRICE

## Hostage-taker killed

### 4 freed; blast ends standoff in Chugiak

By PETER BLUMBERG  
and LARRY CAMPBELL  
Daily News Staff

A man boiling with rage over a woman who left him died amid gunfire and a fiery explosion Wednesday afternoon after holding a family hostage with a gun and a bomb in a Chugiak trailer.

Conn Wayne Duncan, 40, held Rob and Wendy Lydy and their two young daughters for nearly five hours before attempting a desperate bolt to freedom with one of his hostages.

Police bullets and his own bomb stopped him.

The Lydy home had been a refuge for Duncan's ex-girlfriend, who had been fleeing his violent attacks for nearly a month. But that haven turned to hell when Duncan showed up Wednesday morning.

Anchorage Police sharpshooters' bullets dropped Duncan to the ground outside the trailer as he tried to escape to a pickup truck with Bob Lydy. The hostage ran to safety before the plastic explosive clutched by Duncan blew up in his hand.

Lydy's wife, Wendy, and the couple's 10- and 4-year-old daughters, were released earlier unharmed. Lydy's only injury was a cut on the chin.

Duncan's violent death marked the end of a month of terror he inflicted on the 30-year-old woman he once lived with, as documented in court records.

On Feb. 24, the woman was granted a restraining order against Duncan after she told a judge he'd threatened her by holding a gun to her head. A judge also issued an arrest warrant for assault.

The following week Duncan, under arrest, appeared in court on a charge of growing some 60 mari-



After the bomb exploded, police officers train their rifles on Conn Duncan in case he is still alive while firefighters move to put out the fire.

■ **'TAKE HIM OUT':** Order to fire was first for special city police team. B-1

juana plants at a Spenard trailer he owned. At another hearing later that day, he tried to have the arrest warrant on the assault dropped. He denied ever threatening his ex-girlfriend.

"I'm not a violent person," Duncan told one judge. "I have no record of that. I have no desire to bother (the victim). I'm not going to do that."

Duncan posted a \$2,500 bond March 4 and was freed. Five days later, he allegedly abducted her from work, took her to her South

Anchorage home and, over the next 36 hours, raped her seven times. According to police investigators, the attacks were interspersed with aimless ramblings and violent assaults.

At one point he bound her to the bed with duct tape. And he threatened her again with a gun. Only when her boss called her at home for missing work did Duncan leave.

"She was definitely a woman living in fear," said Sgt. Gary Apperson, who investigated the assault.

Another arrest warrant was is-

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APD Lt. Audie Holloway talks to the 10-year-old girl after the rescue.

## Captor had violent background



Conn Wayne Duncan

By DAVID HULEN  
Daily News reporter

Conn Wayne Duncan, the man who took four people hostage in Chugiak Wednesday before being blown to bits by a bomb he was holding, was no stranger to violence — or explosives.

Five years ago this month, Duncan was arrested for beating up his former wife, Laura Risinger, according to court records. Police seized a 9mm handgun.

Angry about their pending divorce, he had been calling her as often 30 times a day with threats, Risinger recalled in an interview Wednesday.

And, she said, he threatened to kill her with a bomb.

"He was harassing me," Risinger said. "He took to following me around with plastic explosives. He was calling me every 15 minutes telling me how much of the neighborhood he could flatten."

The woman obtained a court order requiring Duncan to stay away from her, though prosecutors never filed criminal charges against him. When she got an unlisted phone number, Duncan's threats ended, she said.

Duncan, an auto-body repairman,

Please see Back Page, DUNCAN

# THE BACK PAGE

## HOSTAGE-TAKER: Standoff ends in flames

Continued from Page A-1

sued for rape and kidnapping; and the restraining order was continued.

At the end of a hearing where the woman repeated her fear of Duncan, Magistrate Andrew Brown asked her if she wanted an escort from court.

"I have a bodyguard," she said without further explanation.

Wednesday morning, Duncan arrived at the trailer at Mile 18 of the Old Glenn Highway shortly before 8 a.m. looking for the woman. She'd taken refuge with the Lydys two weeks ago.

"The girl was visiting Bob and Wendy," said Chet Giles, owner of the A Transmission auto shop across the street from the trailer. "According to her, she told Bob that this guy had a gun and was looking for her, and Bob said, 'I've got a gun, too.'"

"Bob probably never thought it was going to happen like this."

Duncan tried to force the woman to leave with him. But while Duncan thought she was tying her shoes to leave, she ducked out of the trailer and ran to a neighbor's house, where she called police.

By 10:30 a.m., the police bomb squad and the Crisis Intervention Response Team were poised around the trailer. Police hostage negotiators established telephone lines from a command van parked nearby while other officers closed off the surrounding area and blocked traffic on the Old Glenn Highway.

Giles, who had watched the drama from his shop since early that morning, listened as police questioned the ex-girlfriend inside his shop.

At one point, he said, Duncan ordered Bob Lydy to leave the trailer and look for her. Lydy caught up with her at the neighbor's house, but instead of picking her to

**"We made the decision that we would not let him get in a vehicle and leave."**

— Deputy Chief Duane Udland

return, told her to stay put. Lydy returned to the trailer and his captive family.

Police had decided early on that they would kill Duncan rather than let him escape with explosives, according to Deputy Chief Duane Udland. They already knew he'd fired one shot from his 9mm pistol into the floor.

They also believed his bomb threat.

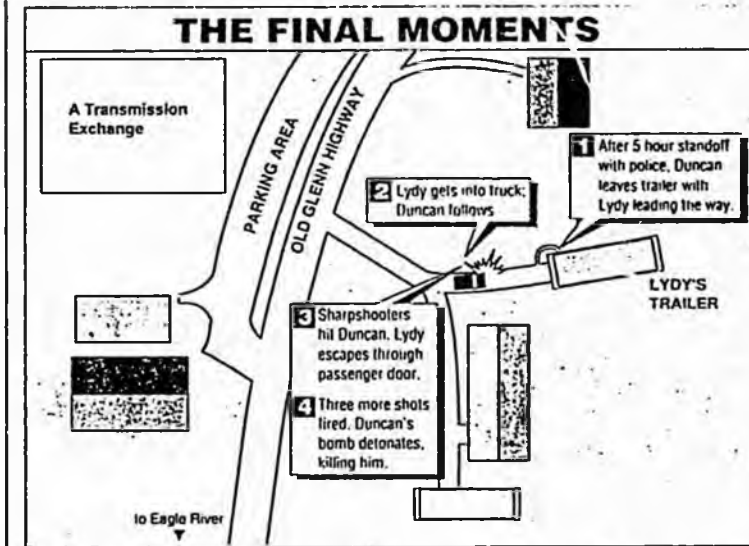
"They'd been told that morning, by his ex-wife, the ex-girlfriend and an acquaintance of Duncan who showed up at the scene, that he had up to 10 pounds of plastic explosive.

"We were convinced he had a real bomb," Udland said. "Our hope was he would come out of the trailer by himself. We made the decision that we would not let him get in a vehicle and leave."

Trained negotiators at police headquarters in Anchorage had made three or four telephone calls to the trailer, and officers in the command van made several more, Udland said. Duncan's only clear demand was that police bring back his ex-girlfriend.

"He talked in vague terms about how life couldn't go on any more and how he couldn't go back to jail," Udland said. "I don't think he was too worried about us hurting him. He said, 'I know you'll end up arresting me and I'm not going back to jail.'"

Then came a note, carried



SEQUENCE OF EVENTS	
Before	Conn Duncan arrives at trailer of Bob and Wendy Lydy, looking for his ex-girlfriend.
8:00 a.m.	Duncan's ex-girlfriend calls police from neighbor's house after escaping.
8:13 a.m.	Police arrive at Lydy's trailer.
10:35 a.m.	Eight members of Crisis Intervention Response Team stake out positions surrounding trailer. Bob and Wendy Lydy and their two daughters are hostage inside.
11:15 a.m.	4 year old girl released unharmed; note demands that Duncan's ex-girlfriend return to trailer within one hour.
12:15 p.m.	10 year old girl released unharmed.
1:04 p.m.	Wendy Lydy released unharmed.
1:06 p.m.	Duncan and Bob Lydy emerge from trailer.
1:07 p.m.	Police shoot Duncan. A plastic explosive he was carrying explodes.



RON ENGSTROM AND REVIN POWELL, Anchorage Daily News

leave the trailer — and was going to take the Lydys with him. But Bob Lydy refused to go unless his wife was released first, Udland said.

"That demand 'may very well have saved both their lives,'" Udland said.

The trailer door opened and Wendy Lydy walked away.

Just after 1 p.m. Duncan left the trailer, with Bob Lydy leading the way. Police CIRT members aimed their M-16 assault rifles at Duncan as he motioned Lydy to his ex-girlfriend's truck.

As Lydy climbed into the driver's door and into the cab, a sharpshooter fired. The shot knocked Duncan to his knees.

Duncan rose to his feet. From their positions, the police could see Duncan pull something on the bomb in his hand.

Seconds later, police fired three more shots. One hit Duncan. As he struggled on the ground, Lydy fled out the truck's passenger door.

Suddenly Duncan disappeared in a flash of light, and a split second later came a muffled blast. Lydy, in the midst of his dash, raised a fist.

When the smoke lifted, the truck was ablaze and Duncan's body was gone.

"The good guy is OK! The good guy is OK!" a voice screamed over a police radio.

Udland said later that Lydy used his head. "He did exactly what we were crossing our fingers and hoping he would do."

Across the street in his shop, Giles said police found some of Duncan's remains strewn about his yard.

Police and federal agents plan to analyze the bomb to determine what it was made of and how.

Daily News reporters Marilee Enge, Don Hunter and Pamela Ooto contributed to this report.

to police by the terrified 4-year-old girl.

"I want my mommy! I want my mommy!" she cried. Sgt. Walt Monegan bundled her in his arms and carried her to safety.

Police read the message she brought: Duncan said he would detonate his bomb if his demand wasn't carried out within the hour.

A short time later the older daughter was allowed

to leave. The three adults inside were calm and huddled in the kitchen, she told police.

But negotiations between Duncan and police were falling apart.

# Why Duncan wasn't in jail

Man killed in hostage standoff sounded like a good bail risk in court

By DON HUNTER  
Daily News reporter

In court three weeks ago, Conn Wayne Duncan looked and sounded like a pretty good bail risk, especially compared with the other criminal defendants sitting around him.



Duncan

He had lived in Alaska for years and hadn't been in any serious trouble before. In his recent brushes with the law, he had voluntarily showed up for court dates on a charge of growing marijuana.

■ **NO GUARANTEES FOR WOMEN:** The Conn Duncan case underlines the plight of domestic-violence victims. F-1

■ **INVESTIGATION:** Parked car may have signaled ex-girlfriend's presence to Duncan; police look for more explosives. B-1

Largely as a result, the man who this week held a Chugiak family hostage before exploding himself with a homemade bomb was able to persuade a judge to reduce his bail from \$10,000 to \$2,500 on a charge of threatening his

ex-girlfriend with a gun.

After failing to talk another judge into letting him go solely on his promise to show up for trial, Duncan bailed out of jail March 4 and skewed out of control.

On tape recordings of his court appearances, Duncan sounds calm and intelligent as he tried to convince judges that the charges against him were false, that the woman who claimed he held a gun to her head was lying or mistaken, and that he would stay out of trouble.

Please see Back Page, DUNCAN



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# THE BACK PAGE

## DUNCAN: Man who took hostages went free on lower bail

Continued from Page A-1

Assistant District Attorney Steve Branchflower argued against reducing Duncan's bail at those hearings. On Thursday night, however, Branchflower said the 40-year-old divorced father had done a good job of concealing his anger.

"A lot of times crazy people let off vibrations," Branchflower said. "This guy acted like a regular person. There was nothing about his appearance that would cause you to get scared."

In court March 3 and 4, Duncan insisted he had done nothing wrong.

"Your honor," he told one judge, "I'm not trying to sound like a really super good guy or anything. ... I understand that my ex-girlfriend was upset with me. We were both upset. But I do not know where she got the idea that I had a gun. I haven't had one since 1987. I

*"A lot of times crazy people let off vibrations. This guy acted like a regular person. There was nothing about his appearance that would cause you to get scared."*

— Assistant District Attorney Steve Branchflower

don't have one now. I don't need one."

People accused of crimes under state law are entitled to a reasonable bail. The trick is deciding what's reasonable. Judges usually go on a defendant's history and his ties to Alaska. In Duncan's case, his record before the pot bust was practically spotless.

Duncan and his attorney asked Judge John Lohff to let him go on his own recognizance, which is basically an unsecured promise that he would show up for future court dates. His argument was strengthened by the fact he had voluntarily appeared in court that very day.

But Duncan hadn't known that there was a second arrest warrant out for him when he appeared in court on the drug charge March 3. The second warrant — for the assault charge against his ex-girlfriend — was served on Duncan in court. The judge who had issued it set bail at \$10,000.

"If he had known earlier that there was a warrant (for the assault), he would have turned himself in," said the assistant public defender who was representing him. "There's no indication he's a flight risk. He's lived in Alaska for 14 years. I think his record speaks for itself."

Branchflower, however, argued against reducing Duncan's bail, much less setting him free on his own recognizance.

"I've seen this situation happen many times, where a matter is brought to the attention of the police," Branchflower told the judge or March 3.

"Usually, the boyfriend, the husband ... their reaction is anger and rage. This is a particularly dangerous time now when the defendant finds that someone he has trusted and loved has resorted to the police."

Lohff refused to let Duncan free without bail, but he reduced it to \$2,500.

Duncan stayed in jail that night. The next day, he tried to persuade Judge Natalie Finn to let him out without posting bail.

"I'm not a violent person," Duncan told Finn.

"Your honor, I guarantee you, you have my word, my sacred honor, I will be here to take care of this. I'm not going to run."

Finn also refused to reduce Duncan's bail below \$2,500.

About 10 p.m. the same day, Duncan made bail and checked out of Cook Inlet Pre-Trial Facility.

The next time authorities heard of him was March 10, when the woman who said Duncan had held a gun to her head reported that he appeared at her door March 9, held her captive for more than 24 hours and raped her.

More charges were filed, this time for rape and kidnapping, and the judge who signed that warrant set bail at \$100,000. But Duncan was nowhere to be found.

He didn't appear again until the morning of March 25, when he tracked his ex-girlfriend to the home of friends in Chugiak.

Branchflower said he had argued against decreasing Duncan's bail because he thought Duncan needed time to cool off. People who have just been arrested can get pretty angry at the people who accuse them, especially when they're accused by girlfriends or wives, he said.

"I've developed a sense of radar with these guys, and I knew something would happen," he said. "I didn't know it would be this bad."

"That's not to say I haven't made that argument many times and been wrong," Branchflower said.

"I've often said our job is very much like defusing bombs. And every once in a while one blows up. You never hear about the ones that don't. You hear about the one that blows up. Unfortunately, in this case, literally."



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"STALKING" LEGISLATION UPDATE

December 18, 1992  
Donna Hunzeker

Thirty states have "stalking" laws as of this writing. California passed the first law in 1990, creating (and coining) "stalking" as a crime. States known to have added similar laws this year are: Alabama, Colorado, Connecticut, Delaware, Florida, Hawaii, Kansas, Idaho, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, Nebraska, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia and Wisconsin.

New Jersey and Pennsylvania considered, but did not pass, stalking measures in 1992. A number of states, Arkansas, Indiana and Texas among them, are preparing stalking legislation to be introduced next year.

In other states, laws called something other than "stalking" have similar intent and purpose. For example, "terrorizing" in Maine is either a Class D crime or Class C crime when threats of violence are made. Since 1987, Minnesota has had "trespass" and "harassment" laws to apply to stalking situations that include "intent to harass, abuse or threaten." Multiple acts of harassment are punishable through enhanced penalties, and in the 1992 omnibus crime bill, Minnesota increased penalties for repeat offenses. Minnesota law also has felony penalties for "terroristic threats" which can apply to stalking situations. Arizona created misdemeanor classifications of harassment this year.

States typically have defined "stalking" as willful, malicious, and repeated following and harassing of another person. Most stalking laws require that the perpetrator make a "credible threat of violence" against the victim, and in many states, credible threat includes threats against the immediate family of the victim. Many provisions require that the victim have "reasonable fear of death or great bodily injury." Stalking laws generally apply to cases where women allegedly are terrorized by former boyfriends or husbands. Cases where women (or men) are stalked by casual acquaintances or even strangers have brought about some state laws and are applicable under most stalking laws. Statute language in most states broadly provides that the victim could be any person or circumstance in which following, threats and intimidation are present.

Many states have both misdemeanor and felony classifications of stalking, with up to one year of jail typical for first offenses. Tougher penalties (up to three, five and even six years) often apply to second or subsequent stalking offenses. Enhanced penalties also apply in many states where a stalker violates a protective order.

California amended its original stalking law this year, redefining "credible threat" of harm to include threats against immediate family, and increasing penalties for second or subsequent stalking convictions. The new law also allows restraining orders for up to 10 years.

*For more information, please contact NCSL Marketing/Book Order Department at 303-830-2200 for "Stalking Laws" State Legislative Report.*

4-12-93

Billy-

2 copies of new  
fiscal note for HB64.  
Bill is scheduled  
for Thursday. May  
we put in members'  
files?

Yes  No

Billy

Kathy

2618

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