

ALASKA LEGISLATURE COMMITTEE FILES

1993-1994

8672

7845

HOUSE JUDICIARY

think it is appropriate. Four percent (4%) of people, however, report that either they or someone they know has been denied a job or fired for such a reason.

- o Ninety-eight percent (98%) say it is inappropriate to deny a job to or fire someone who drives a motorcycle; only 2% think it is appropriate. One respondent out of fifty (2%) says that either he or someone he knows has been denied a job or fired because of this behavior.

- o Ninety-one percent (91%) think it is inappropriate to deny a job to or fire someone for participating in political demonstrations, while 7% think it is appropriate. Executives (13%), semi/unskilled workers (13%), retirees (13%), and occasional smokers (13%) are more inclined to feel it is appropriate. One person out of fourteen (7%) reports that either they or someone they know has been denied a job or fired because they participated in a political demonstration. High-level professionals (13%) and people aged 35-49 (11%) are more likely to mention such an occurrence.

- o Ninety-one percent (91%) say it is inappropriate to deny a job to or fire someone for gambling at a racetrack, while 7% say it is appropriate. Two percent (2%) of people say that either they or someone they know has been denied a job or fired because of this practice.

o While 74% say it is inappropriate to deny a job to or fire someone for holding an unusual second job, 16% think it is appropriate. Seven percent (7%) of respondents report that either they or someone they know has been denied a job or fired because they had an unusual second job. Executives (17%) and those earning between \$41,000 and \$51,000 (11%) are more likely to report such an occurrence.

o Eighty-four percent (84%) think it is inappropriate to deny a job to or fire someone who is overweight, while 12% say it is appropriate. Republicans (22%) and high-level professionals (22%) are more likely to believe it is appropriate. One person in eleven (9%) says that either he or she or someone he or she knows has been denied a job or fired because the person was overweight.

o Ninety-five percent (95%) think it is inappropriate to deny a job to or fire someone who supported abortion, while 4% say it is appropriate. Ninety-seven percent (97%) say it is inappropriate to deny a job to or fire someone who opposed abortion. Only 2% say it is appropriate. Only 1% of people say either they or someone they know has been denied a job or fired because of their views on abortion.

o Ninety-four percent (94%) think it is inappropriate to deny a job to or fire someone who smoked after work hours, at home, or otherwise away from the workplace, while 5% say it is appropriate. Former smokers (12%),

high-level professionals (10%), and semi/unskilled workers (10%) more often think it is appropriate. Three percent (3%) of respondents say that either they or someone they know has been denied a job or fired because they smoked away from the workplace.

In summary, almost one-fifth of people (19%) report that either they or someone they know has been denied a job or fired because of the behaviors outlined above. Executives (29%), high-level professionals (23%), salespeople (23%), former smokers (28%), people aged 35 to 49 (23%), Republicans (23%), Hispanics (42%), and African-Americans (24%) are all more likely to report that either they or someone they know has been denied a job or fired for exhibiting one of these behaviors. This occurred despite the fact that the vast majority of people think it is inappropriate to deny someone a job or fire a person because they behaved in any of these ways.

Section III: Actions Taken by Employers

**WHETHER EMPLOYERS HAVE THE
RIGHT TO DO CERTAIN THINGS**

All Respondents

Ranked by "Don't Have Right" All numbers expressed as percentages

	<u>Have right</u>	<u>Don't Have Right</u>	<u>Don't Know</u>
Require employee to change diet	5	92	3
Forbid dating employee of rival firm	9	86	4
Require employee to quit smoking	12	85	3
Refuse to hire an overweight person	14	81	5
Refuse to hire a smoker	19	78	4
Monitor personal phone calls	20	77	3
Require employee to quit second job	24	68	8
Check credit on prospective employee	29	67	4

**"Has an employer ever done any of the following to you
or to someone you know...?"**

	<u>Yes (%)</u>	<u>No (%)</u>
Monitor personal telephone conversations	17	83
Do a credit check on a prospective employee	17	83
Require employee or applicant to quit second job	15	85
Refuse to hire an overweight person	13	87
Refuse to hire a smoker	10	90
Require employee or applicant to quit smoking	7	93
Forbid employee or applicant from dating an employee from a rival firm	6	94
Require employee or applicant to change diet	4	96
----- NONE OF THESE	63	37

Respondents were read a list of actions employers might take. For each one, they were asked whether or not employers have the right to take such an action, and whether or not such an action has ever been taken against either the respondent or someone the respondent knows.

o Seventy-seven percent (77%) believe employers do not have the right to monitor personal telephone conversations, but one out of five (20%) say they do have the right. Hispanics (35%), those earning between \$41,000

and \$51,000 (31%). semi/unskilled workers (30%), and people aged 50 to 64 (29%) are more inclined than other groups to feel employers have the right to monitor personal telephone calls. One in six respondents (17%) report that an employer has monitored either their or someone they know's personal telephone conversations. High-level professionals (26%) are the most likely to indicate this.

o Eighty-six percent (86%) say employers do not have the right to forbid an employee or job applicant from dating an employee from a rival firm, and 9% say they do have this right. People aged 50 to 64 (23%) are more likely than other groups to say employers have this right. Six percent (6%) of respondents report that an employer has forbidden either them or someone they know from dating an employee from rival firm.

o Eighty-one percent (81%) say employers do not have the right to refuse to hire an overweight person; 14% say they do have the right. One out of eight respondents (13%) says that an employer has refused to hire either the respondent or someone he or she knows because that person was overweight.

o Seventy-eight percent (78%) think employers do not have the right to refuse to hire a smoker, whereas 19% say they do have the right to refuse to hire a smoker. Among those more inclined to say employers have the right to refuse to hire a smoker are people aged 50 to 64 year (29%),

retirees (27%), and those earning over \$51,000 (27%). Ten percent (10%) of people say that an employer has refused to hire either them or someone they know because the person was a smoker. Former smokers (14%) are the most likely to report this occurring.

o Ninety-two percent (92%) say employers do not have the right to require an employee or job applicant to change his or her diet, while 5% think they do have the right. Four percent (4%) of people say that an employer has required either them or someone they know to change their diet.

o While 85% say employers do not have the right to require an employee or job applicant to quit smoking, 12% think they do have the right. Republicans (19%), 50-64 year olds (19%), high-level professionals, and former smokers (19%) are more likely than other groups to feel employers have the right to require an employee to quit smoking. One out of fourteen respondents (7%) reports that an employer has required either the respondent or someone the respondent knows to quit smoking. Former smokers (12%) are the most likely to report this happening.

o Although 68% think employers do not have the right to require an employee or job applicant to quit a second job almost one out of four Alaskans (24%) say they do have this right. High-level professionals (34%) and people aged 50 to 64 (32%) are most likely to feel employers have this right. Fifteen percent (15%) of people report that an employer has

required either them or someone they know to quit a second job.

Salespeople (27%), executives (24%), high-level professionals (22%), and people 35 to 49 (22%) are more likely to mention this occurring.

o Two out of three respondents (67%) say employers do not have the right to do a credit check on a prospective employee, but 29% say they do have the right. Executives (41%) and people over 50 (41%) are more likely to say employers have the right to do a credit check. One in six respondents (17%) reports that an employer has done a credit check on either the respondent or someone that the respondent knows.

In summary, more than one-third of all respondents (37%) indicate that at least one of the above situations has happened to either them or someone that they know. Former smokers (46%), Republicans (44%), residents of the Central district (43%), people aged 50 to 64 (41%), high-level professionals (41%), salespeople (41%), and Hispanics (63%) are all more likely to report these things occurring. This occurred despite the fact that *at least two-thirds* (67%) of the respondents say that employers do not have the right to take such actions.

Section IV: Worker Compensation Claim

Almost three out of four respondents (73%) oppose allowing businesses in Alaska to refuse to hire a person who has a worker compensation claim, while 17% favor allowing them to do so. Those earning under \$31,000 (86%) and regular smokers (84%) are most opposed to this proposal, while executives (35%) are most in favor.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 62

Revision Date: _____
 Title: *Prohibiting employers from discriminating
against individuals for legal use of legal products.*
 Sponsor: Representative Grussendorf
 Requestor: House Labor and Commerce Committee

Department Affected: Administration
 BRU: Personnel/OEEO
 Component: Personnel/OEEO

COMPONENT SERIAL NO. 56

EXPENDITURES/REVENUES:

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
TOTAL OPERATING	0	0	0	0	0	0

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
TOTAL	0	0	0	0	0	0

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.)
 HB 62 will not require an additional appropriation for this division.

Prepared by: R. H. King, Director
 Division: Personnel/OEEO

Phone: 465-4430
 Date: _____

Approved by Commissioner: Nancy Bear Userra
 Agency: Administration

Date: 2/5/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO : HB 62

Revision Date: _____
 Title: Employee's Right to Use Lawful
Products
 Sponsor: Representative Grussendorf
 Requestor: House Labor & Commerce

Department Affected: Labor
 BRU: Labor Standards & Safety
 Component: _____
Wage & Hour
 COMPONENT SERIAL NO. 345

EXPENDITURES/REVENUES:

(Thousands of Dollars)

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 OPEHATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:

(Thousands of Dollars)

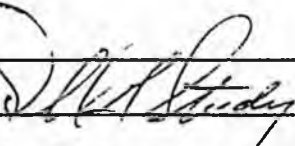
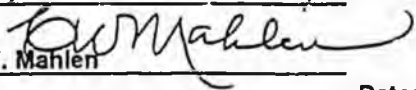
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Donald Study, CSP, Director  Phone: 465-6003
 Division: Labor Standards & Safety Date: 2/4/93
 Approved by Commissioner: Charles W. Mahlen 
 Agency: Department of Labor Date: 2/4/93

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HB

64

Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

February 26, 1993

LETTER OF INTENT

The House Judiciary Committee, in its review of HB 64, An Act Creating the Crime of Stalking, discussed some issues that were not clear from the analysis in the fiscal note submitted by the Department of Corrections. The Judiciary Committee respectfully urges the Finance Committee to ask the Department to clarify the expected fiscal impact of this bill (if any) on both probation and prison costs.

A handwritten signature in cursive script that reads "Brian Porter".

Representative Brian Porter
Chairman, House Judiciary Committee

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REAGAN ✓
LOPE ✓
FLYNN ✓
STEVE ✓
BARNER ✓

BY & SA COUNCIL

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BY
NO

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Rep. Brian Porter, Chairman

House Judiciary Committee

Date: February 19, 1993

Place: Capitol Room 120

Subject of Meeting: HB 64 Anti-Stalking Law

HB 78 Testimony of Minors in Criminal Trials

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
✓ Elizabeth CUADRA	self	P.O. Box 33678 Tulneau	99803	789.2084	586.3340	(Y) N	HB 64
✓ Cindy Smith	ANDUSA	419 6th St.	99801	586.3650		(Y) N	HB 64
✗ Sam Trivette	Dept. of Correction	416 Hanna			465-3376	Y (N)	HB 64
✗ MARCIA MCKENZIE	CDVSA - Dept of Pub Safety	Box 111200 Juneau 998	99811		465-4356	(Y) N	HB 64
✗ John NEWELL	SITKA Police Dept	304 LAKE ST, SITKA 99835	99835	747-6073	747-3349	Y (N)	HB 64
✗ Margaret Knuth	Law				465-4049	(Y) N	HB 64 / 78
✗ Les Ann Lucas	Public Safety				465-4320	(Y) N	HB 64
A Cynthia Hill	Self					(Y) N	HB 64
✗ Rena Bukovich	Rep. MacLean	— Capitol 507			465-6872	(Y) N	HB 78
J. Deborah Leper	Sen. Leman	Capitol 115			465-2095	(Y) N	HB 64
						Y N	
						Y N	

(7)

Date Referred: January 15, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 2-26-93

The JUDICIARY Committee considered:

HB 64

HOUSE BILL NO. 64

ANTI-STALKING LAW

"An Act creating the 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; relating to the release before trial of a person accused of stalking; and prohibiting the suspension of imposition of sentence of a person convicted of stalking."

RECOMMENDATIONS:

be replaced with CSHB64 (JUD)

the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: HOUSE JUDICIARY letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note Law, Public Safety, Corrections

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian Porter</i>	✓				
<i>Sail Phillips</i>	✓				
<i>Tom Woodward</i>	✓				
<i>Pete Lott</i>	✓				

Brian Porter
CHAIRMAN'S SIGNATURE

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: 2-26-93
Place: CAPITOL 120

Subject of Meeting: HB64 Anti-Stalking
HB69 Sex Offender Registration
~~Child in State Custody~~
HB100 Prosecution of Juvenile Felons

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
Maureen Knuth	Law - Crim				465-4049	Y <input checked="" type="checkbox"/> N	Any
Lee Sue Lewis	DPS				465-4325	Y <input checked="" type="checkbox"/> N	Any
Jen Tucci	Self	4405 Portage Blvd Juneau AK 99801		789 3726		<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	HB69
Quinn Kinish	Self	9202 Emily Way Juneau AK	99814	789-3236	Same	Y <input checked="" type="checkbox"/> N	HB69
MARCIA MCKENZIE	CDVSA	BOX 111200 JUNEAU	99803		465-4356	Y <input checked="" type="checkbox"/> N	HB64 + HB69
						Y <input type="checkbox"/> N	
						Y <input type="checkbox"/> N	
						Y <input type="checkbox"/> N	
						Y <input type="checkbox"/> N	
						Y <input type="checkbox"/> N	
						Y <input type="checkbox"/> N	
						Y <input type="checkbox"/> N	

2-19-93

(in your packet)
CS AB64

Suggested amendments to
so far

pg 1
line 7

title: add reference to probation changes?

page 2
line 13

add new § (b) poss of deadly weapon

page 2
lines
14+15

switch §§ (c) & (b)

page 2
lines
22-23

take out " pattern of conduct
..... composed of "

page 2
lines
27-28

add: nephews, niece, uncle, aunt?
✓ add: "dating or courtship relationship"?

page 2
lines
29-31
page 3 line 1

take out " w/o consent "
requirement — can this be
done?

page 3
line 26

take out "immediate" &
insert "member" after family

page 6
lines
4-5

why extend probation period
only for stalking?
[see attached amendment]

8-LS0283NU
Luckhaupt
2/26/93

CS FOR HOUSE BILL NO. 64(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

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

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 extending the maximum period of probation after conviction for a crime; and
8 providing for an effective date."

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

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

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

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

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

5 (3) the victim is under 16 years of age;

6 (4) at any time during the course of conduct constituting the offense
7 the defendant possessed a deadly weapon;

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

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

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

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

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

25 (b) In this section,

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

28 (2) "family member" means a

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

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

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

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

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

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

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

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

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

16 (E) contacting that person by telephone;

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

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

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

21 (c) Stalking in the second degree is a class A misdemeanor.

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

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

24 (1) recklessly

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

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

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

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

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

11 * Sec. 6. AS 12.30.025 is amended to read:

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

- 18 (1) not to subject the victim to further domestic violence or stalking;
19 (2) to vacate the home of the victim;
20 (3) not to contact the victim other than through counsel;
21 (4) to engage in counseling; if the court directs the defendant to engage
22 in personal counseling, the court shall provide in the order that the counseling must
23 propose alternatives to aggression if that type of counseling is available; if the court
24 directs the defendant to participate in family counseling, it shall make a finding that
25 family counseling will not result in additional domestic violence or stalking;
26 (5) to refrain from the consumption of alcohol or the use of drugs.

27 (b) As used in this section,

28 (1) "domestic violence" means a crime specified in AS 11.41 when the
29 victim is a spouse or a former spouse of the defendant; a parent, grandparent, child,
30 or grandchild of the defendant; a member of the social unit comprised of those living
31 together in the same dwelling as the defendant; or a person who is not a spouse or

1 former spouse of the defendant but who previously lived in a spousal relationship with
2 the defendant or is in or has been in a dating, courtship, or engagement relationship
3 with the defendant;

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

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

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

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

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

10 (3) is convicted of a violation of AS 11.41.210 - 11.41.270
11 [AS 11.41.210 - 11.41.250] or 11.41.510 - 11.41.530, and the person has, within the
12 10 years preceding the commission of the offense for which the person has been
13 convicted, one or more prior convictions for a violation of AS 11.41 or for a violation
14 of a law in this or another jurisdiction having substantially similar elements to an
15 offense defined in AS 11.41; for the purposes of this paragraph, a person shall be
16 considered to have a prior conviction even if that conviction has been set aside under
17 (e) of this section or under the equivalent provision of the laws of another jurisdiction.

18 * Sec. 8. AS 12.55.090(c) is amended to read:

19 (c) The period of probation, together with any extension, may [SHALL] not
20 exceed 10 [FIVE] years.

21 * Sec. 9. 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. 10. APPLICABILITY. AS 12.55.090(c), as amended by sec. 8 of this Act, does not
26 apply in the case of a conviction for a criminal act committed before the effective date of this
27 Act.

28 * Sec. 11. This Act takes effect immediately under AS 01.10.070(c).



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.

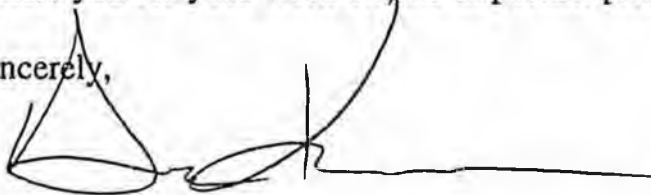
I think that it is possible that his tragedy would not have happened if we had been able to charge this man with an appropriately serious crime during the period of his stalking behavior. I believe that any law enforcement agency would have similar horror stories that involve this type of conduct.

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.

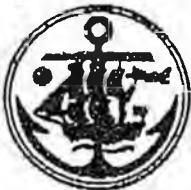
I also applaud the fact that HB 64 creates a separate crime of "Stalking". One of the problems with tagging such a law onto an existing statute (such as Terroristic Threatening) is that it is often difficult or impossible to discern from a computerized criminal history printout which part of the overall 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



Tom Fink, Mayor

ANCHORAGE POLICE DEPARTMENT

4501 SOUTH BRAGAW STREET ♦ ANCHORAGE, ALASKA 99507-1599
TELEPHONE (907) 788-8500



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.

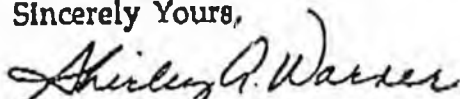
This bill would enable officers to take quick and sure action in situations that could be very volatile, or life-threatening in nature. Officers deal with many cases per year in which they are forced to tell victims of stalking there is nothing they can do. It is only after someone feared takes aggressive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



STATE OF ALASKA

LEGISLATIVE AFFAIRS AGENCY

DIVISION OF PUBLIC SERVICES

Legislative Information Office
P.O. Box 1189
Delta Jct., AK 99737
(907) 895-4236

DATE: February 19, 1993

Please accept the enclosed original(s) of written testimony
for the House Judiciary Committee teleconference hearing that was
scheduled on February 19, 1993.

A copy of this testimony was transmitted to your committee via
fax on February 19, 1993.

Thank you,

E. A. Sarver

Elizabeth A. Sarver
Information Officer



Alaska State Legislature

Senate House

Please enter into the record my testimony to the

Judicial Committee
committee name

committee on HB/64
bill/subject

, dated 19 FEB 93

*ie: imminent serious ~~danger~~ serious injury
by means of a dangerous instrument -
in my instance the stalker has used
his own vehicle to threaten myself & my
family in our own vehicle.*

*Subtle psychological terrorism feeds the
stalker's need of power, motivates them
towards more violent acts.*

*It starts out small w/ telephone contact,
to personal contact in a private area to
open contact to harmful violent contact.*

There is a definite history to their actions.

Signed: _____

Laure B. Knapp
Testifier

Representing (Optional)

P.O. Box 794 Delta AK
Address

907-895-4150

Phone No.

CHANGES BETWEEN ORIGINAL BILL AND 2/16/93 DRAFT

TITLE: page 1, line 6-7 " after "stalking" added..."and relating to the crime of assault in the third degree"

Page 1, line 13, after "25.35.020;" deleted ["and the defendant has received actual notice of the order;"]

Page 2, line 3, added (3) the victim is under 16 years of age; and renumbered accordingly

Page 2, lines 3-5 deleted

Page 2, line 6, deleted ["violation"] and added "crime"

Page 2, line 7 , after AS 11.56.740, added "or a law or ordinance of this or another jurisdiction with elements similar to a crime under this section, AS 11.41.270, or AS 11.56.740 or;

Page 2, line 7, after new addition above, added (5) the defendant has been previously convicted of (A) a crime under, or an attempt or solicitation to commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 - 11.41.460, AS 11.56.810, AS 11.61.120, or (B) a law or an ordinance of this or another jurisdiction with elements similar to a crime, or an attempt or solicitation to commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 -11.41.460, AS 11.56.810, or AS 11.61.120, involving the same victim as the present offense."

Page 2, lines 10-14 deleted

Page 2, line 17, deleted ["would cause a reasonable person to feel threatened or harassed, and that actually causes the victim to feel threatened or harassed."] and added "recklessly places another person in fear of death or physical injury, or in fear of the death or physical injury of a family member."

Page 2, lines 20-31 deleted

Page 3, line 4, after "victim deleted ["evidencing a continuity of purpose"]

Page 3, line 4, after "composed of a" deleted ["series of two or more separate noncontinuous"] and added "repeated"

(over)

Page 3, line 5, after victim, deleted ["a member of the victim's immediate family, or another person living in the victim's household"] and added "or a family member of the victim (2) "family member" means (A) a spouse, child, grandchild, parent, grandparent, or sibling; (B) a person who lives in a spousal relationship; or (C) a person who lives in the same household:"

Page 3, line 22, new Section 2 and Section 3 are added and all other subsequent sections numbered accordingly.

Page 5, line 19, Section 7 is deleted.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. Work Draft CSHB 64
Dated 2/16/93

Revision Date: February 18, 1993
Title: "An Act creating the crimes of stalking in the first and second degrees..."
Sponsor: Representative Toohy
Requestor: Representative Toohy

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						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

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.

Richard I. Peques

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

Phone: 465-3672
Date: February 18, 1993

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

Date: February 18, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. Work Draft CSHB 64
Dated 2/16/93

ANALYSIS (Continued):

The work draft version of CSHB 64, dated 2/16/93, answers the concerns the department raised in its fiscal note of 2/1/93. The new version of the bill amends AS 11.41 to establish the crimes of stalking in the first degree and stalking in the second degree. The penalties for these crimes would be a class C felony and a class A misdemeanor, respectively. The bill also amends the assault, terroristic threatening, and domestic violence laws, in a manner that coordinates the anti-stalking provisions with these laws.

Although this bill will cause some new prosecutions, it will probably also prevent some more serious crimes from being committed. We cannot predict how many new prosecutions will occur. However, the prevention of one murder will certainly outweigh the prosecution of several stalking crimes, both in human and monetary terms.

Last, coordinating the anti-stalking provisions with existing laws will also help the state defend against legal challenges to overturn the anti-stalking law, because it helps demonstrate that these provisions are part of a broader legislative plan to protect the general population from the fear of death or physical injury at the hands of another person.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: CSHB 64

Revision 2/18/93 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: Representative Toohey 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

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

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 upon the Alaska State Troopers is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 2/18/93
 Approved by Commissioner: *Richard L. Burton* Date: 2/18/92
 Agency: Richard L. Burton, Dept. of Public Safety

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information call the Governor's Legislative Office

Bill No. CSHB 64

Date: February 17, 1993
Contact: Joanne F. Lopez
465-4356

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

CSHB64 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.

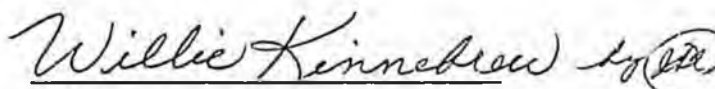
Each year an estimated six million women are beaten by the men they live with. A third of the women who are murdered each year are killed by husbands or boyfriends. National statistics show that 30% of all female homicide victims were stalked prior to their murders. Leaving a bad relationship is often 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.

CSHB 64 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 and Sexual Assault suggests the addition of one amendment:

1. Include an additional aggravating factor that makes the crime a felony if the offender stalks the victim and is in possession of a deadly weapon. A similar change was added to the restraining order provision two years ago recognizing the lethal combination of this behavior.



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

THE
FOLLOWING
DOCUMENTS
ARE
POOR
ORIGINAL
COPIES



CITY OF HOMER

POLICE DEPARTMENT

4060 HEATH STREET

HOMER, AK 99603-7603

EMERGENCY 911
TELEPHONE (907) 235-3150
TELECOPIER (907) 235-8151

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 "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 Family 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 defined 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,



Sgt Andy Klamser



Tom Fink, Mayor

ANCHORAGE POLICE DEPARTMENT

4501 SOUTH BRAGAW STREET * ANCHORAGE, ALASKA 99507-1500
TELEPHONE (907) 786-8500



Service since 1921

February 19, 1993

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

Dear Representative Toohay,

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.

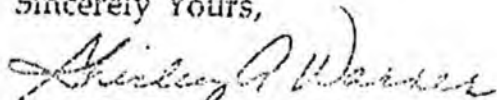
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Aside from being able to protect the victim, this law would send a very clear message to people who feel they can violate the freedom of another. No matter the actions, intentions, or demeanor of those who choose to stalk another, their actions are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

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION/THIRD JUDICIAL DISTRICT

OFFICE OF THE DISTRICT ATTORNEY

WALTER J. HICKEL, GOVERNOR

ANCHORAGE

- 400 W. 4TH AVENUE SUITE 220, ANCHORAGE, ALASKA 99501-1000 PHONE (907) 377-5622
- P.O. BOX 490, ELLINGHAM, ALASKA 99574-0490 PHONE (907) 842-2421
- 1411 MAIN STREET, 100P, ANCHORAGE, ALASKA 99501-1000 PHONE (907) 264-2131
- 201 BENTLEY AVENUE SUITE 205, COVINGTON, ALASKA 99574-3715 ANCHORAGE (907) 482-5744
- 400 W. 4TH AVENUE SUITE 220, ANCHORAGE, ALASKA 99501-1000 PHONE (907) 377-5622
- 400 W. 4TH AVENUE SUITE 220, ANCHORAGE, ALASKA 99501-1000 PHONE (907) 377-5622

February 18, 1993

FEB 18 1993

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

FAX 465-2117

Dear Representative Teohay:

Thank you very much for allowing the District Attorney's Office input in committee substitute for House Bill No. 64, the stalking bill. I spoke with Marvann 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

Page 2

February 18, 1992

Re: Cynthia Hokey 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 civic 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 processing these cases, please feel free to contact me as well.

Sincerely yours,

CHARLES E. COLE
ATTORNEY GENERAL

EDWARD E. McNALLY
DISTRICT ATTORNEY



Suzanne H. Lombardi
Assistant District Attorney

SHL:raa

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!

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 64

Revision Date: 2-19-93 Dept. Affected: Corrections
 Title: "An Act creating crimes of stalking.." BRU: Institutional Community Corrections
 Sponsor: Rep. Toohy Component: _____
 Requestor: House HESS COMPONENT SERIAL NO. 1860; 1861

Expenditures/Revenues: (Thousands of Dollars)

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

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
-----------------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

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 is not easily quantifiable, although the Department assumes that the number of convictions will not be that large. Because of the level of supervision required by these offenders during probation, it is estimated that a new probation officer position will be required for every 40 cases.

Prepared by: Dana LaTour, Special Assistant *Dana LaTour* Phone: 465-3376
 Division: Office of the Commissioner Date: 02-19-93
 Approved by Commissioner: Lloyd C. Rupp *Dana LaTour for* Date: 02-19-93
 Agency: Department of Corrections

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BILL NO: CSHB 64

DATE: February 18, 1993

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

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

Section one of CSHB 64 amends AS 11.41. Offenses Against the Person by adding a new section 11.41.260 Stalking in the First Degree. If the defendant 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 victim is sixteen (16) years of age or under, or 3) the defendant has been previously convicted of a similar crime of stalking or violation of a domestic violence order, or 4) 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, or sibling;
- (B) A person who lives in a spousal relationship; or
- (C) A person who lives in the same household

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), is amended to include "placing another person in fear of death or serious physical injury to the person or persons immediate family [by making] repeated threats to cause death or serious physical injury to another person."

Section four 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 five 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 and eight amends AS 12.55.090. Granting of Probation, by adding a subsection which permits probation for a violation of the Stalking in the Second Degree to be not less than five years nor more than 99 years.

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.



Richard L. Burton
Commissioner

8-LS0283R
Luckhaupt
2/16/93

CS FOR HOUSE BILL NO. 64()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

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

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; and relating to the crime of assault in the third
7 degree."

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

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

14 (b) Stalking in the first degree is a class C felony.

15 (c) In this section, "victim" has the meaning given in AS 11.41.270(c).

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

20 (b) Stalking in the second degree is a class A misdemeanor.

21 (c) In this section,

22 (1) "course of conduct" means a pattern of conduct directed toward a
23 victim, that is composed of repeated acts of nonconsensual contact involving the victim
24 or a family member of the victim;

25 (2) "family member" means

26 (A) a spouse, child, grandchild, parent, grandparent, or sibling;

27 (B) a person who lives in a spousal relationship; or

28 (C) a person who lives in the same household;

29 (3) "nonconsensual contact" means any contact with another person that
30 is initiated or continued without that person's consent, that is beyond the scope of the
31 consent provided by that person, or that is in disregard of that person's expressed

1 desire that the contact be avoided or discontinued; "nonconsensual contact" includes

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

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

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

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

8 (E) contacting that person by telephone;

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

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

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

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

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

15 (1) recklessly

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

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

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

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

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

25 (2) with intent to place another person in fear of death or serious
26 physical injury to the person or the person's immediate family makes repeated
27 threats to cause death or serious physical injury to another person.

28 * Sec. 3. AS 11.56.810(a) is amended to read:

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

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

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

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

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

5 (2) WITH INTENT TO PLACE ANOTHER PERSON IN FEAR OF
6 DEATH OR SERIOUS PHYSICAL INJURY TO THE PERSON OR THE PERSON'S
7 IMMEDIATE FAMILY, MAKES REPEATED THREATS TO CAUSE DEATH OR
8 SERIOUS PHYSICAL INJURY TO ANOTHER PERSON].

9 * Sec. 4. AS 12.25.030(b) is amended to read:

10 (b) In addition to the authority granted under (a) of this section, a peace officer
11 without a warrant may arrest a person when the peace officer has reasonable cause for
12 believing that the person has committed a crime under

13 (1) AS 11.41.270 or AS 11.56.740; or

14 (2) AS 11.41, AS 11.46.330, or AS 11.61.120, or has violated an
15 ordinance with elements substantially similar to the elements of a crime under
16 AS 11.41, AS 11.46.330, or AS 11.61.120, when the victim is a spouse or former
17 spouse of the person who committed the crime; a parent, grandparent, child, or
18 grandchild of the person who committed the crime; a member of the social unit
19 comprised of those living together in the same dwelling as the person who committed
20 the crime; or another person who is not a spouse or former spouse of the person who
21 committed the crime but who previously lived in a spousal relationship with the person
22 who committed the crime or is in or has been in a dating, courtship, or engagement
23 relationship with the person who committed the crime.

24 * Sec. 5. AS 12.30.025 is amended to read:

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

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

- 1 (2) to vacate the home of the victim;
- 2 (3) not to contact the victim other than through counsel;
- 3 (4) to engage in counseling; if the court directs the defendant to engage
- 4 in personal counseling, the court shall provide in the order that the counseling must
- 5 propose alternatives to aggression if that type of counseling is available; if the court
- 6 directs the defendant to participate in family counseling, it shall make a finding that
- 7 family counseling will not result in additional domestic violence or stalking;
- 8 (5) to refrain from the consumption of alcohol or the use of drugs.

9 (b) As used in this section,

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

11 victim is a spouse or a former spouse of the defendant; a parent, grandparent, child,

12 or grandchild of the defendant; a member of the social unit comprised of those living

13 together in the same dwelling as the defendant; or a person who is not a spouse or

14 former spouse of the defendant but who previously lived in a spousal relationship with

15 the defendant or is in or has been in a dating, courtship, or engagement relationship

16 with the defendant;

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

18 * Sec. 6. AS 12.55.085(f) is amended to read:

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

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

21 (2) uses a firearm in the commission of the offense for which the

22 person is convicted; or

23 (3) is convicted of a violation of AS 11.41.210 - 11.41.270

24 [AS 11.41.210 - 11.41.250] or 11.41.510 - 11.41.530, and the person has, within the

25 10 years preceding the commission of the offense for which the person has been

26 convicted, one or more prior convictions for a violation of AS 11.41 or for a violation

27 of a law in this or another jurisdiction having substantially similar elements to an

28 offense defined in AS 11.41; for the purposes of this paragraph, a person shall be

29 considered to have a prior conviction even if that conviction has been set aside under

30 (e) of this section or under the equivalent provision of the laws of another jurisdiction.

31 * Sec. 7. AS 12.55.090(c) is amended to read:

1 (c) Except as provided in (f) of this section, the [THE] period of probation,
2 together with any extension, shall not exceed five years.

3 * Sec. 8. AS 12.55.090 is amended by adding a new subsection to read:

4 (f) Notwithstanding (c) of this section, for a violation of AS 11.41.260 the
5 period of probation may not be less than five years nor more than 99 years.

6 * Sec. 9. APPLICABILITY. AS 11.41.260 and 11.41.270, enacted by sec. 1 of this Act,
7 apply to acts committed on or after the effective date of this Act.

SENATE BILL NO. 24

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR DONLEY

Introduced: 1/11/93
Referred: JUB, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act extending the maximum period of probation after conviction."

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

3 * Section 1. AS 12.55.090(c) is amended to read:

4 (c) The period of probation, together with any extension, may [SHALL] not
5 exceed 10 [FIVE] years.

6 * Sec. 2. AS 12.55.090(c), as amended by sec. 1 of this Act, does not apply in the case
7 of a conviction for a criminal act committed before the effective date of this Act.



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

REPRESENTATIVE CYNTHIA D. TOOHEY

DISTRICT 13

State Capitol
Juneau, AK 99801-1182

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. The probation period for stalking in the first degree is 5 to 99 years.

HB64 is modelled after the Michigan law which was passed in December 1992 and considered one of the toughest in the nation. Over 30 states now have stalking laws.

SECTIONAL ANALYSIS OF PROPOSED CSHB64 (JUD)

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 11.56.810(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 4 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 5 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 6 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 7 of the bill amends AS 12.55.090(c) to conform to section 8 of the bill.

Section 8 of the bill provides that for a conviction of stalking in the first degree a probationary term may not be less than five years nor more than 99 years.

Section 9 of the bill is an applicability section

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:

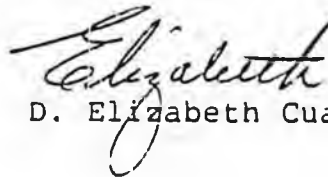
Thank you for sponsoring legislation that would make stalking another person unlawful.

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

THE 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 Larkin Lardner 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-

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 common to 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.

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
Idaho	Ohio	West Virginia
Illinois		Wisconsin

Source: National Conference of State Legislatures

cidents. 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

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE
P. O. BOX 110300 - STATE CAPITOL
JUNEAU, ALASKA 99811-0300
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OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 W. 4TH AVENUE, SUITE 318
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

February 17, 1993

The Honorable Cynthia Toohey
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Re: HB 64, An Act relating to the crime of stalking

Dear Representative Toohey:

You have asked for our review of the February 16, 1993, work draft of a Committee Substitute for HB 64, "An Act creating the crimes of stalking in the first and second degrees." We are pleased to indicate that this version addresses virtually all of the concerns raised for us by the original version of the bill.

A minor, technical point we note is that usually the class of offense is the last subsection of a statute. To be consistent with this, proposed AS 11.41.270(b) and (c) should be reversed.

Further review leads us to believe that it would be beneficial to narrow the definition of "course of conduct" to the following:

"course of conduct" means repeated acts of nonconsensual contact directed toward the victim or a family member of the victim.

This eliminates any ambiguity as to whether "pattern of conduct" means something other than repeated acts.

The Honorable Cynthia Toohey

February 17, 1993
Page 2

If you have any questions or comments, or if we may be of assistance in any other manner, please do not hesitate to contact us.

Very truly yours,

CHARLES E. COLE
ATTORNEY GENERAL

By: Margot O. Knuth
Margot O. Knuth
Assistant Attorney General

cc: Charles Cole
Attorney General

Deborah Behr
Legislation Attorney
Department of Law

Kris Lethin
Legislative Liaison
Office of the Governor

C.E. Swackhammer
Deputy Commissioner
Department of Public Safety



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ART HAMILTON
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CHIEF CLERK OF THE SENATE
WISCONSIN
STAFF CHAIR, NCSL

WILLIAM POLND
EXECUTIVE DIRECTOR

"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.



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 when 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.

Murderous Obsession

Can new laws deter spurned lovers and fans from 'stalking'—or worse?

Barbara 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, allegedly by her ex-boyfriend in a Milwaukee courthouse where she had gone to obtain a protective order. Virginia lawmakers were moved after Regina Butkowski's mother testified that her daughter had been stalked for six months by a weight lifter who finally shot her, set her body on fire and dumped it into a creek, where it was found eight months later. Georgia's proposed law may pick up more support after the sad case of Joyce Durden, whose estranged husband carried out his repeated death threats last month. He gunned her down at a school where she taught mentally disabled preschoolers, then shot himself in the head.

Love gone mad: A battered wife living in fear in Tampa, grieving mothers Beach (left) and Erjavec

Such horrifying examples aside, no one can say how widespread a problem stalking is—mainly because it has never been a crime category before. The new laws aim at halting a pattern of threats and harassment that often precedes violent acts, from assault to rape, child molestation and murder. Some of the most publicized cases have involved celebrities, like actress Rebecca Schaeffer, fatally shot by an obsessed fan, Robert John Bardo, 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

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.



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.

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.

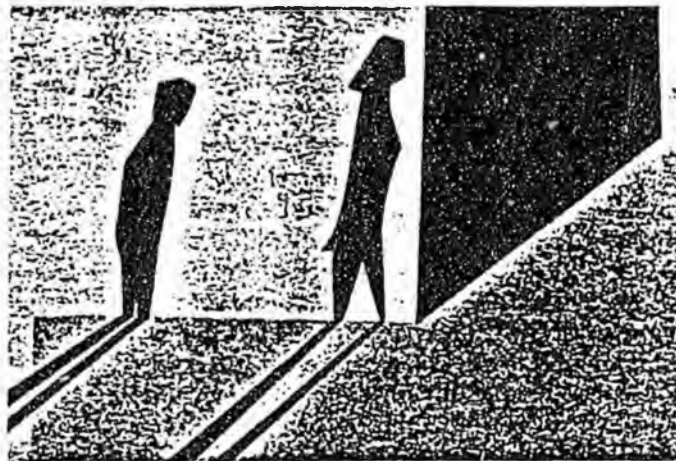
The prospect of more victims arming themselves is no comfort to law-enforcement officials. Yet most admit there is very little they can do in the face of a persistent stalker. "You can put a person in jail for a year or so, but they eventually will get out," says Det. John Lane, part of a four-member 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 KATTEL 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 courts 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.

cc: Network

MAY 19 1992

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 Marjo 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 first-degree murder.

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 \$1000 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 K... 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 Pogany 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 Pogany 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," Pogany said Thursday, a few moments after the state's case against the young man who killed Sandy Pogany 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 Pogany and wounded Thomas Van Flein, a law clerk who was dating Pogany 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

Please see Back Page. **MURDER**



JIM LAVRAKAS / Anchorage Daily News

Gary Pogany 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 Pogany said, "any compassion in our family for him was gone at that time." For months, Gary Pogany 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 Pogany 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 Pogany: "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 Pogany. "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 Pogany, 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 Pogany 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."

THE BACK PAGE

STALKER: Proposal would raise penalty in some circumstances

Continued from Page A-1

specifically addressing stalking another person. 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 Tochey, a sponsor of the stalking bill. "As women get more involved in working and supporting their families, they need more protection." At least 21 states have passed such laws.

Police won't release the name of the 32-year-old woman involved in the Anchorage 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 Katkus 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, his 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.

"That's just the police report. There are falsehoods," he said. "There's more involved than what you think."

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. 8, 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.

Petersen's harassment has caused her to not feel safe in her own home and she constantly fears for her husband and children's welfare, the complaint says.

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

The proposed anti-stalking 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 and watching, even if they are in front of the victim's home.

"There is really nothing we can do unless they trespass or directly harass the victim," Warner said.

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 An-

chorage was charged and convicted of murder after he stalked his former girlfriend, then shot and killed her.

Janice Lienhart, director of Victims For Justice in Anchorage, says about five women a year call her to say they are afraid of men who are stalking them.

"I have encouraged them to contact their legislators to help get a stalking law."

One woman was so frightened that she left her job and the state, Lienhart said.

Lienhart said she knows of another woman being stalked and terrorized by a man she once had a relationship with. The woman tells few people where she lives and approaches each day with fear.

"She's basically in her own little prison," Lienhart said. "It's sad to have to live that way."

New bill targets stalkers

Under proposal, penalties may rise

By PAMELA DOTO
Daily News reporter

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 a half-dozen complaints with police about Petersen, the 56-year-old Federal Aviation Administration employee was arrested and charged with disorderly conduct. He was released from the Sixth Avenue Jail four days later after posting \$2,000 bail.

Disorderly conduct, a misdemeanor, is the most police could charge Petersen with because Alaska has no laws

Please see Back Page.
STALKER

2-2-93

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'Stalkers' must face punishment

What 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.

TOPIC: Measures that would make 'stalking' a crime

Female victim of Oceanview shooting dies

By Jean Lamming

Times Writer

Renee Vega, the 31-year-old woman shot in an Oceanview insurance office Tuesday afternoon, died Wednesday night and the prosecutor says he will upgrade the charges to first-degree murder against her former boyfriend.

The former boyfriend, William O'Shea, 35, was arraigned on charges of first-degree attempted murder and first-degree misconduct involving weapons in Anchorage Superior Court Wednesday. Assistant District Attorney Stephen Branchflower said he will file a murder charge against O'Shea today.

Alaska State Troopers said Wednesday they had fielded complaints from Vega against O'Shea before the attack.

Troopers said there was nothing extraordinary about Vega's complaints against O'Shea or her fear of being attacked by him. But within minutes of the time a trooper left her office Tuesday afternoon she was shot four times and fatally wounded.

Vega died at 8 p.m. Wednesday at Providence Hospital. She suffered from gunshot wounds in her head, chest, shoulder and wrist.

A friend of Vega's said Tuesday the 31-year-old insurance agent was terrified in the hours before she was shot, and was almost expecting a confrontation with O'Shea.

Through the morning and early afternoon O'Shea called her Huffman Road Allstate Insurance Co. office about 20 times, according to Vega's friend Marcel Pritchett. "That was the day she learned he was drinking again," Pritchett said.

Vega had asked him to seek help for a drinking problem, Pritchett said. The two had been girlfriend and boyfriend for several months but she had asked him to move out of her Hillside home.

Friday night, troopers had escorted O'Shea from Vega's house.

Pritchett said a drunken O'Shea ripped up some of her clothing and beat Vega.

Monday, troopers served O'Shea with a restraining order.
See Shooting, page A-8

Shooting: Charges raised to 1st-degree murder

Continued from page A-1

order barring him from seeing her, according to Lt. George Pollitt. Tuesday Vega called a friend for help and he sent Pritchett to stay with her until he could get to her office. "She was afraid that he might come and get her up again," Pritchett said. At 1:30 p.m. Pritchett had stayed himself in the reception area of her office.

When a trooper came to take report on the calls shortly before the 3 p.m. shooting, Vega told him she was afraid of being

"She was asking him what if he comes in with a gun and shoots me?" Pritchett said. "He (the trooper) was there about 30 minutes before the shooting."

A man using O'Shea's name bought a .22-caliber Luger handgun and ammunition at the Fred Meyer Shopping Center on Northern Lights Boulevard after 1:30 p.m. Tuesday, according to the Anchorage District Attorney's office. One of the charges against O'Shea stems from the fact he is a convicted felon and is not allowed to own a firearm.

Just after 3 p.m. a man burst into Vega's office and shot her four times with a Luger while Pritchett tried to wrestle the gun

from him.

"He just ran in and I jumped up and got between them and tried to talk him out," Pritchett said. The man's words were slurred, he said.

Meanwhile Vega called police and was on the phone when the man reached to his back, pulled out a pistol and started firing. The first shot hit Vega in the head, Pritchett said.

The men wrestled about five feet from Vega, and the gun fired at least three more times. At one point Pritchett said the man aimed the gun down his own throat. Pritchett pulled it out.

When he was able to take the pistol from the assailant, the gun

man said he had another, and reached for something. Pritchett said he pushed the man against a wall and out of the office.

The gunman fled and police immediately closed in on the neighborhood with a helicopter, state and city patrol units, and police dogs. At 6 p.m. they took O'Shea into custody about a mile from the insurance office.

Pritchett said he thought police could have prevented the shooting.

But Lt. Pollitt said that until the shooting, there had been no impetus to arrest O'Shea.

When a trooper responded to Vega's home at 12:30 a.m. Satur-

day, O'Shea was injured and she did not ask for O'Shea to be arrested. Troopers told Vega how to apply for a restraining order.

On Saturday, she secured an order from a magistrate and Sunday troopers attempted to serve it. They found O'Shea Monday.

Vega was upset and afraid but never told troopers she feared for her life, Pollitt said. O'Shea's extensive criminal record didn't indicate he should be suspected of murder, Pollitt said.

On March 2, O'Shea was released from probation for a con-



Extended
to summer
Business, B-6

Alaska kids need
more exercise
Lifestyles, F-1

Seawolf
Paul Krake
Sports, C-1

Anchorage Daily News

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ANCHORAGE, ALASKA, THURSDAY, MARCH 28, 1992

Hostage-taker kills

4 freed; blast ends standoff in Chugiak

By PETER BLUMBERG
and LARRY CAMPBELL
Daily News reporters

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 Bob 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. 28, 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

■ 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 38 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-

Please see Back Page,
HOSTAGE-TAKER



APD Lt. Audie Holloway talks to the 10-year-old c

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

HB

65

STATE OF ALASKA

OFFICE OF THE GOVERNOR
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April 5, 1993

The Honorable Brian Porter
Chair, House Judiciary Committee
State Capitol
Juneau, AK 99811-1182

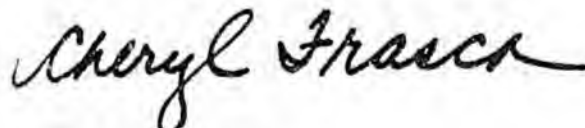
Dear Representative Porter:

Thank you for scheduling House Bill 65, the Governor's "omnibus" legislation, for a hearing on April 7th.

For the committee's reference, attached is a sectional which briefly describes the State Affairs Committee's version of the bill. This committee made significant changes when compared to the version approved by the Labor and Commerce Committee. On behalf of the Governor, I would appreciate the Judiciary Committee's consideration of a new version which incorporates some of State Affairs' changes as well as adds back some of the sections approved by the Labor and Commerce Committee. For your reference, I have noted these requests in the sectional analysis.

Again, thank you for bringing this bill before your committee. Should you have questions or need additional information, please let me know.

Sincerely,



Cheryl Frasca
Director

Attachment

House Bill 65 - Fiscal Sectional							
CSHB 65 (L&C) Section	CSHB 65 (SA) Section and Changes	Department	Brief Description	Discussion of Fiscal Impact	Revenues (including savings)	Cost	Governor's Request for Judiciary Committee Version
1 thru 32	1 thru 32	Revenue	The Alcoholic Beverage Control Board currently issues licenses annually. These amendments make the process biennial and accordingly, double license fees.	Will enable staff to spread workload out over two years thereby enabling more efficient processing and utilization of existing staffing levels.			MAINTAIN SECTION
33 thru 35	33 thru 35	Administration	Enables the Office of Public Advocacy to charge fees for public guardians based on ability to pay. In response to a recommendation by Legislative Audit that OPA pursue additional funding sources to support its activities.	Due to time required to develop and implement regulations, no revenue is projected for FY 94. Until fee schedule is established, future revenue projections are difficult.	Not yet determined		MAINTAIN SECTION
	36	Fish and Game	Amends the statute to pay vendor compensation for sale of licenses from the fish and game fund. Currently, revenue from the sale of licenses is deposited into the Fish and Game Fund and vendors are compensated out of the general fund.	The House Finance budget already makes this fund source switch. It reduces the general funds by -553.9 and replaces it with 553.9 in Fish and Game funds.			MAINTAIN SECTION
36 thru 38	DELETED	Education	Alaska Commission on Postsecondary Education: Authorizes assessment of a 1% guarantee fee to offset losses resulting from student loan debt cancellation due to death, disability or bankruptcy of the student. Will be similar to a loan origination fee.	Total revenue to be generated in FY 94 is 500.0 in corporate receipts. In 1992, 912.8 was written off by the corporation.	500.0		REINSTATE SECTION FROM L&C VERSION