

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8486 SENATE STATE AFFAIRS

reasonably be said to be in fear of serious injury or death. In other words, in certain states, an action becomes a "threat" based upon the state of mind of the "threatened" individual.

In addition, some statutes define "harassment" as a knowing and willful "course of conduct" composed of a series of acts over a period of time, no matter how short, directed at a specific person which seriously alarms, annoys or harasses the person.

As those who try to save babies well know, abortion advocates attempt to portray all direct-action pro-life activists as "harassers," "zealots" or "extremists." A prosecutor may make the case that an abortionist or woman seeking an abortion was repeatedly followed or harassed; that, if necessary to the proof, a threat of death or bodily injury was made, and that the "victim" or a reasonable person would have perceived such threat to be credible.

Consider, for example, the following scenario: A sidewalk counselor repeatedly tries to hand a woman a brochure or engage the woman in conversation as she is walking into a "clinic." Is the counselor engaged in a course of conduct that alarms, annoys or harasses the woman? Can handing the woman a brochure or speaking in a certain tone of voice be considered "threatening"? Is the counselor a "stalker"? The answer is, of course, that it depends.

A prosecutor might argue that the counselor in the above example was willfully and maliciously harassing (or following) the woman. The "victim" might assert that she was, or any reasonable person in a like circumstance would have been, fearful of death or serious injury from the counselor's posture, *i.e.*, the way the counselor was attempting to get the woman to view the brochure or engage in conversation. Thus, the counselor may well be prosecuted as a "stalker." In addition, take away from the scenario, as some states do, the necessity of a "credible threat," and sidewalk counseling may become actionable as "stalking."

Exempted Activities

To be sure, lawful picketing of an abortion mill, engaging a woman or abortionist in conversation or handing out brochures or pamphlets on public property are activities by and large protected by the First Amendment to the U.S. Constitution. The issue is whether stalking laws sufficiently put activists on notice as to what activities are or are not permissible.

Again, the states are not uniform on this point. Some statutes provide no guidance, *i.e.*, the statute is silent regarding permissible or impermissible activities. Other stalking statutes broadly exempt "constitutionally protected activities" (California, for example) or "constitutionally protected activity," which includes "picketing or other organized protests" (Florida). Still other statutes specifically exempt certain activities from application of the law (for example, the activities of a private investigator in Washington).

Whether or not a stalking statute exempts constitutional protests or other activities, many times pro-life activists cannot, because of the vague or overbroad language that characterizes many stalking statutes, be sure whether the stalking statute in their state will be applied to their activities, even if those activities are, in fact, perfectly lawful. An activist may, of course, always raise a constitutional defense to a charge. Vague or overbroad language or no language at all that specifies those activities in which one may or may not be engaged, however, invites at least the claim by a "victim" or the authorities that a stalking law has been violated.

A basic premise of the criminal law is that statutes must be clearly written so that one can readily ascertain what is and is not prohibited by law. If a pro-life activist wishes to engage in lawful activities, stalking laws that do not specifically spell out permissible or impermissible actions may create a "chilling effect" on the pro-lifer's rights: the activist is dissuaded from acting because she does not know whether her activities will end in arrest and/or prosecution for stalking.

"Constitutionally protected activity" clauses appear to offer some protection or certainty, but they may also create a "chilling effect" because, among other reasons, (1) they do not appear to cover "following" (they most often are included in the definitions of "course of conduct," which applies to "harassment"); (2) they do not specifically declare what is permissible or impermissible activity; and (3) in jurisdictions like Florida, they may lead activists to believe that conduct not specifically allowed is prohibited, *e.g.*, that only activities such as picketing or organized protests fall outside the application of the law.

Penalties

Some states have both misdemeanor and felony classifications of stalking. A sentence of one year in jail may be imposed for a first offense. More stringent penalties of three, five and even six years can apply to second or subsequent stalking offenses. Enhanced penalties also apply in many states where a protective order is violated in the act of stalking. For example, Illinois created a higher-level felony for aggravated stalking, which occurs when a person causes bodily harm to a victim, confines or restrains the victim, or violates a protective order in the act of stalking.

Stalking laws in Florida and Ohio provide for the warrantless arrest of alleged stalkers upon a finding by a law-enforcement officer that he or she has probable cause. In Ohio, the stalking law adds "menacing by stalking" and "aggravated trespass" to the list of offenses for which specified peace officers can arrest and detain (until a warrant is obtained) a suspect who he or she has reasonable cause to believe is guilty of committing an offense of violence, including domestic violence. Washington State's stalking law includes telephone harassment and intimidation.

Conclusion

Certainly, to the extent stalking laws were designed to criminalize an activity for which there was either no lawful remedy or the remedy was ineffectual (e.g., a restraining order to keep threatening boyfriends or former husbands away from women), stalking laws have a place in the code books. The potential for broad or selective application of these laws to pro-life activists, as well as other activists (e.g., animal-rights activists, environmental activists, etc.), creates uncertainty and may stifle legitimate activity.

All activists should know whether stalking laws are in place or are being proposed in their state. Where these laws are proposed or in place, they should be drafted or amended, at the very least, to exempt all constitutionally protected activity. Ideally, such laws should specifically enumerate the type of

conduct that is or is not covered by the legislation (legitimate pro-life activity should, of course, always be taken into account). Simply stated, activists should have some notice as to the propriety of their activity before they act.

Finally, pro-lifers should also be aware that while pro-abortionists are increasingly calling for the application of stalking laws to pro-lifers, a host of other laws exist that also may be used to stifle activists from conveying the pro-life message: for example, state statutes proscribing annoying telephone calls, interfering with privacy, terrorizing, interfering with another person's constitutional right because of the person's gender, or using mail for harassment. In addition, federal legislation has been, and under the Clinton administration will continue to be, proposed that is intended to thwart legitimate pro-life activism.

* * * * *

Freedom From Access to the Truth

The truth hurts those who try to conceal it.

Anyone paying attention to abortion industry reports over the past few years knows that the industry is facing a serious crisis: There are fewer and fewer people willing to do abortions in this country. In fact, 83 percent of American counties do not have even one person who will do an abortion,¹ and only 12 percent of hospitals with obstetrics-gynecology programs require training in first-trimester abortions.²

While there may be numerous explanations for this phenomenon, recent pro-abortion legislative initiatives make at least one apparent: The ongoing battle against abortion waged in the public eye is having a profoundly discouraging effect on the career decisions of would-be abortionists.

Nowhere has the battle been more effective in this respect than at the abortion "clinic." It should come as no surprise, then, that it is against pro-life clinic activism that many new pro-abortion legislative initiatives are aimed. This article briefly discusses some of these measures in order to arm pro-lifers against the dangers they present.

Pro-Life Activism at the Abortion "Clinic"

The scenes differ, but their common elements are familiar.

At the local abortion clinic, a group of pro-lifers engages in a weekly, sometimes daily, vigil. Ignoring the taunts and bullying of the clinic's "defense team," they circle the sidewalk, praying, singing hymns and carrying posters.

From time to time, one of their members breaks off. This "sidewalk counselor" tries to hand pamphlets and offer assistance to drivers pulling into the parking lot or to women

hurrying to the abortuary. Sometimes the counselor is able to convince the abortion-bound to stop and consider the information provided. Sometimes the counselor is even able to change a heart and mind to choose life instead of death for a child.

On occasion, a much larger group organizes a demonstration around the clinic. A multitude of pro-life voices are raised in song and prayer, while "rescuers" peacefully lock arms in a blockade of the entrance.

Admittedly, as pro-life frustrations mount over the rising death toll, these scenes have sometimes become dominated by other elements, obscuring their purpose. Unfortunately, angry words and clever media soundbites have in some cases shifted the focus from the message to the messengers.

When the messengers do not let their activities degenerate into distraction, however, they send a clear message: Babies are dying and mothers are being injured at the hands of the abortionist. Regardless of whether the public is ready to accept it or not, this message in and of itself is a potent one. Its expression at the abortion clinic makes it even more powerful—and undeniably bad for the abortion industry and its practitioners.

The Pro-Abortion Legal Campaign

In an effort to undermine the potency of this message, the abortion industry has mounted an aggressive legal campaign against pro-life clinic activities. One facet of this campaign is reflected in the *Bray v. Alexandria Women's Health Clinic* case currently before the Supreme Court.

The *Bray* case involves the successful use by abortion advocates of an 1871 federal law to obtain an injunction

HIGHLIGHT: NEW THREATS TO PRO-LIFE ACTIVISM

In their pre-election book, Putting People First: How We Can All Change America, Bill Clinton and Al Gore describe what their administration will do to "make government work for women." Among other things (e.g., signing the Freedom of Choice [to Kill] Act and urging repeal of the Hyde amendment), Clinton and Gore promise that their administration will "initiate measures to protect women and care-givers from intimidation, harassment, and threats posed by radical demonstrators who illegally block health clinics" [p. 170,

emphasis in original].

Pro-lifers need not have waited for the election results to understand what "measures" they have in mind.

This issue of LegisLetter examines two types of legislative initiatives: so-called "stalking" laws and so-called clinic access legislation. Both are designed, in whole or in part, to "protect" women. Both, however, could have the effect of protecting the abortion industry at the expense of oppressing pro-life activism.

When Is "Stalking" Really "Stalking" and Who Decides?

Over the past two years the crime of "stalking" has quickly gained prominence and recognition. This article will familiarize pro-life leaders and activists with the general parameters of the crime, its exemptions, penalties and, most importantly, its possible application to pro-life activities.

First, a short quiz:

Under certain state and local laws, who may be convicted of the crime of "stalking"?

- (A) An obsessed fan who harasses and threatens a Hollywood star.
- (B) A former husband who follows and terrorizes his ex-wife.
- (C) A casual acquaintance or stranger who follows and threatens another person.
- (D) A pro-life activist who counsels a woman not to have an abortion or who attempts to persuade an abortionist to stop performing abortions.
- (E) An elderly woman who continually calls or sends letters to an abortionist pleading that he or she stop killing children.
- (F) All of the above.

The answer is (F).

Pro-Life Activists as "Stalkers"?

Since 1990, twenty-six states (California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Mississippi, Nebraska, New York, North Carolina, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia and Wisconsin) and a number of communities have passed "stalking" legislation. While these laws ostensibly were written to address the situations suggested in (A)-(C) of our short quiz above, pro-abortion forces are calling increasingly for application of these laws to pro-lifers. Whether these laws can be successfully applied to an activist depends, of course, on where the activist lives, the range of activities in which he or she is engaged and, importantly, the perception and interpretation of those activities by the "victim" and the authorities.

Stalking Laws Generally

Although the precise language of stalking laws varies from state to state, a stalking law generally requires the willful, malicious and repeated following or harassment of another person and a credible threat against an individual with the intent to place that person (or, under some statutes, the person's immediate family) in reasonable fear of death or great bodily harm.

As of this writing, intentional, malicious and repeated following or harassment and a threat of serious injury or death appears to be the majority rule. A minority of states, however, allow for something less than a threat of great bodily injury or death.

In Washington, for example, intentional and repeated following coupled with intimidation, harassment or fear that a "stalker" intends to injure the person or "property" of the person being followed or another person is enough to bring a perpetrator under the stalking statute. Attempts to contact or follow a person after being given actual notice that the person does not want to be contacted or followed is, on its face, evidence of the stalker's intent to intimidate or harass.

In Idaho, no threat is required. Any person who willfully, maliciously and repeatedly follows or harasses another person or immediate family member of that person is guilty of stalking.

In Florida, willful, malicious and repeated following or harassing combined with a credible threat intended to place the victim in reasonable fear of injury or death is a felony. Following or harassing with no threat is a misdemeanor.

In those states where a credible threat of bodily injury or death is essential for a conviction under a stalking statute, it would appear at first glance that most pro-life activities would fall outside the application of a majority of stalking laws. This is not necessarily the case.

A "credible threat" of serious bodily injury or death as defined in the majority of statutes need not be explicit. A threat is, in fact, "credible" if the victim or, under some statutes, a "reasonable person" in like circumstances, could

OPINION

Anchorage Daily News

WINNER PULITZER PRIZE 1976
GOLDEN GLOBE FOR PUBLIC SERVICE 1976

Gerald E. Grilly
Publisher

Howard Weaver
Editor

Michael Carey, Editorial Page Editor
Patrick Dougherty, Managing Editor

Katherine Fanning, Editor and Publisher 1971 to 1983
Lawrence Fanning, Editor and Publisher 1967 to 1971

Founded in 1946 by Norman G. Brown

**GEORGE BUSH EXPLAIN
BABIES ARE MADE**

SPERM + EGG + STATE LEGISLATURE =

Stalker laws

Other states have them; should we?

Another state governor — Jim Edgar of Illinois — signed an anti-stalking law earlier this month, raising to 21 the number of states to have passed such laws since Jan. 1.

The new Illinois law makes it a felony to threaten a person, then follow or wait for that person outside the home, school or workplace. A first-time offender can receive up to three years in prison.

Alaska would do well to consider such a law.

States typically define stalking as willful and repeated following and harassing of another person. Anti-stalking laws generally are crafted to apply to cases where women are terrorized by former boyfriends or husbands.

Crime classifications and penalties vary. In Wisconsin, stalking someone is a misdemeanor with punishment of up to nine months in prison and a \$10,000 fine; a second offense is a felony. In Florida, a first offense is a felony punishable by up to five years in prison.

In Washington state, a 1992 anti-stalking law includes telephone harassment and intimidation, and specifies that the victim and local law enforcement be notified if a convicted stalker is released or escapes.

These laws all take into account the devastating toll domestic violence takes on women. Each year an estimated 6 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.

Ironically, leaving a bad relationship is often the most dangerous time for women. This is where anti-stalking laws come in. They will not save all women, just as restraining orders and other laws have not. But they are one more tool to control domestic violence, as well as one more message from the community that such violence is unequivocally unacceptable.

Bulldozer bully

Developer developing a bad reputation

Maybe Anchorage developer Joe Cange should apply for a job in the Hickel administration. He seems to share the governor's enthusiasm for digging dirt and his disinclination to follow rules that might slow down development.

Women take center

NEW YORK — When Bill Clinton stopped in to the women's caucus it was more than a courtesy call. Standing in front of a line of women candidates, he said flat out: "I think we know where the energy of the Democratic Party in America is."

Women are, to put it mildly, the life of this party. The female candidates and officeholders have been feted and toasted, put up front and center stage at Madison Square Garden. They've been star attractions at a running list of receptions East Side, West Side, all around the town.

The most popular sticker at the convention reads: When Women Run, Women Win. The most popular money-raiser is Emily's List, the fund for electing Democratic women to the Senate. Even Nancy Reagan's old hairdresser has defected and is coiffing the Democratic women's backstage.

As Barbara Mikulski, the shortest U.S. senator with the longest repertoire of sound bites, says when she introduces the Democratic class of '92 female candidates: "This is the new world order." Pat Schroeder describes them as a "tsunami of women getting ready to wash into Washington."

The enthusiasm is close to contagious even for those of us who have developed some immunity to the Year(s) of the Woman. We remember when '72 was the year of the woman: Shirley Chisholm



ELLEN GOODMAN

of women reporters was sent to their first political convention to cover the "women's story."

Then of course '84 was the year of the woman when Geraldine Ferraro got on the ticket. And so were '88 and '90 ... well, you get the idea. Change has been so gradual where between glacial and gradual. It's tough to believe in breakthroughs.

Indeed, as Ruth Mandel, head of the Center for American Woman in Politics, not to mention resident scorekeeper and somewhat wet blanket says, "I do like this year of the woman business. We're turning the story around and one year not going to do it."

She cautions that even six women are added to the U.S. Senate — the number handled about here — that means only 8 percent will be female. Many would rather talk less about the year and more about "the era of our empow

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

A12 Anchorage Daily News Sunday, January 31, 1993

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 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.

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 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. 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.

"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, 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."

SB22

by
Donna Hunzeker

January 1993

Volume 1, No. 4

Stalking Laws

States have enacted "stalking" laws to punish people who repeatedly watch, follow, harass or threaten someone with physical harm or death. Stalking laws criminalize these activities and give police recourse before an attack takes place.

*Restraining orders
inadequate*

States passing stalking laws determined there were inadequate provisions in existing law to protect stalking victims. In drafting and considering laws, legislatures in many states heard about victims who were brutally attacked and sometimes killed after enduring months and even years of threats and intimidation. Civil restraining or protective orders were nearly always in place but inadequate to deter the stalker from committing an act of violence. A third of female murder victims in 1990 were slain by husbands or boyfriends, according to the FBI.

*Twenty-nine states
with stalking laws*

Twenty-nine states now have stalking laws. California passed the first in 1990, creating (and coming) stalking as a crime. States enacting similar laws in 1992 were: Alabama, Colorado, Connecticut, Delaware, Florida, Hawaii, Kansas, Idaho, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Mississippi, Nebraska, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia and Wisconsin.

States with stalking measures pending on November 1, 1992, include Michigan, New Jersey and Pennsylvania. Other states, including Texas and Indiana, are preparing legislation to be introduced in 1993.

In other states, laws called something other than stalking have similar intent and purpose. Since 1987, Minnesota has had trespass and harassment laws on the books to apply to stalking situations that include "intent to harass, abuse or threaten." Minnesota law also has felony penalties for "terroristic threats" which can apply to stalking situations. Similarly in Maine, "terrorizing" is a Class D or Class C crime when threats of violence are made. Arizona created misdemeanor classifications of harassment last year.

*Stalking defined,
classified*

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, it includes threats against the immediate family of the victim. Many provisions require that the victim have "reasonable fear of death or great bodily injury."

The 1990 California measure was enacted following the murders of five Orange County women the year before. In each case, the victim had been stalked and threatened and had a temporary restraining order against her assailant. The California measure was hailed by victims' and women's groups, and had support from the entertainment community because of cases in which celebrities are stalked and threatened by obsessed fans.

Nineteen states have both misdemeanor and felony classifications of stalking with up to one year of jail typical for first offenses. Tougher penalties of up to three, five and even six years often apply to second or subsequent stalking offenses. Enhanced penalties also apply in 18 states where a stalker violates a protective order.

In some states with a felony stalking provision, bail can be established to increase the likelihood or duration of detention of alleged stalkers. Stalking laws in Iowa, Ohio and Illinois deal more specifically with the bail issue.

Constitutionality

Stalking laws in Florida and Ohio provide for warrantless arrest of alleged stalkers. Defense attorney groups and others have questioned the appropriateness, if not constitutionality, of warrantless arrest of stalkers, but other observers point out that such provisions in domestic violence laws have been found permissible.

A report last fall by the federal Congressional Research Service discussed whether some state stalking laws are too vague to be constitutional. In particular, that report questioned constitutionality of state laws in which following and harassing are considered stalking without also requiring credible threats of violence.

The U. S. Congress last year approved legislation under which the National Institute of Justice will work with states to monitor constitutionality and other outcomes of state stalking laws. Model provisions will be developed to help states adapt or enact laws.

STALKING CRIME CLASSIFICATIONS

Felony only:	Delaware, Florida, Illinois
Misdemeanor only:	Colorado, Kansas, Hawaii, Utah, South Carolina, West Virginia
Both Felony and Misdemeanor crimes:	California, Connecticut, Idaho, Iowa, Kentucky, Louisiana, Massachusetts, Mississippi, Nebraska, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Dakota, Tennessee, Virginia, Washington, Wisconsin.

(Where both felony and misdemeanor classifications can apply, felony treatment is generally for when a protective order is violated and for second or subsequent stalking convictions)

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COMMENTS:

unmarked, unedited
original script printout
from 4/7/93 story
follows

NUMBER OF PAGES TO FOLLOW: 3

16/23 states have
this protection
CT supported the amendment
(did not oppose)

TWO ANCHORAGE LEGISLATORS SAID WEDNESDAY THAT A VIOLENT SHOOTING AT THE UNIVERSITY OF ALASKA ANCHORAGE MIGHT HAVE BEEN AVOIDED IF HOUSE BILL 64 WAS ALREADY ON THE BOOKS.

THE LEGISLATION, MODELED AFTER BILLS IN NUMEROUS OTHER STATES, ENACTS THE THE CRIMES OF STALKING IN THE FIRST OR SECOND DEGREE, AND SPELLS OUT PUNISHMENT FOR THOSE CONVICTED.

STALKING IS DEFINED AS REPEATED THREATENING OF SOMEONE OR, OF IN THE LANGUAGE OF THE BILL, "NONCONSENSUAL" CONTACT OF A PERSON BY ANOTHER.

THAT INCLUDES, FOLLOWING SOMEONE, APPROACHING THEM, TELEPHONE CALLS, MAIL OR ANY ELECTRONIC COMMUNICATION.

COURT DOCUMENTS ON FILE IN ANCHORAGE SHOW THAT SHOOTING VICTIM ANNE FLETCHER HAD REPEATEDLY SOUGHT EMERGENCY RESTRAINING ORDERS AGAINST HER HUSBAND ROBERT FLETCHER.. WITH A 90 DAY RESTRAINING ORDER FINALLY BEING ISSUED AGAINST THE MAN IN LATE MARCH. TUESDAY MORNING, ROBERT FLETCHER WAS WAITING FOR HIS EX WIFE AT A UNIVERSITY PARKING LOT...HE SHOT HIS EX WIFE ONCE BEFORE EXCHANGING GUNFIRE WITH A UNIVERSITY POLICE OFFICER AND THEN ROBERT FLETCHER SHOT HIMSELF.

THE STALKING BILL'S PRIME SPONSOR REPUBLICAN REPRESENTATIVE CYNTHIA TUOHY OF ANCHORAGE SAYS TUESDAY MORNING'S VIOLENCE NEED NOT HAVE HAPPENED.

(((toohyone

:28 "cause more harm")))

THE BILL PICKED UP AN AMENDMENT THIS WEEK AFTER GOING THROUGH THE SENATE STATE AFFAIRS COMMITTEE, CHAIRED BY ANCHORAGE REPUBLICAN LOREN LEMAN.

LEMAN GAVE A PRESS STATEMENT IN JUNEAU SAYING EARLIER PASSAGE OF THE STALKING LAW MAY HAVE HELPED TO PREVENT THE FLETCHER SHOOTING. A STAFF MEMBER OF LEMAN'S OFFICE SAYS THE SO-CALLED "AFFIRMATIVE DEFENSE" CLAUSE ADDED MONDAY IS DESIGNED TO PREVENT ABUSES OF THE LAW, IN SUCH CASES AS PROTECTING THE RIGHTS OF LABOR PICKETS.

THE AMENDMENT READS .IT IS AN AFFIRMATIVE DEFENSE OF A STALKING CHARGE IF THE CONDUCT UNDER QUESTION IS CONSTITUTIONALLY PROTECTED... TOUHEY SAYS THERE IS A CLEAR, IF UNWRITTEN INTENT OF THE AMENDMENT SUPERVISED BY LEMAN ... IT WILL PROTECT THE RIGHTS OF PEOPLE WHO PROTEST OUTSIDE ABORTION CLINICS ... BUT TOUHEY SAYS THAT SHOULDN'T AFFECT PASSAGE OF THE BILL.

...

THE STALKING LAW IS NOW BEFORE THE SENATE FINANCE COMMITTEE. LEMAN'S LEGISLATIVE AID STAFFER SAYS THE SENATOR HAS ASKED FOR A WAIVER TO ALLOW THE BILL TO GO DIRECTLY TO A FLOOR VOTE, BUT AN AIDE WITH SENATOR DRUE FEARCE, WHO IS CO CHAIR OF SENATE FINANCE, SAYS THE SENATOR INTENDS TO HOLD A HEARING ON THE BILL EARLY NEXT WEEK.

LEMAN AND TOUHEY BOTH SAY THERE IS LITTLE REASON FOR THE FINANCE COMMITTEE TO WORRY ABOUT THE BILL...IT HAS ZERO FISCAL NOTES ATTACHED TO IT, WHICH IN JUNESEAK . MEANS IT WON'T HAVE AN IMPACT ON THE BUDGET.

AS TOUHEY PUTS IT, AS SOON AS THE GOVERNOR SIGNS THE

BILL, IT WILL BEGIN SAVING THE STATE MONEY BY PROTECTING
POTENTIAL VICTIMS FROM VIOLENT ENCOUNTERS.

~~INDUSTRY WILL PRESENT THE STATE LEGISLATION
IN ORDER TO ENFORCE IN EVERY AREA TO BE
ENFORCED~~

The scientists say they are coming up with new evidence that a tiny structure in the nose is the long-lost human sense organ that detects pheromones. About two years ago, some researchers began looking for this tiny organ in humans at Dr. Berliner's behest. Contrary to what had been assumed for decades, they discovered that the organ is present in all humans.

The organ looks like a tiny pit just

say that some mysterious cells seen in the VNO tissues from adult humans not only look like nerve cells but have many of the same chemical and molecular properties as functioning nerve cells. Indeed, the same properties are seen in the nerve cells in the nearby olfactory organ that gives humans their sense of smell, according to the report.

Few are more surprised to discover that

Turning Nerves On

In the experiments, microscopic electrodes were attached to the nerves of both the VNO and the olfactory organ in six women and nine men volunteers. When the volunteers sniffed odors like the musk used in conventional perfumes, the olfactory nerves were turned on but the VNO nerves

Please Turn to Page B6, Column 4

Chassis. Can the pickup chassis then mount diff on the pickup fr

But GM displays trucks and any or that install practical. "Pre been grossly Please Turn

LAW

Stalking Laws Used to Fight Abortion Foes

By BOB ORTEGA

Staff Reporter of THE WALL STREET JOURNAL

A protester in Charleston, S.C., apparently became the first anti-abortion activist to be charged criminally with stalking after she allegedly threatened the director of a clinic.

Meanwhile, in Melbourne, Fla., a state Circuit Court judge said he would issue an order this week protecting abortion clinic workers from harassment by anti-abortion activists. He was responding to a request from clinic workers that cited the state's anti-stalking law.



These two moves represent the first fruits of an effort by abortion providers to use anti-stalking measures to protect themselves. Such measures have been used primarily to prevent domestic violence and attacks on celebrities. Providers are asking legislators to adopt new statutes or amend current anti-stalking statutes so that they apply more clearly to anti-abortion harassment tactics. They are going to court to try to broaden the interpretation of some of the 33 existing anti-stalking measures.

Despite some successes, many abortion providers are predicting a hard fight for protection. City and state legislators, it appears, are having trouble grappling with conflicts between the protesters' right to free speech and the abortion providers' right to privacy.

In California, the first state to pass a stalking law, the state assembly is considering one bill that would make it easier to prosecute protesters who stalk abortion providers, and another to let those targeted file civil suits seeking monetary damages. A third proposed measure would limit picketing in residential areas.

In Congress, Rep. Nita Lowey, a Democrat from New York, is sponsoring a measure that would withhold some federal

Please Turn to Page B10, Column 1

COMPUTERS

Dealers Accuse Compaq of Jilting

By KYLE POPE

Staff Reporter of THE WALL STREET JOURNAL
David McDonough feels betrayed.

A decade ago, the San Diego personal computer dealer helped peddle Compaq Computer Corp.'s first PC. Last year, he sold more than 3,600 of the company's machines. But now, as the big Houston computer maker seeks to woo sexier, faster-growing distribution channels, Mr. McDonough is left with nearly 300 Compaq machines on back order and the prospect that the orders won't be filled for weeks.

To salvage critical accounts, Mr. McDonough is sacrificing his profit and shopping for Compaq PCs at a nearby superstore and from Compaq's new mail-order operation, which somehow manage to find machines he can't seem to snag. "All these years, Compaq has been so loyal and we've been so loyal," Mr. McDonough says. "Basically, they've destroyed a 10-year relationship in 90 days."

Mr. McDonough's anger is shared by many other traditional PC dealers caught in Compaq's efforts to increase its consumer sales by shifting its attention to mail-order sales, superstore vendors and even warehouse clubs. With its new line of lower-priced computers in much demand, Compaq has had difficulty feeding all of the hungry mouths. And the company's old core of dealers — most offering service and installation as well as sales — insist they are going the hungriest.

Nimble Competitors

Compaq's dealers aren't the only ones suffering. Over the past several years, traditional dealers have gradually lost market share to cheaper, nimbler retail competitors. Apple Computer Inc. and International Business Machines Corp., among others, have also been shifting channels, leaving dealers desperate for inventory amid growing shortages.

Among the big computer makers, however, Compaq had resisted the trend to mass merchandising the longest, citing its obligation to the dealer channel that had nurtured its growth. Even when the company decided to introduce its low-cost ProLinea computers, it said it would go slow on entering other retail channels.

But Compaq's slow move has turned into a sprint, and dealers say they are being left behind. Matt Fitzsimmons, a ComputerLand dealer in White Plains, N.Y., says he lost \$250,000 in orders in

Where Companies Buy Computers

	BIG BUSINESS	SMALL BUSINESS	
Value-added resellers/ systems integrators	27%	13%	Wholesale distributor
Major dealer chains	27	13	Mail-order company
Independent dealers	16	30	Computer superstore
Manufacturers	10	8	Laptop/notebook-only dealers

Note: Big business is defined as Fortune 1,000 companies. Small business is corporations in revenue and between 100 and 1,000 employees. Source: Computer Res

March, or about 40% of his revenue for the month, because Compaq couldn't deliver enough ProLinea machines to satisfy his customers. "It's not just that we lose an order," Mr. Fitzsimmons says. "We lose a long-term relationship with a customer."

Like his California counterpart, Mr. Fitzsimmons discovered that 32 machines that Compaq said would take until June to deliver could be at his office by next Friday through the company's mail-order line. "What they are doing doesn't make sense," he says.

Ross Cooley, the Compaq senior vice president in charge of the company's distribution strategy, acknowledges that dealers are angry but denies that the company has intentionally diverted its inventory to the new sales channels. He says that Compaq shipped more computers to dealers in the last two weeks of March than in any other period. And he says that the record shipments are continuing into the second quarter. "One of the realities of this is that even though they are frustrated, their overall Compaq business is up 1½, two, 2½, even three times what it was in March of last year," he says.

Very Frustrating

Nonetheless, Compaq is still able to fill only about half of the orders it receives, he says, a backlog that could keep Compaq dealers fuming for some time. "I am not downplaying the level of frustration."

Analysts say dealers' exasperation over backlogged PCs has been compounded by broader fears about the future of their business. Though traditional dealers still account for about two-thirds of all corporate PC sales, growth in the sector last year fell slightly. At the same time, analysts expect mail-order and su-

perstore sales over the next 19% of the U.S. with 13% two y

"Everybody it's never been Seymour Merr pter retailing anger is bec because the r

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Dealers, o by the impac Herron, a McDonough. pter coordin of San Diego new machine

"We wan Mr. Herron. work. "I like when it come today or in si business to t

Fearful c McDonough machines m "We sure a tomer on Co got to save r

U.S. Journal
4/27/93

Abortion Clinics Turn to Laws On Stalking to Fight Protesters

Continued From Page B1

funds from cities that don't enforce local harassment and anti-stalking laws to protect abortion providers.

Meanwhile, in Melbourne, state Circuit Court Judge Robert McGregor said Friday he would issue an order this week broadening an injunction that now bars anti-abortion protesters from blocking access to local clinics. Judge McGregor did not specify the details of his order; clinic attorneys, invoking the stalking statute, had asked that protesters be prohibited from picketing within 500 feet of staff members' homes or making harassing phone calls.

Blunting anti-abortion tactics, which have driven scores of doctors out of the abortion business, has proven difficult. Even those who decry the protesters' actions are loath to circumscribe First Amendment rights. And pro-choice groups have chosen to focus their political efforts on protecting women's legal rights to have abortions, rather than the rights of doctors to provide the service.

The problem is that most of the actions that anti-abortion activists take against doctors are legal, protected by First Amendment rights, or difficult to prosecute, says Elaine Metlin, who manages the legal clearinghouse for the National Abortion Foundation, an abortion providers' group. "I get calls all the time from doctors who say, 'Can't you make them go away?' and the answer is no," she says.

"We don't break any laws when we're out there," says Tom Cyr, leader of a group that has dogged Dr. Norman Tompkins, a Dallas obstetrician and gynecologist, for nearly six months. "We don't damage property, we don't assault anybody." Mr. Cyr's group disclaims responsibility for death threats against Dr. Tompkins.

Dr. Tompkins, who hired 24-hour-a-day security guards after the recent murder of abortion doctor David Gunn in Pensacola, Fla., has a motion pending in state court for an injunction against Mr. Cyr's Dallas Pro-Life Action Network. His neighbors have asked the city council to pass a law restricting residential picketing.

But the experience of Dr. Benjamin Victoria of Brookfield, Wis., illustrates how difficult it is to squelch the harassment. Dr. Victoria seemingly won a resounding victory in 1988 when the U.S. Supreme Court upheld an ordinance that his city had adopted to protect him, banning residential picketing that targets one house. "There simply is no right to force speech into the home of an unwilling listener," wrote Justice Sandra Day O'Connor for the court.

But she also noted that as long as

protesters didn't target only one home, picketing would be allowed. The effect was to render the decision nearly meaningless. Pickets on his street continued. So did other forms of harassment: constant phone calls and threatening letters, as well as vandalism of his home, car and office.

Forced to move his practice and beset with financial problems, partly stemming from a malpractice suit sponsored by abortion opponents, Dr. Victoria declared personal bankruptcy last year and publicly announced he would no longer perform abortions.

Abortion providers who hope that stalking laws will vanquish that kind of harassment may be disappointed. Jeri Rasmussen, an abortion clinic operator in Minnesota, found that her state's stalking law didn't help her stop harassment, because it requires that the target be under threat of imminent physical harm. "As a woman, any time someone follows you, or issues your name and address and urges people to go to your home without your consent, I consider that violence," says Ms. Rasmussen, but "the police didn't see any of this as threatening." A broader stalking law passed by the city where she lives, Shorefield, did stop picketing at her home, and she's now pushing for a similar state measure.

Abortion providers remain guarded in their optimism about the newest legal efforts. Past stalking laws "have not been too helpful to us," says Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, because the laws usually require imminent fear of grave bodily harm. In the wake of Dr. Gunn's death, however, Mr. Fitzsimmons said he's issued a memo to all clinics, saying, "Look, if you have stalking laws, now's the time to use them."

James Dean Legal Fees

Warner Brothers Inc. was ordered to pay \$1.6 million in defendants' legal fees and expenses in its unsuccessful court battle over the licensing rights to James Dean memorabilia.

A federal judge in Los Angeles ruled last year that the Time Warner Inc. unit doesn't have the merchandising rights to the late actor's name and image. That decision was heralded as a victory for other movie stars, who could have been sued under the same studio-contract claim that Warner used in the Dean case.

Judge Matthew Byrne Jr. ordered Warner to pay \$978,949 to Los Angeles law firm Gibson, Dunn & Crutcher, the main attorneys for the James Dean family and Curtis Management Group Inc., which licenses the actor's name and image. The total in

defense fees also includes \$339,125 for Indianapolis law firm Kineman, Rose, Wolf & Wallack and \$293,371 to Curtis Management's in-house counsel.

A Warner spokesman wasn't available for comment. The company has said it would likely appeal the decision.

Curtis Management of Indianapolis said it's considering filing a malicious-prosecution lawsuit against Warner because of the Dean litigation.

(Warner Brothers Inc. vs. Curtis Management Group Inc., U.S. District Court, Central District of California, CV 91 4016)

Law Notes. . .

WHO'S NEWS: David H. Spencer is joining Weil, Gotshal & Manges as head of the New York law firm's new project finance group. Mr. Spencer was a partner at New York's Howard, Darby & Levin.

HIGH-TECH ADDITIONS: Boston law firm Fish & Richardson opened a new Silicon Valley office and added seven new partners specializing in intellectual property. The new partners in Palo Alto, Calif., include James H.A. Pooley of Graham & James and David A. Henderson of Brown & Bain. In the firm's Boston office, Ronald E. Myrick, previously Digital Equipment Corp.'s assistant general counsel for intellectual property, joined as a partner. Douglas Baldwin, former assistant general counsel, intellectual property, for Shell Oil Co., has become a senior counsel in the law firm's Houston office.

-Wade Lambert contributed to this article.

As King Verdict Nears, Los Angeles Acts to Keep Peace

By DAVID J. JEFFERSON

Staff Reporter of THE WALL STREET JOURNAL

LOS ANGELES — With the federal trial in the case of four white policemen who beat black motorist Rodney King expected to go to the jury sometime this weekend, Mayor Tom Bradley made a public appeal to "preserve peace and harmony in the city."

Meanwhile, Police Chief Willie Williams outlined his department's plans to prevent a repeat of last year's violence.

Saying he wants to alleviate "the fears and concerns and the hysteria" surrounding the coming verdict in the King civil rights case and the subsequent trial of several black men who allegedly beat white truck driver Reginald Denny at the start of last year's riots, Chief Williams said his department is prepared to face "any unusual event" that may erupt.

However, excluding a "major occurrence" of violence, "there are no plans to close down this city in anticipation of any problems," he said. "We want people to go about their normal lives."

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

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 4/5/93
Referred: FINANCE

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

SENATORS Leman, Ellis, Donley, Little, Salo

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (c) In this section,

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

31 (2) "family member" means a

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

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

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

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

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

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

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

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

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

19 (E) contacting that person by telephone;

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

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

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

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

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

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

27 (1) recklessly

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (1) AS 11.41.270 or AS 11.56.740; or

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

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

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

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

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

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

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

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

30 (b) As used in this section,

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

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

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

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

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

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

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

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

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

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



Alaska State Legislature
LEGISLATIVE RESEARCH AGENCY
130 Seward Street, Suite 218, Juneau, Alaska 99801-2196
907-465-3991 Fax: 907-463-3351

TO: Sen. Loren Leman DATE: 4/7/93
FROM: Christine CheFF
Attn: Portia Babcock

FYI here's a follow-up to the
research memo (93.180) we
recently prepared for you concerning
stalking laws -

The attached article appeared in
today's Wall Street Journal.

It looks at how enforcement
of the law may result in
conflict over constitutional
issues.

Alaska State Legislature

Legislative Research Agency



130 Seward Street, Suite 218
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Phone: (907) 465-3991
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March 26, 1993

MEMORANDUM

TO: Senator Loren Leman

FROM: Christine M. Cheff *CWC*
Legislative Analyst

RE: **Stalking Laws in Other States**
Research Request 93.180

You asked the following questions about **stalking** or **terroristic threatening** laws in other states:

- How many states have passed such laws?
- In how many states is legislation pending?
- In the states which already have laws, how many include a specific exemption for constitutionally protected activities?

According to a March 5, 1993 legislation update prepared by the National Conference of State Legislatures (NCSL), **thirty-two states have already passed "stalking" laws and legislation is pending in 15 others.**¹

A table that shows current and pending state laws is attached to this memorandum. It also identifies the 14 states we found which provide that constitutionally protected activities are not included within the "course of conduct" actions otherwise described as stalking.² Labor picketing is another activity that several states specifically exclude from classification as stalking behavior.

I hope this information will be useful. Please do not hesitate to call if we can be of further assistance on this matter.

Attachments

¹Donna Hunzeker, "'Stalking' Legislation Update," National Conference of State Legislatures, March 5, 1993, attached.

²Our source of information on this point is a computer search conducted in the WESTLAW database of state statutes.

STALKING LAWS IN OTHER STATES

STATES	STALKING LAWS PASSED	STALKING LAWS PENDING	CONSTITUTION PROTECTED ACTIVITIES	SPECIFIC PROTECTED ACTIVITIES
Alabama	X		X	
Alaska		X		
Arkansas		X		
California	X		X	
Colorado	X			
Connecticut	X			
Delaware	X		X	Picketing
Florida	X		X	
Georgia		X		
Hawaii	X			
Idaho	X		X	
Illinois	X			Picketing
Indiana		X		
Iowa	X			
Kansas	X			
Kentucky	X		X	
Louisiana	X		X	
Maine		X		
Massachusetts	X			
Michigan	X			
Minnesota		X		
Mississippi	X		X	
Missouri		X		
Nebraska	X		X	Picketing
Nevada		X		

STALKING LAWS IN OTHER STATES (continued)

STATES	STALKING LAWS PASSED	STALKING LAWS PENDING	CONSTITUTION PROTECTED ACTIVITIES	SPECIFIC PROTECTED ACTIVITIES
New Hampshire		X		
New Jersey	X			
New Mexico		X		
New York	X			
North Carolina	X			
North Dakota		X		
Ohio	X			
Oklahoma	X		X	
Oregon		X		
Pennsylvania		X		
Rhode Island	X		X	
South Carolina	X		X	
South Dakota	X		X	
Tennessee	X			Lawful Business Activities
Texas		X		
Utah	X		X	
Vermont		X		
Virginia	X			
Washington	X			
West Virginia	X			
Wisconsin	X			
Wyoming	X			

Prepared by the Legislative Research Agency, March 1993 (93.180)



NATIONAL CONFERENCE OF STATE LEGISLATURES

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CHIEF CLERK OF THE SENATE
WISCONSIN
STAFF CHAIR, NCSL

WILLIAM POUND
EXECUTIVE DIRECTOR

"STALKING" LEGISLATION UPDATE

March 5, 1993
Donna Hunzeker

Thirty-two states have "stalking" laws as of this writing.

California passed the first law in 1990, creating (and coining) stalking as a crime. California expanded and increased penalties under its stalking law in 1992. States that passed stalking laws in 1992 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. States that have enacted stalking laws so far in 1993 are New Jersey and Wyoming.

Fifteen states now have pending legislation that would create and classify the crime of stalking. Those are: Alaska, Arkansas, Georgia, Indiana, Maine, Minnesota, Missouri, Nevada, New Hampshire, New Mexico, North Dakota, Oregon, Pennsylvania, Texas, Vermont.

In some states, laws called something other than "stalking" have similar intent and purpose. For example, Arizona created misdemeanor classifications of harassment in 1992. Since 1987, Minnesota has had trespass and harassment laws which apply to stalking situations, and penalties were increased for repeat offenses in 1992. This year, bills are pending in both houses of the Minnesota Legislature to create misdemeanor and felony classifications of "stalking" and "aggravated stalking." Similarly in Maine, which has Class D and Class C crimes of "terrorizing" when threats of violence are made, "stalking" bills are pending this year, one of which specifies intention to expand crime of harassment to more clearly cover conduct known as stalking.

Eleven states that passed laws in 1992 have bills pending in 1993 to amend or expand stalking provisions. Those are: Alabama, California, Colorado, Connecticut, Iowa, Nebraska, Rhode Island, South Dakota, Tennessee, Washington, West Virginia.

States typically have defined "stalking" as willful, malicious and repeated following and harassing of another person. Many require a pattern of conduct and that the perpetrator make a "credible threat of violence" against the victim. Many states include threats against immediate family members. Some provisions require that the victim have reasonable fear of personal safety, or of death or great bodily injury.

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 may apply in some states where a stalker violates a protective order.

For more information, please contact NCSL Marketing/Book Order Dept. at 303-830-2200 for "Stalking Laws" State Legislative Report. Copies are free to legislatures, at-cost to others.

LEGISLATOR'S COPY -- If you have modifications, please contact the assigned staff immediately

Legislative Research Agency
Phone: 465-3991 Fax: 463-3351

WORK ORDER

No. 93.180

Short Title: Stalking Laws: Exemption for Constitutionally Protected Activities

Legislator: Senator Loren Leman Phone: 465-4522

Requested By: Portia Babcock Phone Memo

Date Requested: March 18, 1993

MAR 24 1993

Staff Assignment: Christine M. Cheff

Date Assigned: March 18, 1993

QUESTIONS ASKED/INFORMATION SOUGHT:

Per memorandum dated March 18, 1993.

PURPOSE:

REGARDING BILL NUMBER:

INFORMATION GATHERED/SOURCES CONTACTED:

COMPLETION DATE:

March 29, 1993



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



R. JOHN SHOVER, DIRECTOR

March 22, 1993

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

Dear Representative Toohey:

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

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

Sincerely,

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

MICHAEL E. PULICE
Director

MEP:VRG:rlc

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

WALTER J. HICKEL, GOVERNOR

P.O. BOX 111200
JUNEAU, ALASKA 99811-1200
PHONE: (907) 465-4356

OFFICE ADDRESS: 450 WHITTIER ST.

February 25, 1993

FEB 26 1993

Senator Loren Leman, Chairman
Senate State Affairs Committee
State Capitol, Room 113
Juneau, AK 99801-1182

Dear Senator Leman:

Thank you for the opportunity to provide suggestions for changes to be incorporated into a Committee Substitute bill dealing with stalking.

As I mentioned, the Council would prefer that legislation define stalking as a separate crime rather than through definitions which amend the existing statute concerning terroristic threatening. Our concern is that when there would be a charge for a repeat offense, this should be considered in the judicial process. If a previous conviction is listed in the criminal justice information system under the terroristic threatening statute, it is not possible to distinguish stalking behavior from such activity as threatening an explosion in a public place.

The Council would also like to recommend two other changes:

- 1) An additional aggravating factor should be included that would make 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 domestic violence restraining order provision two years ago in recognition of the lethal combination of this type of behavior.
- 2) The provision wherein a repeat offense within seven years raises the second offense to a Class C felony should be expanded to include any violent crime against a person. An offender may have repeated convictions for assault or sexual assault, and this past history of violence is a strong indicator of potential lethality.

Finally, the Council would support maintaining the current language in the legislation which covers threats of "physical injury" as opposed to the more strict legal definition of "serious physical injury". As was discussed at the Committee hearing on February 24, there are many situations in which a person can be significantly injured but which do not meet the legal definition of "serious physical injury". An example of physical injury which would not meet

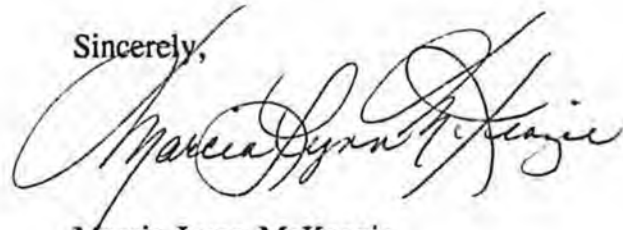
Senator Leman
February 25, 1993

Page 2

the strict legal standard of "serious" would be a non-fatal stab wound wherein the victim survives but is not permanently disfigured or loses a body part or function. To require the strict legal standard of "serious" physical injury would significantly weaken the legislation and deny its applicability in most stalking situations.

We appreciate the Committee's considerations of the Council's concern in this important legislation.

Sincerely,

A handwritten signature in cursive script, reading "Marcia Lynn McKenzie". The signature is written in dark ink and is positioned above the typed name.

Marcia Lynn McKenzie
Program Coordinator

cc: Council Legislative Committee members

ALASKA NETWORK
ON
DOMESTIC VIOLENCE
AND
SEXUAL ASSAULT

419 6th Street, No. 116 • Juneau, Alaska 99801 • (907) 586-3650

Abused Women's Aid in Crisis (AWAIC); Advocates for Victims of Violence (AVV);
Aiding Women in Abuse and Rape Emergencies (AWARE);
Alaska Women's Resource Center (AWRC); Arctic Women in Crisis (AWIC);
Bering Sea Women's Group (BSWG); Emmonak Women's Shelter;
Kodiak Women's Resource & Crisis Center (KWRC);
M̄nīl̄aq Regional Women's Crisis Program; Parent Aid Family Support Center;
Safe & Fear-Free Environment (SAFE); Seward Life Action Council (SLAC);
Sitkans Against Family Violence (SAFV); South Peninsula Women's Services (SPWS);
Standing Together Against Rape (STAR);
Tongass Community Counseling Center; Tundra Women's Coalition (TWC);
Unalaskans Against Sexual Assault & Family Violence (USAFV);
Valley Women's Resource Center (VWRC);
Women in Crisis Counseling & Assistance (WCCA);
Women in Safe Homes (WISH); Women's Resource & Crisis Center (WRCC)

February 24, 1993

Honorable Loren Leman
Alaska Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Leman:

Per your request, the Network on Domestic Violence and Sexual Assault would like to make the following comments and suggestions for incorporation into a committee substitute bill on stalking.

1. The Network requests that the crime be called stalking, and has no problem with the conceptual language outlined by Legislative Counsel which was used in House Bill 64. This will allow law enforcement, when performing criminal background checks, to see quickly when there have been prior arrests or convictions for this specific crime.
2. The possession of a deadly weapon by the offender during a stalking offense should be listed as an additional felony aggravator to the crime in Section 1. This recognizes the higher level of danger of conduct, and will also allow a convicted offender to be monitored through probation.
3. Rather than citing only prior convictions for stalking as a felony aggravator in Section 1, any prior offense involving violence against persons, trespass or harassment should be cited, and should include similar crimes in other jurisdictions. A person with a history of violence is likely to be a much more dangerous person. Again, this also allows the offender to be monitored through probation.
4. Current language in Section 2 addressing physical injury should be retained, rather than imposing the higher standard of serious physical injury. As I noted in testimony, even very serious acts, such as rape, physical injury through weapons, choking, etc., are not covered under the standard of "serious physical injury" which requires substantial and/or protracted disfigurement or loss of function.

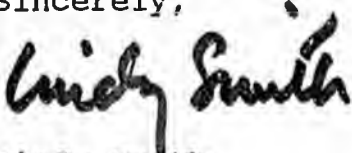
Senator Leman
Page Two

5. The Network supports the Department of Law's recommendation to list stalking as a separate offense under Section 3. This will allow probable cause arrests for cases that involve stalking by a stranger or other non-domestic violence cases.

6. Current language regarding prosecution standards is appropriate and sufficiently stringent to prevent prosecution of frivolous complaints. If this bill were to pass it is the police who will be making decisions as to whether to arrest and charge persons for such a crime. The bill requires that an offender recklessly (which involves a conscious decision) places a victim in fear by knowingly and repeatedly following or lying in wait for them. Police departments will not use this bill to make unnecessary arrests, and circumstances such as unintentional contact, or one-time contact (such as picketing) do not meet the elements of the crime.

Thanks for the opportunity to provide information on this important legislation.

Sincerely,



Cindy Smith
Executive Director

c.c. Network programs

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(33) "offense" means conduct for which a sentence of imprisonment or fine is authorized; an offense is either a crime or a violation.

(34) "official detention" means custody, arrest, surrender in lieu of arrest, or confinement under an order of a court in a criminal or juvenile proceeding, other than an order of conditional bail release.

(35) "official proceeding" means a proceeding heard before a legislative, judicial, administrative, or other governmental body or official authorized to hear evidence under oath;

(36) "omission" means a failure to perform an act for which a duty of performance is imposed by law;

(37) "organization" means a legal entity, including a corporation, company, association, firm, partnership, joint stock company, foundation, institution, government, society, union, club, church, or any other group of persons organized for any purpose;

(38) "peace officer" means a public servant vested by law with a duty to maintain public order or to make arrests, whether the duty extends to all offenses or is limited to a specific class of offenses or offenders;

(39) "person" means a natural person and, when appropriate, an organization, government, or governmental instrumentality;

(40) "physical injury" means a physical pain or an impairment of physical condition;

(41) "police dog" means a dog used in police work under the control of a peace officer;

(42) "possess" means having physical possession or the exercise of dominion or control over property;

(43) "premises" means real property and any building;

(44) "propelled vehicle" means a device upon which or by which a person or property is or may be transported, and which is self-propelled, including automobiles, vessels, airplanes, motorcycles, snow machines, all-terrain vehicles, sailboats, and construction equipment;

(45) "property" means an article, substance, or thing of value, including money, tangible and intangible personal property including data or information stored in a computer program, system, or network, real property, a credit card, a domestic pet or livestock regardless of value, choses-in-action, and evidence of debt or of contract a commodity of a public utility such as gas, electricity, steam, or water constitutes property but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits, or other equipment is considered a rendition of a service rather than a sale or delivery of property;

(46) "public place" means a place to which the public or a substantial group of persons has access and includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies, and other portions of sports

signed for actual residence;

(47) "public record" means a document, paper, book, letter, drawing, map, plat, photo, photographic file, motion picture, film, microfilm, microphotograph, exhibit, magnetic or paper tape, punched card or other document of any other material, regardless of physical form or characteristic, developed or received under law or in connection with the transaction of official business and preserved or appropriate for preservation by any agency, municipality, or any body subject to the open meeting provision of AS 44.62.310, as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the state or municipality or because of the informational value in it; it also includes staff manuals and instructions to staff that affect the public;

(48) "public servant" means each of the following, whether compensated or not, but does not include jurors or witnesses:

(A) an officer or employee of the state, a municipality or other political subdivision of the state, or a governmental instrumentality of the state, including legislators, members of the judiciary, and peace officers;

(B) a person who participates as an advisor, consultant, or assistant at the request or direction of the state, a municipality or other political subdivision of the state, or a governmental instrumentality;

(C) a person who serves as a member of the board or commission created by statute or by legislative, judicial, or administrative action by the state, a municipality or other political subdivision of the state, or a governmental instrumentality;

(D) a person nominated, elected, appointed, employed, or designated to act in a capacity defined in (A) — (C) of this paragraph, but who does not occupy the position;

(49) a "renunciation" is not "voluntary and complete" if it is substantially motivated, in whole or in part, by

(A) a belief that circumstances exist which increase the probability of detection or apprehension of the defendant or another participant in the criminal enterprise, or which render more difficult the accomplishment of the criminal purpose; or

(B) a decision to postpone the criminal conduct until another time or to transfer the criminal effort to another victim or another but similar objective;

(50) "serious physical injury" means

(A) physical injury caused by an act performed under circumstances that create a substantial risk of death; or

(B) physical injury that causes serious and protracted disfigurement, protracted impairment of health, protracted loss or impairment of the function of a body member or organ, or that unlawfully terminates a pregnancy;

8-LS0283ND
Luckhaupt
4/5/93

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

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:
Referred:

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

SENATORS Leman, Ellis, Donley, Little, Salo

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (c) In this section,

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

31 (2) "family member" means a

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

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

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

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

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

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

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

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

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

19 (E) contacting that person by telephone;

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

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

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

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

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

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

27 (1) recklessly

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

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

- 1 (C) [(5)] while being 18 years of age or older
 2 (i) [(A)] causes physical injury to a child under 10 years
 3 of age and the injury reasonably requires medical treatment;
 4 (ii) [(B)] causes physical injury to a child under 10 years
 5 of age on more than one occasion; or
 6 (2) with intent to place another person in fear of death or serious
 7 physical injury to the person or the person's family member makes repeated
 8 threats to cause death or serious physical injury to another person.

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

- 10 (c) In this section, "the person's family member" means
 11 (1) a spouse, child, grandchild, parent, grandparent, sibling, uncle, aunt,
 12 nephew, or niece, of the person, whether related by blood, marriage, or adoption;
 13 (2) a person who lives or has lived, in a spousal relationship with the
 14 person;
 15 (3) a person who lives in the same household as the person; or
 16 (4) a person who is a former spouse of the person or is or has been in
 17 a dating, courtship, or engagement relationship with the person.

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

- 19 (a) A person commits the crime of terroristic threatening if the person
 20 [(1)] knowingly makes a false report that a circumstance dangerous to
 21 human life exists or is about to exist and
 22 (1) [(A)] places a person in fear of physical injury to any
 23 person;
 24 (2) [(B)] causes evacuation of a building; or
 25 (3) [(C)] causes serious public inconvenience [; OR
 26 (2) WITH INTENT TO PLACE ANOTHER PERSON IN FEAR OF
 27 DEATH OR SERIOUS PHYSICAL INJURY TO THE PERSON OR THE PERSON'S
 28 IMMEDIATE FAMILY, MAKES REPEATED THREATS TO CAUSE DEATH OR
 29 SERIOUS PHYSICAL INJURY TO ANOTHER PERSON].

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

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

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

3 (1) AS 11.41.270 or AS 11.56.740; or

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

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

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

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

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

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

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

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

30 (b) As used in this section,

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

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

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

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

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

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

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

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

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

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

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 4/5/93
Referred: FINANCE

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

SENATORS Leman, Ellis, Donley, Little, Salo, *Pearce*

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
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6 person convicted of stalking; relating to the crime of assault in the third degree;
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12 (1) the actions constituting the offense are in violation of an order
13 issued under AS 25.35.010(b) or 25.35.020;

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

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

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

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

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

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

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

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

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

28 (c) In this section,

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

31 (2) "family member" means a

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

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

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

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

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

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

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

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

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

19 (E) contacting that person by telephone;

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

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

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

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

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

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

27 (1) recklessly

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (1) AS 11.41.270 or AS 11.56.740; or

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

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

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

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

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

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

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

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

30 (b) As used in this section,

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

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

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

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

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

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

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

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

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

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

Alaska State Legislature

Sen. Robin Taylor, *Chair*
Sen. Rick Halford, *Vice Chair*
Sen. George Jacko, *Member*
Sen. Dave Donley, *Member*
Sen. Suzanne Little, *Member*



State Capitol
Juneau, AK 99801-1182
.....
907 465-3717
Fax: 907 465-3922

Senate Judiciary Committee

Letter of Intent

(attached to)

CS HB 64(FIN)

It is the intent of the legislature that, in prosecutions for the offense of stalking in the first degree in violation of AS 11.41.260 or stalking in the second degree in violation of AS 11.41.270, the State of Alaska must prove beyond a reasonable doubt that the victim was placed in actual fear of death or physical injury by the defendant's course of conduct. This gives the same meaning to the phrase "recklessly places another person in fear" as is given to that phrase in the offense of assault in the third degree in violation of AS 11.41.220(a)(1) ("recklessly places another person in fear of imminent serious physical injury by means of a dangerous instrument"). This is also consistent with the decision of the Alaska Court of Appeals in *DeHart v. State*, 781 P.2d 989 (Alaska Ct. App. 1989).

the threat of physical abuse by the child's mother, the conviction for an offense different than the one charged was a fatal variance, and required reversal. *Michael v. State*, 805 P.2d 371 (Alaska 1991).

Sentence upheld.

See *Brogdon v. State*, 781 P.2d 1370 (Alaska Ct. App. 1989).

Imposition of an aggravated presumptive term of ten years for nonalcohol-related vehicular manslaughter and a con-

secutive suspended four-year sentence for assault in the second degree was not clearly mistaken, where defendant's callousness and irresponsibility were evidenced by his conduct in eluding police officers, racing down a highway, and running red lights before colliding with another vehicle. *Barney v. State*, 786 P.2d 925 (Alaska Ct. App. 1990).

Cited in *Erickson v. State*, 824 P.2d 725 (Alaska Ct. App. 1992).

Sec. 11.41.220. Assault in the third degree. (a) A person commits the crime of assault in the third degree if that person recklessly

(1) places another person in fear of imminent serious physical injury by means of a dangerous instrument;

(2) causes physical injury to another person by means of a dangerous instrument; or

(3) while being 18 years of age or older

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

(B) causes physical injury to a child under 10 years of age on more than one occasion.

(b) Assault in the third degree is a class C felony. (§ 5 ch 102 SLA 1980; am § 4 ch 143 SLA 1982; am § 4 ch 79 SLA 1992)

Effect of amendments. — The 1992 amendment, effective September 14, 1992,

added paragraph (a)(3) and made related stylistic changes.

NOTES TO DECISIONS

Charge as to fear of injury. — Trial court properly refused to give a proposed instruction requiring the jury to find that the victim's fear of injury was reasonable, where defendant was charged as a result of an incident in which he threatened a police officer with a chain saw, and, since the officer was not actually injured, the issue before the jury was whether he was placed in fear of serious physical injury. *Wyatt v. State*, 778 P.2d 1169 (Alaska Ct. App. 1989).

Trial court properly denied an instruction requiring the jury to find that the victims' fear of injury was reasonable, where the victims, who were state troopers, testified that defendant's actions in drawing a pistol and cocking it had placed them in fear of being shot and that this was their reason for disarming and arresting him. *DeHart v. State*, 781 P.2d 989 (Alaska Ct. App. 1989).

Sufficient evidence for conviction. — Evidence was sufficient to allow rea-

sonable jurors to conclude that a correctional officer had been placed in imminent fear of being shot by defendant, where the two men were engaged in a physical struggle over the officer's gun and the officer believed that defendant was about to succeed in his efforts to gain control of the weapon. *Perotti v. State*, 818 P.2d 700 (Alaska Ct. App. 1991).

Sentence upheld. — See *Perotti v. State*, 818 P.2d 700 (Alaska Ct. App. 1991).

A total term of twenty-five years with ten years suspended was not excessive where sentence represented conviction of one class A felony (convictions of alternative counts of attempted kidnapping were merged into a single count), three class C felonies (third-degree assault), and two class A misdemeanors (reckless endangerment); this was so under the circumstances of this case, even though defendant was a first offender. *Ramsey v. State*,

Leave in file - attached to Letter of Intent

FISCAL NOTE

No. 5
 Bill Version: CSHB 64 (FTN)
 (H) Publish Date: _____

STATE OF ALASKA
 1993 LEGISLATIVE SESSION

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

Expenditures/Revenues: (Thousands of Dollars)

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

Prepared By: Brant McVey, Public Advocate Phone: 274-1684
 Division: Office of Public Advocacy Date: _____

Approved by Commissioner: Nancy Bear Usura Date: 3/8/93
 Agency: Department of Administration

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FISCAL NOTE

4

Bill Version: CSHB 64 (FIN)

(H) Publish Date: 3/12/93

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act creating the crimes of stalking in the first BRU: Public Defender
and second" Component: Public Defender
 Sponsor: Reps Toohey, Phillips, et. al
 Requestor: House Finance COMPONENT SERIAL NO. 1631

Expenditures/Revenues: (Thousands of Dollars)

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

Prepared By: John Salemi, Public Defender
 Division: Public Defender Agency

Phone: 279-7541
 Date: _____

Approved by Commissioner: Nancy Bear Usery
 Agency: Department of Administration

Date: 3/8/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill Version: CSHB 64 (JUD)
(H) Publish Date: 3/1/93

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 Toohy Component: Detachments
 Requestor: Representative Toohy 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: 769-5291
 Division: Alaska State Troopers Date: 2/12/93
 Approved by Commissioner: *Richard L. Burton* Date: 2/19/93
 Agency: Richard L. Burton, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

1
Version: CSHB 64 (JUD)
(H) Publish Date: 3/1/93

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						
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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.

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division
Approved by Commissioner: Charles E. Coie, Attorney General
Agency: Department of Law

Phone: 465-3672
Date: February 18, 1993
Date: February 18, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

CSHB 64(Jud) -
NO. 1
Pg 2 of 2

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

No. 6

Bill Version: CSHD 64 (FIN)

(H) Publish Date: 3/12/93

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: 3-8-93 Dept. Affected: Corrections
 Title: "An Act creating crime of BRU: Community Corrections
stalking." Component: _____
 Sponsor: Representative Toohy
 Requestor: House Finance COMPONENT SERIAL NO. 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)
 Please see attached fiscal analysis.

Prepared by: Dana LaTour, Special Assistant *Dana LaTour* Phone: 465-3376
 Division: Office of the Commissioner Date: 3-8-93
 Approved by Commissioner: Lloyd G. Rupp Date: 3-8-93
 Agency: Department of Corrections

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 64 (FIN)

ANALYSIS (Continued):

The House Finance Committee substitute for HB 64 drops the provision in the earlier version of the bill, that would have doubled the period of probation that a court could sentence a convicted felon, that we commented on in our fiscal note of March 5, 1993. This change will avoid the possibility of increasing the probation caseload, and avoid causing a fiscal impact for the Department of Corrections. Otherwise, there are no other changes in the bill, and there should not be a fiscal impact for the Department of Law.

Stalker laws

Give us something more we can do

These are words we don't want to hear anymore:

"She did everything right."

"She did all she could do."

"She used every legal means she could to protect herself. But it wasn't enough."

Alaskans said those words to each other in the spring of 1988 when William O'Shea went to Renee Vega's office, shot and killed her.

Ms. Vega knew she was in danger from her ex-boyfriend. She'd gotten a restraining order, a piece of paper telling him to stay away. She'd even asked a male friend to hang around, be a bodyguard.

It wasn't enough.

Last spring Conn Wayne Duncan ignored the

restraining order his ex-girlfriend had taken out against him. He went to her house and hit her. He threatened her with a gun. When she hid with friends, he tracked her there.

Anti-stalking laws cover gaps that restraining orders don't fill . . . If the stalker violates a restraining order, he can be charged with a felony and subject not only to stiffer sentences than a misdemeanor but to probation on release.

She was one of the lucky ones — if you can call this experience lucky. She was not hurt. Conn Duncan ended up dying outside her hideaway in a fiery explosion from a bomb in his truck.

Robert Fletcher Jr. had stalked his ex-wife for more than six months when he caught up with her for the last time Tuesday morning

at the University of Alaska Anchorage. Ann Fletcher had taken out a restraining order. It wasn't enough.

Today Ann Fletcher is in the hospital, shot in the face by her ex-husband before he turned the gun on himself.

Here are the statistics behind these real people:

Domestic violence causes more harm to American women than car accidents, rapes and muggings combined. An estimated 8 million women a year are beaten by the men they live with. Thirty percent of female homicide victims die at the hands of their partners or ex-partners. More die when trying to leave a relationship than at any other time.

Tougher laws alone won't prevent this onslaught of violence. What is needed is a societywide change in attitude, about violence against women, about anger, about self-respect. But that change is a long way off, if it ever comes, and until then we need the toughest laws we can pass.

Restraining orders work most of the time; those are the times we don't hear about. But for the times they don't work, we need something more.

Anti-stalking laws cover gaps that restraining orders don't fill. A person can be arrested for threatening or intimidating another, even if no violence has yet taken place. If the stalker violates a restraining order, he can be charged with a felony and subject not only to stiffer sentences than a misdemeanor but to probation on release.

Some 30 states have passed anti-stalking laws in the past three years. The laws are an answer to a question too many women feel forced to ask of police officers and judges: "Do I have to be killed first before you can do anything?"

The Alaska House unanimously passed a law last month making it a crime to stalk someone. The Senate should waste no time doing the same.

*Editorial
ADN 4-8-93*

ADN 4-8-93

PETERSEN: Sentenced

Continued from Page B-1

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

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

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

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

Tuesday, a woman who

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

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

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

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

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



JIM LAVINAKAS / Anchorage Daily News

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

Antagonist cops plea

Alleged stalker gets 15 days for scaring woman with car

By LIZ RUSKIN
Daily News reporter

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

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

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

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

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

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

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

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

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

Please see Page B-3, PETERSEN

8-LS0200NK
Luckhaupt
3/11/93

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 11(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): **SENATORS KERTTULA, Duncan**

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (c) In this section,

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

31 (2) "family member" means a

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

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

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

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

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

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

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

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

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

19 (E) contacting that person by telephone;

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

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

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

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

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

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

27 (1) recklessly

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (1) AS 11.41.270 or AS 11.56.740; or

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

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

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

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

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

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

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

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

30 (b) As used in this section,

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

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

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

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

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

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

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

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

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

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

Act No. 262
Public Acts of 1992

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Senators Geake, Bouchard, Cisky, Dingell, Conroy, DeGrow, Kelly, Schwarz and Ehlers

ENROLLED SENATE BILL No. 1095

AN ACT to amend Act No. 236 of the Public Acts of 1961, entitled as amended "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with, or contravening any of the provisions of this act," as amended, being sections 600.101 to 600.9947 of the Michigan Compiled Laws, by adding sections 2950a and 2954.

The People of the State of Michigan enact:

Section 1. Act No. 236 of the Public Acts of 1961, as amended, being sections 600.101 to 600.9947 of the Michigan Compiled Laws, is amended by adding sections 2950a and 2954 to read as follows:

Sec. 2950a. (1) An individual may, by commencing an independent action to obtain relief under this section, or by joining a claim to an existing action, petition the circuit court to restrain or enjoin an individual from engaging in conduct that is prohibited under section 411h or 411i of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.411h and 750.411i of the Michigan Compiled Laws. Relief may be sought and granted under this section whether or not the individual to be restrained or enjoined has been charged or convicted under section 411h or 411i of Act No. 328 of the Public Acts of 1931 for the alleged violation.

(2) An order issued under subsection (1) shall include all of the following:

(a) A statement that the order has been entered pursuant to this section to enjoin or restrain conduct prohibited under section 411h or 411i of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.411h and 750.411i of the Michigan Compiled Laws.

(b) A statement listing the type or types of conduct restrained or enjoined.

(c) A statement of the period of time for which the order is valid.

(d) A statement that violation of the order will subject the individual restrained or enjoined to immediate arrest and the civil and criminal contempt powers of the court, and that if he or she is found guilty of criminal contempt, he or she shall be imprisoned for not more than 90 days and may be fined not more than \$500.00.

(3) An order issued under subsection (1) shall be personally served on the individual to be restrained, and proof of service shall be filed with the clerk of the court. Upon filing of the proof of service, the clerk of the court shall file true copies of the order and the proof of service with the law enforcement agency having jurisdiction of the area in which the petitioner resides. Upon receipt of the true copies of the order and the proof of service, the law enforcement agency shall enter the order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, Act No. 163 of the Public Acts of 1974, being sections 28.211 to 28.216 of the Michigan Compiled Laws.

(4) An individual who violates an order issued under subsection (1) after having been served with a copy of the order under subsection (3) is subject to the civil and criminal contempt powers of the court and, if found guilty of criminal contempt, shall be imprisoned for not more than 90 days and may be fined not more than \$500.00.

(5) An order issued under subsection (1) that complies with section 15b of chapter IV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 764.15b of the Michigan Compiled Laws, is enforceable under that section.

(6) An order issued under subsection (1) is also enforceable under chapter 17 of this act.

Sec. 2954. (1) A victim may maintain a civil action against an individual who engages in conduct that is prohibited under section 411h or 411i of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.411h and 750.411i of the Michigan Compiled Laws, for damages incurred by the victim as a result of that conduct. A victim may also seek and be awarded exemplary damages, costs of the action, and reasonable attorney fees in an action brought under this section.

(2) A civil action may be maintained under subsection (1) whether or not the individual who is alleged to have engaged in conduct prohibited under section 411h or 411i of Act No. 328 of the Public Acts of 1931 has been charged or convicted under section 411h or 411i of Act No. 328 of the Public Acts of 1931 for the alleged violation.

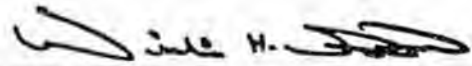
(3) As used in this section, "victim" means that term as defined in section 411h of Act No. 328 of the Public Acts of 1931.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 86th Legislature are enacted into law:

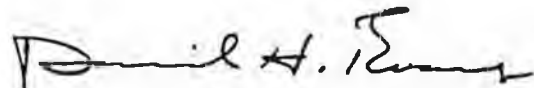
- (a) Senate Bill No. 719.
- (b) House Bill No. 5472.
- (c) House Bill No. 6038.

Section 3. This amendatory act shall take effect January 1, 1993.

This act is ordered to take immediate effect.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved.....

.....
Governor.



Act No. 251
Public Acts of 1992
Approved by the Governor
November 19, 1992
Filed with the Secretary of State
November 19, 1992

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Reps. Byrum, Scott, Yokich, Porreca, Bartnik, Baade, Dobronski, Gire, Varga, Brown, Pitoniak, Walberg, Perry Bullard, Middleton, Dolan, Bennane, Smagars, Goss, Bankes, Dobb, Hertel, Profit and DeMars
Reps. Allen, Alley, Anthony, Bandstra, Barns, Bender, Bennett, Berman, Bobier, Bodem, Brackenridge, Willis Bullard, Clack, DeBeaussaert, Dresch, Fitzgerald, Gagliardi, Gernaat, Gilmer, Gnodtke, Gubow, Harder, Harrison, Hoekman, Hoffman, Hollister, Horton, Jamian, Jaye, Johnson, Keith, Kilpatrick, Knight, London, McBryde, Middaugh, Munsell, Murphy, Muxlow, Niederstadt, Olshove, Ostling, Palamara, Power, Randall, Robertson, Rocca, Strand, Van Singel, Wallace, Weeks and Joe Young, Jr. named co-sponsors

ENROLLED HOUSE BILL No. 6038

AN ACT to amend section 15b of chapter IV and section 2 of chapter XI of Act No. 175 of the Public Acts of 1927, entitled as amended "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," section 15b of chapter IV as amended by Act No. 230 of the Public Acts of 1983 and section 2 of chapter XI as amended by Act No. 78 of the Public Acts of 1988, being sections 764.15b and 771.2 of the Michigan Compiled Laws; and to add section 2a to chapter XI.

The People of the State of Michigan enact:

Section 1. Section 15b of chapter IV and section 2 of chapter XI of Act No. 175 of the Public Acts of 1927, section 15b of chapter IV as amended by Act No. 230 of the Public Acts of 1983 and section 2 of chapter XI as amended by Act No. 78 of the Public Acts of 1988, being sections 764.15b and 771.2 of the Michigan Compiled Laws, are amended and section 2a is added to chapter XI to read as follows:

CHAPTER IV

Sec. 15b. (1) A peace officer, without a warrant, may arrest and take into custody a person when the peace officer has reasonable cause to believe that all of the following exist:

(a) One of the following injunctive orders:

(i) An injunctive order issued pursuant to section 14 of chapter 84 of the Revised Statutes of 1846, as amended, being section 552.14 of the Michigan Compiled Laws.

(ii) An injunctive order issued by the circuit court as authorized by law and stating on its face the period of time for which the order is valid and specifically restraining or enjoining a spouse, a former spouse, or a person residing or having resided in the same household as the victim from entering onto premises, from assaulting, beating, molesting, or wounding a named person, or from removing minor children from the person having legal custody of the children.

(iii) An injunctive order issued by the circuit court as authorized by law and stating on its face the period of time for which the order is valid and specifically restraining or enjoining a person from engaging in conduct prohibited under section 411h or 411i of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.411h and 750.411i of the Michigan Compiled Laws.

(b) A true copy and proof of service of the order has been filed with the law enforcement agency having jurisdiction of the area in which the moving party resides.

(c) The person named in the order has received notice of the injunctive order.

(d) The person named in the order is acting in violation of the order. A person is in violation of the order if that person commits 1 or more of the following acts specifically enumerated in the order to restrain or enjoin the person from:

(i) Assaulting, beating, molesting, or wounding a named person.

(ii) Removing minor children from a person having legal custody of the children, in violation of custody and visitation orders as issued by the court.

(iii) Entering onto premises.

(iv) Engaging in conduct prohibited under section 411h or 411i of Act No. 328 of the Public Acts of 1931.

(e) The order states on its face that a violation of its terms subjects the person to immediate arrest and to criminal contempt of court and, if found guilty of criminal contempt, the person shall be imprisoned for not more than 90 days and may be fined not more than \$500.00.

(2) A person arrested pursuant to this section shall be brought before the circuit court having jurisdiction in the cause within 24 hours after arrest to answer to a charge of contempt for violation of the injunctive order, at which time the court shall do each of the following:

(a) Set a time certain for a hearing on the alleged violation of the injunctive order within 72 hours after arrest, unless extended by the court on the motion of the arrested person.

(b) Set a reasonable bond pending a hearing of the alleged violation of the injunctive order.

(c) Notify the party who has procured the injunctive order and direct the party to appear at the hearing and give evidence on the charge of contempt.

(3) In circuits where the circuit court judge may not be present or available within 24 hours after arrest, a person arrested pursuant to this section shall be taken before the district court within 24 hours after arrest, at which time the district court shall order the defendant to appear before the circuit court of the county for a hearing on the charge. The district court shall set bond for the person.

(4) The circuit court for each county of this state shall have jurisdiction to conduct contempt proceedings based upon a violation of an injunctive order as provided in this section, which is issued by the circuit court in any county of this state. The court of arraignment shall notify the circuit court which issued the injunctive order that the issuing court may request that the defendant be returned to that county for violating the injunctive order. If the circuit court which issued the injunctive order requests that the defendant be returned to that county to stand trial, then the requesting county shall bear the cost of transporting the defendant to that county.

(5) Upon receipt of a true copy and proof of service of an injunctive order issued pursuant to this section, the law enforcement agency shall enter the order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, Act No. 163 of the Public Acts of 1974, being sections 28.211 to 28.216 of the Michigan Compiled Laws.

CHAPTER XI

Sec. 2. (1) Except as provided in section 2a of this chapter, if the defendant is convicted for an offense which is not a felony, the period of probation shall not exceed 2 years. Except as provided in section 2a of this chapter, if the defendant is convicted of a felony which is not a major controlled substance offense, the period of probation shall not exceed 5 years.

(2) The court shall by order, to be filed or entered in the cause as the court may direct by general rule or in each case, fix and determine the period and conditions of probation. The order, whether it is filed or entered, shall be considered as part of the record in the cause and shall be at all times alterable and amendable, both in form and in substance, in the court's discretion.

(3) A defendant who is placed on probation pursuant to section 1(3) of this chapter shall be placed on probation for life. That sentence may be made subject to conditions of probation specified in section 3 of this chapter and to revocation for violation of those conditions, but the period of probation shall not be reduced other than by a revocation which results in imprisonment.

(4) Subsections (1) and (3) do not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to a state institution or agency described in the youth rehabilitation services act, Act No. 150 of the Public Acts of 1974, being sections 803.301 to 803.309 of the Michigan Compiled Laws.

Sec. 2a. (1) The court may place an individual convicted of violating section 411h of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.411h of the Michigan Compiled Laws, on probation for not more than 5 years. The sentence is subject to the conditions of probation set forth in section 411h(3) of Act No. 328 of the Public Acts of 1931 and section 3 of this chapter. The probation is subject to revocation for any violation of a condition of that probation.

(2) The court may place an individual convicted of violating section 411i of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.411i of the Michigan Compiled Laws, on probation for any term of years, but not less than 5 years. The sentence is subject to the conditions of probation set forth in section 411i(4) of Act No. 328 of the Public Acts of 1931 and section 3 of this chapter. The probation is subject to revocation for any violation of a condition of that probation.

(3) The court shall by order, to be filed or entered in the cause as the court directs by general rule or in each case, fix and determine the period and conditions of probation. The order, whether it is filed or entered, shall be considered as part of the record in the cause and shall be at all times alterable and amendable, both in form and in substance, in the court's discretion.

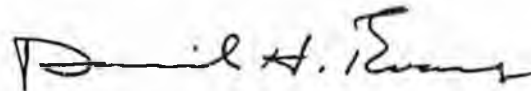
(4) This section does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to a state institution or agency described in the youth rehabilitation services act, Act No. 150 of the Public Acts of 1974, being sections 803.301 to 803.309 of the Michigan Compiled Laws.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 86th Legislature are enacted into law:

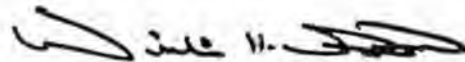
- (a) Senate Bill No. 719.
- (b) House Bill No. 5472.
- (c) Senate Bill No. 1095.

Section 3. This amendatory act shall take effect January 1, 1993.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved

.....
Governor.



Act No. 260
Public Acts of 1992

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Reps. Byrum, Kilpatrick, Clack, Varga, Gire, Dobronski, Yokich, Johnson, Munsell, Pitoniak, Dolan, Walberg, Fitzgerald, Goss, Shugars, Berman, Baade, Olshove and Joe Young, Jr. Reps. Allen, Alley, Anthony, Bandstra, Barns, Bartnik, Bender, Bennane, Bennett, Bobier, Bodem, Brackenridge, Brown, Willis Bullard, DeBeussaert, DeMars, Dobb, Dresch, Gallardi, Gernaat, Gilmer, Gnodtke, Gubow, Harder, Harrison, Hertel, Hoekman, Hoffman, Hollister, Horton, Jamian, Jaye, Keith, Knight, London, McBryde, Middaugh, Middleton, Murphy, Muxlow, Niederstadt, Ostling, Palamara, Porreca, Power, Profit, Randall, Robertson, Rocca, Scott, Strand, Van Singel, Wallace and Weeks named co-sponsors
Reps. Bankes, Bryant, Clarke, Dalman, Jonker, Kosteva, Lipsey, Martin, McNutt, O'Neill, Saunders, Sikkema, Stallworth and Wozniak named co-sponsors

ENROLLED HOUSE BILL No. 5472

AN ACT to amend Act No. 328 of the Public Acts of 1931, entitled as amended "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," as amended, being sections 750.1 to 750.568 of the Michigan Compiled Laws, by adding section 411h.

The People of the State of Michigan enact:

Section 1. Act No. 328 of the Public Acts of 1931, as amended, being sections 750.1 to 750.568 of the Michigan Compiled Laws, is amended by adding section 411h to read as follows:

Sec. 411h. (1) As used in this section:

(a) "Course of conduct" means a pattern of conduct composed of a series of 2 or more separate noncontinuous acts, evidencing a continuity of purpose.

(b) "Emotional distress" means significant mental suffering or distress that may, but does not necessarily require, medical or other professional treatment or counseling.

(c) "Harassment" means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact, that would cause a reasonable individual to suffer emotional distress, and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

(d) "Stalking" means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(e) "Unconsented contact" means any contact with another individual that is initiated or continued without that individual's consent, or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:

- (i) Following or appearing within the sight of that individual.
- (ii) Approaching or confronting that individual in a public place or on private property.
- (iii) Appearing at the workplace or residence of that individual.
- (iv) Entering onto or remaining on property owned, leased, or occupied by that individual.
- (v) Contacting that individual by telephone.
- (vi) Sending mail or electronic communications to that individual.
- (vii) Placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.
- (f) "Victim" means an individual who is the target of a willful course of conduct involving repeated or continuing harassment.

(2) An individual who engages in stalking is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(3) The court may place an individual convicted of violating subsection (2) on probation for a term of not more than 5 years. If a term of probation is ordered, the court may, in addition to any other lawful condition of probation, order the defendant to do any of the following:

- (a) Refrain from stalking any individual during the term of probation.
- (b) Refrain from having any contact with the victim of the offense.
- (c) Be evaluated to determine the need for psychiatric, psychological, or social counseling and, if determined appropriate by the court, to receive psychiatric, psychological, or social counseling at his or her own expense.

(4) In a prosecution for a violation of this section, evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim after having been requested by the victim to discontinue the same or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, shall give rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

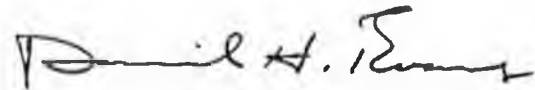
(5) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 86th Legislature are enacted into law:

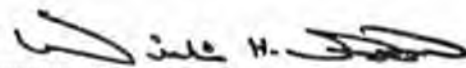
- (a) Senate Bill No. 719.
- (b) Senate Bill No. 1095.
- (c) House Bill No. 6038.

Section 3. This amendatory act shall take effect January 1, 1993.

This act is ordered to take immediate effect.



.....
Clerk of the House of Representatives.



.....
Secretary of the Senate.

Approved

.....
Governor.



Act No. 361
Public Acts of 1992

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Senators Geake, Dingell, McManus, Welborn, Emmons, Cisky, Pollack, Conroy,
Bouchard, Honigman and DiNello

ENROLLED SENATE BILL No. 719

AN ACT to amend Act No. 328 of the Public Acts of 1931, entitled as amended "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," as amended, being sections 750.1 to 750.568 of the Michigan Compiled Laws, by adding section 411i.

The People of the State of Michigan enact:

Section 1. Act No. 328 of the Public Acts of 1931, as amended, being sections 750.1 to 750.568 of the Michigan Compiled Laws, is amended by adding section 411i to read as follows:

Sec. 411i. (1) As used in this section:

(a) "Course of conduct" means a pattern of conduct composed of a series of 2 or more separate noncontinuous acts, evidencing a continuity of purpose.

(b) "Credible threat" means a threat to kill another individual or a threat to inflict physical injury upon another individual that is made in any manner or in any context that causes the individual hearing or receiving the threat to reasonably fear for his or her safety or the safety of another individual.

(c) "Emotional distress" means significant mental suffering or distress that may, but does not necessarily require, medical or other professional treatment or counseling.

(d) "Harassment" means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact, that would cause a reasonable individual to suffer emotional distress, and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

(e) "Stalking" means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(f) "Unconsented contact" means any contact with another individual that is initiated or continued without that individual's consent, or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:

- (i) Following or appearing within the sight of that individual.
- (ii) Approaching or confronting that individual in a public place or on private property.
- (iii) Appearing at the workplace or residence of that individual.
- (iv) Entering onto or remaining on property owned, leased, or occupied by that individual.
- (v) Contacting that individual by telephone.
- (vi) Sending mail or electronic communications to that individual.
- (vii) Placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.

(g) "Victim" means an individual who is the target of a willful course of conduct involving repeated or continuing harassment.

(2) An individual who engages in stalking is guilty of aggravated stalking if the violation involves any of the following circumstances:

(a) The actions constituting the offense are in violation of a restraining order and the individual has received actual notice of that restraining order, or the actions are in violation of an injunction or preliminary injunction.

(b) The actions constituting the offense are in violation of a condition of probation, a condition of pretrial release, or a condition of release on bond pending appeal.

(c) The course of conduct includes the making of 1 or more credible threats against the victim, a member of the victim's family, or another individual living in the victim's household.

(d) The defendant has been previously convicted of a violation of this section or section 411h.

(3) Aggravated stalking is a felony, punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(4) The court may place an individual convicted of violating this section on probation for any term of years, but not less than 5 years. If a term of probation is ordered, the court may, in addition to any other lawful condition of probation, order the defendant to do any of the following:

(a) Refrain from stalking any individual during the term of probation.

(b) Refrain from any contact with the victim of the offense.

(c) Be evaluated to determine the need for psychiatric, psychological, or social counseling, and, if determined appropriate by the court, to receive psychiatric, psychological, or social counseling at his or her own expense.

(5) In a prosecution for a violation of this section, evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim after having been requested by the victim to discontinue the same or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, shall give rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(6) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for contempt of court arising from the same conduct.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 86th Legislature are enacted into law:

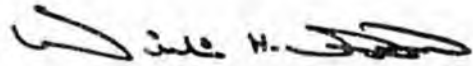
(a) House Bill No. 5472.

(b) Senate Bill No. 1095.

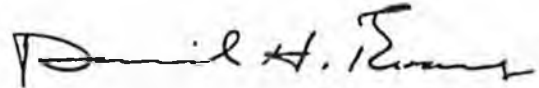
(c) House Bill No. 6038.

Section 3. This amendatory act shall take effect January 1, 1993.

This act is ordered to take immediate effect.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved.....

.....
Governor.



ck w/
drafted on
"other jurisdictions"

Legal: 8-LS0283U
Jerry
Hochhaupt

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: 3/1/93
Referred: Finance

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.

What about "repeatedly"?

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;

(covers in-laws)

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 *"is currently"* → been NO!
7 (3) "nonconsensual contact" means any contact with another person that
8 is initiated or continued without that person's consent, that is beyond the scope of the
9 consent provided by that person, or that is in disregard of that person's expressed
10 desire that the contact be avoided or discontinued; "nonconsensual contact" includes

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

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

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

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

17 (E) contacting that person by telephone;

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

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

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

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

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

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

25 (1) recklessly

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

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

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

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

1 (ii) [(B)] causes physical injury to a child under 10 years
2 of age on more than one occasion; or
3 (2) with intent to place another person in fear of death or serious
4 physical injury to the person or the person's family member makes repeated
5 threats to cause death or serious physical injury to another person.

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

- 7 (c) In this section, "the person's family member" means
- 8 (1) a spouse, child, grandchild, parent, grandparent, sibling, uncle, aunt,
9 nephew, or niece, of the person, whether related by blood, marriage, or adoption;
 - 10 (2) a person who lives or has lived, in a spousal relationship with the
11 person;
 - 12 (3) a person who lives in the same household as the person; or
 - 13 (4) a person who is a former spouse of the person or is or has been in
14 a dating, courtship, or engagement relationship with the person. "is in"

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

- 16 (a) A person commits the crime of terroristic threatening if the person
17 [(1)] knowingly makes a false report that a circumstance dangerous to
18 human life exists or is about to exist and
- 19 (1) [(A)] places a person in fear of physical injury to any
20 person;
 - 21 (2) [(B)] causes evacuation of a building; or
 - 22 (3) [(C)] causes serious public inconvenience [; OR
- 23 (2) WITH INTENT TO PLACE ANOTHER PERSON IN FEAR OF
24 DEATH OR SERIOUS PHYSICAL INJURY TO THE PERSON OR THE PERSON'S
25 IMMEDIATE FAMILY, MAKES REPEATED THREATS TO CAUSE DEATH OR
26 SERIOUS PHYSICAL INJURY TO ANOTHER PERSON].

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

- 28 (b) In addition to the authority granted under (a) of this section, a peace officer
29 without a warrant may arrest a person when the peace officer has reasonable cause for
30 believing that the person has committed a crime under
- 31 (1) AS 11.41.270 or AS 11.56.740; or

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).



October 1992

Vol. 17, No.19

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Stalking Laws

By
Donna Hunzeker
Program Manager

NOV 17 1992

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In 1990, the California Legislature passed a law creating and coining "stalking" as a criminal offense and setting penalties. The California law followed five murders which had taken place the year before in Orange County. In each, the victim had reported to the police that she was in fear of her safety because of repeated following, harassment and threats, and had obtained a temporary restraining order against her assailant. Because the "stalking" law gives police a recourse against stalkers before an attack takes place, it has been hailed by victims' rights groups as an important means for protecting potential victims who often are women being intimidated and threatened by estranged boyfriends or husbands. Passage of the California measure also was supported by the entertainment community because of cases where celebrities are stalked and threatened by obsessed fans, including the murder of actress Rebecca Schaeffer by a man who had stalked her.

Publicity about the California law encouraged victims, victim advocates, law enforcement officials and others throughout the states to come forward and demonstrate that "stalking" is not just a Hollywood phenomenon.

Twenty-seven other states enacted similar "stalking" laws this year: Colorado, Connecticut, Delaware, Florida, Hawaii, Kansas, Idaho, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Mississippi, Nebraska, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia and Wisconsin.

Stalking laws also are pending in Michigan, New Jersey and Pennsylvania. Both houses of the Michigan Legislature are working on a four-bill package that includes a civil cause of action in stalking, warrantless arrest and a specific

restraining order to apply in stalking situations. Proposed Michigan law calls for a term of probation following incarceration for both misdemeanor and felony classifications of stalking. Misdemeanant stalking allows up to 5 years' probation after a one year jail term. Under proposed felony provisions, a convicted stalker could be on probation for life since the bill calls for a required 5 years' probation and allows for an indeterminate maximum number of years' probation. Action on the Michigan stalking package is expected later in the fall. In New Jersey, also, stalking bills are pending in both houses of the legislature. The Pennsylvania Senate passed a stalking bill which now is pending in the House. Texas and Indiana are among states preparing stalking legislation to be introduced next year.

Other states have laws called something else but which apply to stalking situations. Since 1987, Minnesota has had "trespass" and "harassment" laws that have the same intent and purpose as the "stalking" laws which followed. (An early version of the 1987 Minnesota harassment bill used the term "stalking," but it was later deleted because it was seen as perhaps too dramatic and vague a characterization.) Under Minnesota law, "intent to harass, abuse or threaten" is included and multiple acts of harassment are punishable through enhanced penalties. Minnesota increased penalties for repeat offenses in the 1991 omnibus crime bill. It is now a gross misdemeanor for harassment violations within five years of a previous harassment or misdemeanor assault conviction involving the same victim, or within two years of a harassment or misdemeanor assault conviction involving any victim. Minnesota law also has felony penalties for "terroristic threats" which can apply to stalking situations. Similarly in Maine, "terrorizing" is either a Class D or Class C crime when threats of violence are made. Arizona created misdemeanor classifications of harassment this year.

Stalking laws in Florida and Ohio provide for warrantless arrest of alleged stalkers. Florida law states that "Any law enforcement officer may arrest, without a warrant, any person he or she has probable cause to believe has violated the provisions of this section." Similarly in Ohio, specified peace officers can arrest and detain, pending a warrant, any person believed to be guilty of committing menacing by stalking and aggravated trespass. The constitutionality of warrantless arrest of alleged stalkers has been questioned by criminal defense groups, but an actual legal challenge has yet to materialize.

Washington state's 1992 law includes telephone harassment and intimidation. That provision also requires notification of victims and local law enforcement when a felony stalker is released, escapes, is transferred to a less-restrictive facility, or is released on furlough. The Hawaii stalking law also mentions fax transmissions among unwelcome, harassing communications between an alleged stalker and his or her victim.

Both houses of the California Legislature this year passed an amendment to the original stalking law, redefining "credible threat" of harm to include threat of harm to the person allegedly being stalked or to someone in his or her immediate family. In addition, all second or subsequent stalking offenses within 7 years of a prior felony conviction for violence or threat of violence against the same victim or victim's immediate family becomes a felony. The amended California stalking measure awaits the governor's signature.

A September report of the federal Congressional Research Service discussed whether some state stalking laws are too vague to be constitutional. In particular, that report questioned laws in which following and harassing are considered "stalking" without also requiring credible threats of violence. The United States Congress has approved legislation under which the National Institute of Justice will work with states to monitor constitutionality and other outcomes of state stalking laws. It is expected that model provisions will be developed to help states adapt or enact laws.

Few statistics are available about prosecutions and convictions under stalking laws because most are so new. The Judicial Council of California has reported that through December 31, 1991, 10 persons have been convicted and sentenced under the 1990 stalking law.

State lawmakers generally have enacted stalking laws to fill what was determined to be a void in existing law for dealing with these cases, rather than on an assumption that there are numerous stalking offenders likely to be incarcerated. In Tennessee, for example, where state law requires a fiscal analysis and an accompanying appropriation for actions which increase use of imprisonment, it was estimated that local budget impact was not significant and that state corrections expenditures of \$4,860 per year may result from an estimated one "stalking" conviction every three years under which the offender receives a sentence of one year.

Some states—including Colorado, Hawaii, Idaho, Illinois, Massachusetts, Rhode Island, Virginia and Wisconsin—passed laws to take immediate or emergency effect. In doing so, legislatures have underscored the peril of victims who currently are being stalked and threatened, and the urgent need to protect them.

According to the FBI's Uniform Crime Reports, 30 percent of female murder victims in 1990 were slain by husbands or boyfriends. The broader issues of domestic violence and violence against women will require comprehensive state responses, of which stalking laws can be a part. In considering or evaluating stalking laws, however, policy makers will be mindful of the discretion carried out by police and prosecution in handling stalking situations. Improved public safety under stalking laws will depend on the degree to which all components of the criminal justice system and the public regard domestic violence and violence against women as serious and lethal problems.



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In 1990, the California Legislature passed a law creating and coining "stalking" as a criminal offense and setting penalties. The California law followed five murders which had taken place the year before in Orange County. In each, the victim had reported to the police that she was in fear of her safety because of repeated following, harassment and threats, and had obtained a temporary restraining order against her assailant. Because the "stalking" law gives police a recourse against stalkers before an attack takes place, it has been hailed by victims' rights groups as an important means for protecting potential victims who often are women being intimidated and threatened by estranged boyfriends or husbands. Passage of the California measure also was supported by the entertainment community because of cases where celebrities are stalked and threatened by obsessed fans, including the murder of actress Rebecca Schaeffer by a man who had stalked her.

Publicity about the California law encouraged victims, victim advocates, law enforcement officials and others throughout the states to come forward and demonstrate that "stalking" is not just a Hollywood phenomenon.

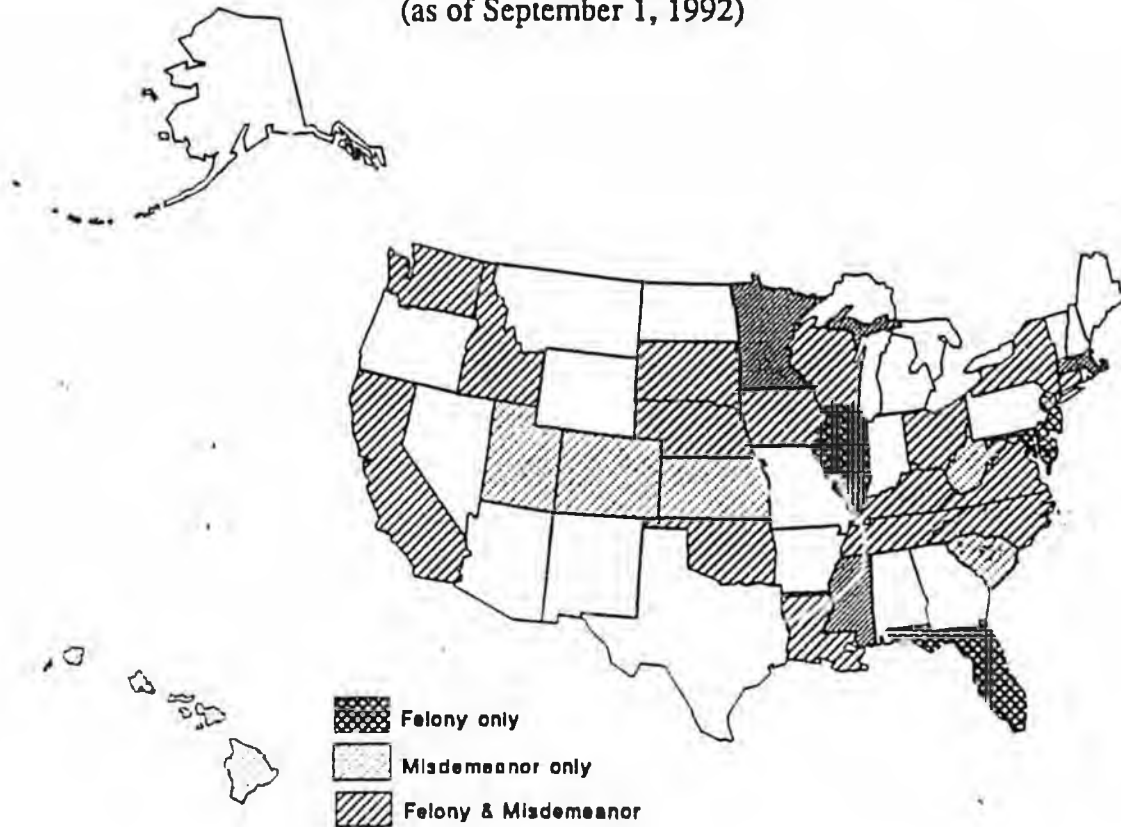
Twenty-seven other states enacted similar "stalking" laws this year: Colorado, Connecticut, Delaware, Florida, Hawaii, Kansas, Idaho, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Mississippi, Nebraska, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia and Wisconsin.

Stalking laws also are pending in Michigan, New Jersey and Pennsylvania. Both houses of the Michigan Legislature are working on a four-bill package that includes a civil cause of action in stalking, warrantless arrest and a specific

restraining order to apply in stalking situations. Proposed Michigan law calls for a term of probation following incarceration for both misdemeanor and felony classifications of stalking. Misdemeanant stalking allows up to 5 years' probation after a one year jail term. Under proposed felony provisions, a convicted stalker could be on probation for life since the bill calls for a required 5 years' probation and allows for an indeterminate maximum number of years' probation. Action on the Michigan stalking package is expected later in the fall. In New Jersey, also, stalking bills are pending in both houses of the legislature. The Pennsylvania Senate passed a stalking bill which now is pending in the House. Texas and Indiana are among states preparing stalking legislation to be introduced next year.

Other states have laws called something else but which apply to stalking situations. Since 1987, Minnesota has had "trespass" and "harassment" laws that have the same intent and purpose as the "stalking" laws which followed. (An early version of the 1987 Minnesota harassment bill used the term "stalking," but it was later deleted because it was seen as perhaps too dramatic and vague a characterization.) Under Minnesota law, "intent to harass, abuse or threaten" is included and multiple acts of harassment are punishable through enhanced penalties. Minnesota increased penalties for repeat offenses in the 1991 omnibus crime bill. It is now a gross misdemeanor for harassment violations within five years of a previous harassment or misdemeanor assault conviction involving the same victim, or within two years of a harassment or misdemeanor assault conviction involving any victim. Minnesota law also has felony penalties for "terroristic threats" which can apply to stalking situations. Similarly in Maine, "terrorizing" is either a Class D or Class C crime when threats of violence are made. Arizona created misdemeanor classifications of harassment this year.

Stalking Law Crime Classifications (as of September 1, 1992)



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 laws require that the victim have "reasonable fear of death or great bodily injury." While stalking laws were typically crafted to apply to cases where women 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. In Florida, cases as varied as a young boy stalked by a pedophile and a fired employee who stalked his former employer were considered in enacting the law there. Statute language in most states broadly provides that the victim could be any person being followed, threatened and intimidated. The West Virginia law, however, is specific that the victim be "any person with whom that person formerly resided or cohabited or with whom that person formerly engaged in a sexual or intimate relationship."

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. Illinois created a higher level felony for aggravated stalking, which occurs when a person causes bodily harm to the victim, confines or restrains the victim, or violates a protective order in the act of stalking.

In some states, stalking laws work with release-on-recognizance policy to protect alleged or potential victims. Since stalking is a felony in some circumstances under the California law, for example, judges can establish bail which increases the likelihood or duration of detention of alleged stalkers.

Iowa has created presumption of *ineligibility* for bail in felony cases of stalking. Illinois has provisions for bail denial: a court can determine that release of the defendant "would pose real and present threat to the physical safety of the alleged victim of the offense and that denial of bail is necessary to prevent fulfillment of the threat upon which the charge is based." Ohio has statutory language to require courts to consider certain factors in setting bail for persons charged with menacing by stalking, aggravated trespass, aggravated menacing or menacing. Those factors include the alleged perpetrator's history of violence, mental health, history of violating court orders, level of threat and how detention would interfere with the treatment or counseling the alleged perpetrator is undergoing.

Appendix
CRIME CLASSIFICATIONS AND PENALTIES CREATED IN STATE STALKING LAWS

CALIFORNIA (1990)	Misdemeanor and felony: up to 1 year in jail, \$1,000. Subsequent felony conviction in 7 years: up to 3 years' imprisonment, \$10,000.	D Felony: up to 5 years' imprisonment.
COLORADO (1992)	Class 3 Misdemeanor: up to 6 months' imprisonment, \$750. If protective order is violated, is Class 1 Misdemeanor: up to 24 months' imprisonment, \$5,000.	Class B Misdemeanor: up to 6 months jail. If restraining order is violated or second or subsequent conviction within 7 years, same victim, is Class A Misdemeanor: up to 1 year in jail.
CONNECTICUT (1992)	Class A Misdemeanor: 1 year imprisonment. If second or subsequent conviction, court order is violated, or victim is under 16 years of age, is Class D Felony: 1-5 years' imprisonment.	Class A Misdemeanor: up to 1 year imprisonment. If protective order is violated, second offense is within 5 years or acts were committed with deadly weapon, is Class D Felony: 1-5 years' imprisonment.
DELAWARE (1992)	Class F Felony. If protective order is violated: 6 months' imprisonment, \$1,000. Subsequent conviction within 7 years: 1 year imprisonment, \$1,000.	Up to 6 months jail, \$1,000. If protective order is violated: mandatory minimum of 30 days and up to 1 year, \$5,000. Subsequent conviction: mandatory minimum of 90 days and up to 2 years, \$5,000.
FLORIDA (1992)	Felony 3: up to 5 years' imprisonment, \$5,000.	Up to 2-1/2 years' imprisonment, \$1,000. If protective order is violated: mandatory minimum of 1 year and up to 5 years in prison. Second or subsequent offense: mandatory minimum jail of 2 years.
HAWAII (1992)	Petty Misdemeanor: up to 30 days in jail, \$1,000. If stalking occurs on two or more occasions, a Misdemeanor is committed: up to 1 year in jail, \$2,000.	Multiple acts of harassment are punishable as a Gross Misdemeanor: up to 1 year in jail, \$3,000. Terroristic threats are a felony: under sentencing guidelines offender without criminal history could receive 1 year probation plus jail time; with criminal history state prison sentence of up to 5 years possible.
IDAHO (1992)	Misdemeanor: up to 1 year in jail, \$1,000. Second or subsequent conviction within 7 years is a Felony: up to 5 years in prison, \$1,000.	MISSISSIPPI (1992) Up to 6 months in jail, \$1,000. If protective order is violated: up to 1 year in jail, \$1,000. Second or subsequent conviction within 7 years: up to 2 years' imprisonment, \$2,000.
ILLINOIS (1992)	Class 4 Felony: up to 3 years' imprisonment, \$10,000. Second or subsequent conviction is a Class 3 Felony: up to 5 years in prison, \$10,000. Aggravated stalking is a Class 3 Felony. Second or subsequent conviction for aggravated stalking is a Class 2 Felony: up to 7 years in prison, \$10,000.	NEBRASKA (1992) If protective or bail order is violated, is Class I Misdemeanor: up to 1 year in prison, \$1,000. Subsequent offense within 7 years is Class IV Felony: up to 5 years' imprisonment, \$10,000.
IOWA (1992)	Simple Misdemeanor: up to 1 year in prison, \$100. If protective or bail order is violated, is Serious Misdemeanor: up to 1 year imprisonment, \$1,000. Second offense is Aggravated Misdemeanor: up to 2 years in prison, \$5,000. Third or subsequent offense is Class	

NEW YORK (1992)	Either a Class B Misdemeanor: up to 90 days in prison, \$500 or a Class A Misdemeanor: up to 1 year in prison, \$1,000. Second or subsequent conviction is a Class E Felony: up to 4 years' imprisonment, \$5,000.	VIRGINIA (1992)	Class 2 Misdemeanor: up to 6 months in jail, \$500. If protective order is violated or second offense occurs within 5 years, is Class 1 Misdemeanor: up to 1 year in prison, \$1,000. A third offense within 5 years is a Class 6 Felony: 1-5 years in prison, \$1,000.
NORTH CAROLINA (1992)	Misdemeanor: up to 6 months in jail, \$1,000. If protective order is violated: up to 2 years in prison, \$2,000. Second or subsequent conviction is a Class I Felony: up to 5 years in prison.	WASHINGTON (1992)	Gross Misdemeanor: up to 1 year in jail, \$5,000. Second offense (no time limit specified) or if protection order is violated, is Class C Felony: up to 5 in years prison, \$10,000.
OHIO (1992)	First Degree Misdemeanor: up to 6 months in jail, \$1,000. Second or subsequent offense involving same victim is a Fourth Degree Felony: up to 5 years in prison, \$2,500.	WEST VIRGINIA (1992)	Misdemeanor: up to 6 months in jail, \$1,000. If protection order is violated, Misdemeanor: up to 1 year in jail, \$3,000.
OKLAHOMA (1992)	Misdemeanor: up to 1 year in jail, \$1,000. If protective order is violated, condition of probation or parole is violated, or if second offense within 10 years, is Felony: up to 5 years in prison, \$2,500.	WISCONSIN (1992)	Class A Misdemeanor, including if protective order is violated: up to 9 months' imprisonment, \$10,000. Second offense within 7 years is Class E Felony: up to 2 years in prison, \$10,000.
RHODE ISLAND (1992)	Up to 1 year imprisonment, \$3,000. If restraining order is violated, is Felony: up to 2 years' imprisonment, \$6,000. Second or subsequent conviction against same victim, is Felony: Up to 5 years' imprisonment \$10,000.		
SOUTH CAROLINA (1992)	Up to 1 year imprisonment, \$1,000. If protective order is violated: up to 2 years' imprisonment, \$1,000. Second or subsequent offense: up to 3 years in prison, \$2,000.		
SOUTH DAKOTA (1992)	Class 1 Misdemeanor: 1 year in jail, \$1,000. Second or subsequent conviction within 7 years is a Class 6 Felony: 2 years in prison, \$2,000.		
TENNESSEE (1992)	Class A Misdemeanor: up to 1 year in jail, \$2,500. If second or subsequent conviction within 7 years or if protective order is violated, is Class E Felony: 1-6 years' imprisonment, \$3,000.		
UTAH (1992)	Class B Misdemeanor: up to 6 months in jail.		

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