

Stalking Reform Talking Points and Highlights

Stalking is a crime that often occurs in the context of domestic violence. Stalking can also occur in other contexts such as among people who are acquaintances or strangers. Stalking of an intimate or former intimate person is the most common and prevalent form of stalking. In the report, "Stalking and Domestic Violence: The Third Annual Report to Congress under the Violence Against Women Act" (1998), it is reported that 62% of female stalking victims were stalked by a current or former spouse, current or former cohabiting partner, or by former dates/boyfriends. This compares with 30% of the male victims being stalked by some type of intimate partner. Although stalking is a gender neutral crime, by and large stalkers tend to be male. 94% of stalkers identified by female victims and 60 percent of stalkers identified by male victims were male. Methods of stalking are wide and varied and can include following, monitoring, appearing at a person's home or workplace, making harassing phone calls, leaving written messages or objects, vandalizing a persons property, and using computers to monitor a victim.

While virtually every state has adopted anti-stalking legislation, and more victims are coming forward to report stalking crimes, the laws do not appear to have made a significant impact on law enforcement's response to stalking. The number of arrests remained about the same before and after the enactment of anti-stalking laws. Overall, the percentage of stalking cases prosecuted was quite small. An Office of Justice Programs anecdotal survey of criminal justice practitioners found that stalkers continue to be charged and sentenced under harassment, intimidation and other related laws instead of under a State's anti-stalking statute. ("Stalking and Domestic Violence: The Third Annual Report to Congress under the Violence Against Women Act", 1998). That same survey also found that many criminal justice officials still do not fully understand—and therefore, continue to under-estimate—the potential dangerousness of stalkers to their victims.

In Wisconsin, many justice professionals have indicated an interest and willingness to charge stalking crimes, however, find Wisconsin law to be cumbersome and difficult to apply. Therefore, prosecutors indicate that it is preferable to charge a crime that might be more easily proven. Wisconsin's anti-stalking statute has limited definitions of what behaviors constitute stalking, excluding mail, phoning, sending of objects, and in some cases cyber stalking. WCADV will work to address our anti-stalking law, increasing the definitions of stalking behaviors and redefining the statutory language so that it is better understood by criminal justice personnel and can be more easily applied in appropriate situations.

This bill proposes a number of key reforms to the existing Stalking statute (Wis. Stats. 940.32) while preserving rights to free speech and rights to peaceably assemble as guaranteed under the U.S. Constitution.

- **Addresses a wide range of stalking behaviors that are frequently directed at victims:**
 - Maintaining a visual or physical proximity to the victim;
 - Confronting or approaching the victim;
 - Appearing at the victim's home or contacting the victim's neighbors;

- Entering property owned, leased or occupied by the victim;
 - Repeatedly contacting the victim by telephone or causing the victim's telephone to ring repeatedly or continuously;
 - Sending materials to or disseminating information about the victim to the victim or others;
 - Placing objects or delivering objects to the victim or to property owned by the victim;
 - Harming animals owned or cared for by the victim or victim's family members;
 - Causing another person to engage in the above acts on the stalker's behalf
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- **Increased penalties for criminal stalking behavior.**
 - **Increased protection for victims of domestic violence or sexual assault should the stalker continue to harass, stalk or intimidate them.**
 - **Preserves 940.32(4) and 940.32(5) relating to conduct or acts that are protected by any person's right to freedom of speech or to peaceably assemble under the state and U.S. Constitutions and to conduct arising out of or in connection to labor disputes.**

March 5, 2002

MEMORANDUM

TO: Members of the Senate Judiciary Committee

FROM: Patti Seger, Wisconsin Coalition Against Domestic Violence, Policy Development Coordinator, 608/255-0539

RE: Senate Bill 440

On behalf of the Wisconsin Coalition Against Domestic Violence (WCADV), I am providing testimony in support of Senate Bill 440. This goal of this bill is to reform Wisconsin's anti-stalking statute.

Stalking is a crime of intimidation. Stalkers harass and terrorize their victims by use of a broad range of conduct and behaviors that causes substantial fear and emotional distress on the part of their victims. While virtually every state has adopted anti-stalking legislation, and more victims are coming forward to report stalking crimes, the laws do not appear to have made a significant impact on law enforcement's response to stalking. The number of arrests remained about the same before and after the enactment of anti-stalking laws. Overall, the percentage of stalking cases prosecuted was quite small. An Office of Justice Programs anecdotal survey of criminal justice practitioners found that stalkers continue to be charged and sentenced under harassment, intimidation and other related laws instead of under a State's anti-stalking statute. ("Stalking and Domestic Violence: The Third Annual Report to Congress under the Violence Against Women Act", 1998). That same survey also found that many criminal justice officials still do not fully understand—and therefore, continue to under-estimate—the potential dangerousness of stalkers to their victims.

Most states have adopted broad definitions of the type of repeated behaviors that constitute stalking. Wisconsin is one of the few states that has adopted a very narrow definition of stalking: "maintaining a visual or physical proximity to a person." So narrow is this definition, that it excludes some of the most commonly used stalking behaviors such as telephone harassment; sending letters and/or emails; sending gifts or other objects; and making contacts with family, friends or neighbors of the victim for the purpose of either obtaining information about or communication information to the victim. In Wisconsin, many justice professionals have indicated an interest and willingness to charge stalking crimes, however, find Wisconsin law to be narrow and difficult to apply. Therefore, prosecutors indicate that it is preferable to charge a crime that might be more easily proven.



This bill proposes a number of key reforms to the existing Stalking statute (Wis. Stats. 940.32) while preserving rights to free speech and rights to peaceably assemble as guaranteed under the U.S. Constitution.

- **Addresses a wide range of stalking behaviors that are frequently directed at victims:**
 - Maintaining a visual or physical proximity to the victim;
 - Confronting or approaching the victim;
 - Appearing at the victim's home or contacting the victim's neighbors;
 - Entering property owned, leased or occupied by the victim;
 - Repeatedly contacting the victim by telephone or causing the victim's telephone to ring repeatedly or continuously;
 - Sending materials to or disseminating information about the victim to the victim or others;
 - Placing objects or delivering objects to the victim or to property owned by the victim;
 - Harming animals owned or cared for by the victim or victim's family members;
 - Causing another person to engage in the above acts on the stalker's behalf

- **Increased penalties for criminal stalking behavior.**

- **Increased protection for victims of domestic violence or sexual assault should the stalker continue to harass, stalk or intimidate them.**

- **Preserves 940.32(4) and 940.32(5) relating to conduct or acts that are protected by any person's right to freedom of speech or to peaceably assemble under the state and U.S. Constitutions and to conduct arising out of or in connection to labor disputes.**

The Wisconsin Coalition Against Domestic Violence vigorously supports increased definitions of stalking behaviors and increased penalties for stalking behavior. Stalking is a serious crime that, at the extreme end of the spectrum, can result in homicide or great bodily harm to the victim. At a minimum, stalking leaves victims with a continuing sense of insecurity about their physical safety, the safety of their family and friends, and causes significant distress and trauma. Victims of stalking deserve to have this crime taken seriously. As a society, we also need to take stalkers seriously, understanding the pathology that drives them to terrorize their victims, and providing consequences to curb continued stalking behaviors. On behalf of all victims of stalking, we urge you to pass SB 440 today.

Rossmiller, Dan

From: Sen.Burke
Sent: Monday, February 04, 2002 3:26 PM
To: *Legislative All Assembly; *Legislative All Senate
Subject: Co-sponsorship of LRB 0867/4 relating to stalking and providing a penalty



To: All Legislators
From: Senator Brian Burke
Representative Steven Wieckert
Date: February 4, 2002
Re: Co-sponsorship of LRB 0867/4

Attached is a draft of a bill which will expand Wisconsin's current anti-stalking statutes and increase penalties for offenders. This reform was requested by the Wisconsin Coalition Against Domestic Violence and the Wisconsin Coalition Against Sexual Assault, and is supported by the Wisconsin District Attorneys Association and many other law enforcement agencies.

The bill will strengthen current stalking laws in several important ways:

1. This bill addresses a range of behaviors not previously considered stalking, including:

- confronting or Approaching a victim
- appearing at a victim's residence, or entering that residence
- repeatedly attempting to or contacting the victim by telephone
- placing objects or delivering objects to the victim or on the victim's property
- harming animals owned or cared for by the victim

2. The bill increases penalties for criminal stalking behavior from a Class A misdemeanor to Class E felony. If the offender already has a previous conviction for a violent crime, stalking becomes a Class D felony.

3. Finally, for offenders who already have a conviction for domestic violence, sexual assault or stalking of the same victim, stalking becomes a Class C felony.

It is important to note that while this law dramatically improves Wisconsin's stalking statutes, it preserves sections 940.32(4) and 940.32(5) of current law. This ensures that acts protected by any person's right to freedom of speech or assembly under the Wisconsin or United States Constitution are not abridged.

To sign on to this bill, please contact Katy in Senator Burke's Office at 6-8535, by NOON Friday February 8, 2002.



01-08674.pdf

Memo

To: Senator GRG

From: MM

Date: January 27, 2002

RE: LRB-0867/3; relating to stalking reform

Stalking often occurs in the context of domestic abuse, but can also occur in other contexts, such as among people who are acquaintances or strangers. Stalking of an intimate or former intimate partner is the most common form of stalking.

Under current law, a person commits the offense of stalking if:

- He or she engages in a course of conduct directed at another person that would cause a reasonable person to fear bodily injury to themselves or a member of their immediate family
- The person knows that the victim will reasonably fear bodily injury to themselves or a member of their immediate family
- The person's acts induce such fear in the victim

This bill proposes a number of key reforms to the existing Stalking statute

It addresses a range of stalking behaviors that are often directed at victims

- Maintaining a visual or physical proximity to the victim
- Confronting or approaching the victim
- Appearing at the victim's home or contacting the victim's neighbors

**Testimony of
State Representative Steve Wieckert
Regarding the
Stalking Law Modification Bill
SB440, Before the Senate Committee on Judiciary,
Consumer Affairs, and Campaign Finance Reform
March 5, 2002**

Chairman George and Members of the Committee,

Thank you for the opportunity to testify on behalf on this bill. Thanks also to Sen. Burke for his work in bringing this legislation forward.

The problem of stalking is one that is undeniable. Unfortunately, because of the fear that stalking creates, it often goes unreported. A study by the National Institute of Justice, part of the U.S. Department of Justice, is quite telling.

It is estimated that eight percent of women and two percent of men have been stalked at some point in their life. It is crime that is focused primary on young adults – 52 percent of stalking victims are between the ages of 18 and 29. The fact that the stalker generally knows the perpetrator only compounds the problem. Nearly three in four women stalked is acquainted with her stalker – a person who may know not only where she lives, but where she works, what establishments she frequents, and the names and whereabouts of her family members. The fear that this causes can be emotionally crippling. In fact, three in ten women and one in five men who are stalked seek counseling to help them cope with their trauma.

The bill that I've authored with Sen. Burke will help to address some of the problems that are associated with stalking. Most importantly, it alters the penalty structure for stalking, finally treating this problem with the seriousness it deserves. It also makes numerous changes that clarify exactly what constitutes a pattern of stalking. This will make it easier for law enforcement to apprehend potential stalkers, and will make it easier for our district attorneys to charge them with the appropriate offense.

Stalking is a serious problem. It should not be compounded by legal ambiguity that makes stalking difficult to prosecute and that discourages law enforcement for pursuing those who would perpetrate crimes of fear. This bill, in conjunction with the restraining order bill I've also worked on with Sen. Burke, will go far in helping to make our homes, our streets, and our neighborhoods safer for everyone.

I would be happy to answer any questions that you might have at this time.



WISCONSIN COALITION AGAINST SEXUAL ASSAULT

600 Williamson Street, Ste. N-2
Madison, WI 53703
608-257-1516

Senator George and Members of the Senate Judiciary, Consumer Affairs, and Campaign Finance Reform. I thank you for the opportunity to speak to you today in favor of Senate Bill 440, which would make some very important changes to Wisconsin's stalking statutes.

My name is Lisa Macaulay and I am the Policy Specialist for the Wisconsin Coalition Against Sexual Assault (WCASA). We represent over 200 individual, affiliate and sexual assault provider members through Wisconsin. Our mission is to support these members as we work toward our common goal of ending sexual violence in Wisconsin.

Stalking is a very real problem for at least 1.4 million Americans. The news only spotlights celebrity cases, but they are in no way the only ones effected by stalking. The majority of stalking victims are ordinary people: you, me, co-workers, and family members. Wisconsin's anti-stalking statute has limited definitions of what behaviors constitute stalking. Those definitions exclude mail, phoning, sending of objects and some times cyber stalking.

In a recent survey of stalking victims, over 77% reported that they received constant phone calls from their stalker. Currently, this weapon is not considered part of the stalkers arsenal. SB440 will address this loophole by including it in its definition of course of conduct. Whether the stalker's victim answers the telephone or not, the intrusion and invasion has been successful. Victims are forced to constantly screen their calls out of fear of who will be on the other end. The constant ringing or continual calling can have a serious effect on the health of the stalking victim. The victim feels as if they are under constant attack. I have spoken with counselors working with young women who have been sexually assaulted and their attacker is in prison. Yet, they are still able to terrorize their victim through the use of the telephone, by calling repeatedly. Even with the addition of caller ID, put in at the victim's expense, the message is sent.

This brings up another change this legislation addresses, intent. SB 440 changes current language to address the stalker's intent. The threat of violence is usually inferred. We need to recognize that a threat of violence doesn't necessarily require words. Having a bouquet of dead roses delivered to you, receiving a picture with your image crossed out or coming home to find a dead animal on your doorstep all convey the intended sentiment.

The threat of violence is not just implied. In fact, over 10% of stalking victims in a study done by the National Center for Victims of Crime said that their stalker forced or attempted sexual contact.

Strengthening the penalties is needed to show that Wisconsin takes this crime seriously. Currently, current law classifies a "basic offense of stalking" as a Class A misdemeanor. This does not give victims the impression that our legal system takes stalking seriously. With the support of those in the legal system, this legislation re-classifies a "basic offense of stalking" as a Class E felony. We need to give stalking victims protection under the law.

Stalking is not just a lovelorn guy who can't take no for an answer. Stalking is a very serious and dangerous crime. Wisconsin needs to protect her citizens from those individuals who terrorize their victims every day, no matter where they are.

Please support Senate Bill 440. Once again, thank you for the opportunity to speak to you on this legislation. I will be happy to answer any questions you may have.



Milwaukee Women's Center
Where Hope Begins and Abuse Ends

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MEDICAL DIRECTOR
Michael Deeken, M.D.

March 4, 2002

To: All Senate Judiciary Committee Members

Re: Statement of Support

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Please support the following bills that will ultimately extend further protection and assistance to victims of domestic violence:

SB 438 – reforms the Wisconsin's Restraining Order law by expanding the scope of protection for victims and enhances protection for individuals in dating relationships,

SB 439 – raises the standard of communications between advocates and victims of domestic violence and/or sexual assault, and

SB 440 – reforms Wisconsin's current stalking laws to cover additional behaviors that can be construed as stalking and increase penalties for offenders.

We have worked with and supported the Wisconsin Coalition Against Domestic Violence as well as other domestic abuse providers in Milwaukee to promote this legislation. Please continue this effort by supporting these bills in your committee.

Sincerely,

Amy Krymkowski
Government Relations Specialist