



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0867/P3

MGD:jld:rs

D-Note

p4

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Please Remove if you notes

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Regen

1 AN ACT *to repeal* 940.32 (1) (d) and 940.32 (3m); *to renumber and amend*
2 940.32 (1) (a), 940.32 (2) (a) and 940.32 (2m); *to amend* 940.32 (1) (b), 940.32
3 (2) (intro.), 940.32 (2) (b), 940.32 (2) (c), 940.32 (3) (intro.), 940.32 (3) (b), 947.013
4 (1t) and 947.013 (1x) (a); and *to create* 940.32 (1) (a) 1., 940.32 (1) (a) 2., 940.32
5 (1) (a) 3., 940.32 (1) (a) 4., 940.32 (1) (a) 5., 940.32 (1) (a) 6., 940.32 (1) (a) 7.,
6 940.32 (1) (a) 8., 940.32 (1) (a) 9., 940.32 (1) (a) 10., 940.32 (1) (am), 940.32 (2)
7 (a) 2., 940.32 (2m) (a), 940.32 (2m) (b), 940.32 (2m) (d) and 940.32 (2m) (e) of the
8 statutes; **relating to:** stalking and providing a penalty.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

9 SECTION 1. 940.32 (1) (a) of the statutes is renumbered 940.32 (1) (a) (intro.)
10 and amended to read:

1 940.32 (1) (a) (intro.) "Course of conduct" means ~~repeatedly maintaining a~~
2 ~~visual or physical proximity to a person. a series of 2 or more acts carried out over~~
3 ~~time, however short,~~ ^{✓ or long} ~~that show a continuity of purpose, including any of the~~
4 following:

5 **SECTION 2.** 940.32 (1) (a) 1. of the statutes is created to read:

6 940.32 (1) (a) 1. Maintaining a visible or physical proximity to the victim.

7 **SECTION 3.** 940.32 (1) (a) 2. of the statutes is created to read:

8 940.32 (1) (a) 2. Approaching or confronting the victim.

9 **SECTION 4.** 940.32 (1) (a) 3. of the statutes is created to read:

10 940.32 (1) (a) 3. Appearing at the victim's workplace or contacting the victim's
11 employer or coworkers.

12 **SECTION 5.** 940.32 (1) (a) 4. of the statutes is created to read:

13 940.32 (1) (a) 4. Appearing at the victim's home or contacting the victim's
14 neighbors.

15 **SECTION 6.** 940.32 (1) (a) 5. of the statutes is created to read:

16 940.32 (1) (a) 5. Entering real [✓] property owned, leased, or occupied by the
17 victim.

18 **SECTION 7.** 940.32 (1) (a) 6. of the statutes is created to read:

19 940.32 (1) (a) 6. Contacting the victim by telephone or causing the victim's
20 telephone or any other person's telephone to ring repeatedly or continuously,
21 regardless of whether a conversation ensues.

22 **SECTION 8.** 940.32 (1) (a) 7. of the statutes is created to read:

23 940.32 (1) (a) 7. Sending material by any means to the victim or, for the purpose
24 of obtaining information about ^{> disseminating information about,} or communicating with the victim, [✓] to a family
25 member, employer, coworker, or friend of the victim.

1 SECTION 9. 940.32 (1) (a) 8. of the statutes is created to read:

2 940.32 (1) (a) 8. Placing an object on or delivering an object to ~~the~~ property
3 owned, leased, or occupied by the victim.

4 SECTION 10. 940.32 (1) (a) 9. of the statutes is created to read:

5 940.32 (1) (a) 9. Delivering an object to an immediate family member, employer,
6 coworker, or friend of the victim, with the intent that the object be delivered to the
7 victim.

Insert
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or placing an object on, or delivering an object to, property owned, leased, or occupied by such a person

8 SECTION 11. 940.32 (1) (a) 10. of the statutes is created to read:

9 940.32 (1) (a) 10. Harming an animal owned or cared for by the victim or a
10 family member of the victim.

11 SECTION 12. 940.32 (1) (am) of the statutes is created to read:

12 940.32 (1) (am) "Domestic abuse" has the meaning given in s. 813.12 (1) (a).

13 SECTION 13. 940.32 (1) (b) of the statutes is amended to read:

14 940.32 (1) (b) "Immediate family" "Family member" means a spouse, parent,
15 who is related by blood or adoption to another,
16 child, sibling, or any other person who regularly resides in the household or who
17 within the prior 6 months regularly resided in the household.

of another

18 SECTION 14. 940.32 (1) (d) of the statutes is repealed.

19 SECTION 15. 940.32 (2) (intro.) of the statutes is amended to read:

20 940.32 (2) (intro.) Whoever meets all of the following criteria is guilty of a Class

~~A misdemeanor~~ E felony:

****NOTE: This is based on a suggestion from Audrey Skwierawski. Her office rarely prosecutes stalking under this section. Instead, it typically charges the defendant with separate offenses (for example, unlawful use of a telephone under s. 947.012) for each criminal act that constitutes the "course of conduct." Under that approach, the maximum potential penalty for the defendant is generally greater than the Class A misdemeanor penalties currently provided under this section.

21 SECTION 16. 940.32 (2) (a) of the statutes is renumbered 940.32 (2) (a) (intro.)

22 and amended to read:

under the same circumstances ✓

1 940.32 (2) (a) (intro.) The actor intentionally engages does any of the following:

2 1. Engages in a course of conduct directed at a specific person that would cause
3 a reasonable person to fear bodily injury to himself or herself or a member of his or
4 her immediate family or to fear the death of himself or herself or a family member
5 of his or her immediate family.

6 SECTION 17. 940.32 (2) (a) 2. of the statutes is created to read:

Sexual assault under
s. 940.225,
948.02, or
948.025 ✓
① ← number

7 940.32 (2) (a) 2. After having been found by a court to have committed any act
8 of domestic abuse, carries out any of the acts listed in sub. (1) (a) 1. to ~~16~~. This
9 subsection only applies if the victim under this section was the victim of the act of
10 domestic abuse.

the sexual assault or ✓

***NOTE. This is based on a suggestion from Audrey Skwierawski

11 SECTION 18. 940.32 (2) (b) of the statutes is amended to read:

12 940.32 (2) (b) The actor ~~has knowledge~~ knows or should have ~~knowledge~~ know
13 that the specific person will be placed in reasonable fear of bodily injury to himself
14 or herself or a member of his or her immediate family or will be placed in reasonable
15 fear of the death of himself or herself or a family member of his or her immediate
16 family.

17 SECTION 19. 940.32 (2) (c) of the statutes is amended to read:

18 940.32 (2) (c) The actor's ^{act or} acts induce fear in the specific person of bodily injury
19 to himself or herself or a member of his or her immediate family or induce fear in the
20 ~~specific person~~ of the death of himself or herself or a family member of his or her
21 immediate family.

22 SECTION 20. 940.32 (2m) of the statutes is renumbered 940.32 (2m) (intro.) and
23 amended to read:

by engaging in conduct described in sub. (2)(a)1.

*Article
shall be
(2)(a)1
1- only 22*

1 940.32 (2m) (intro.) Whoever violates sub. (2) is guilty of a Class D felony if he
2 ~~or she~~ any of the following applies:

✓ or causes another person to gain access

3 (c) The actor intentionally gains access to a record in electronic format that
4 contains personally identifiable information regarding the victim in order to
5 facilitate the violation under sub. (2).

6 SECTION 21. 940.32 (2m) (a) of the statutes is created to read:

7 940.32 (2m) (a) The actor has a previous conviction for a violent crime, as
8 defined in s. 939.632 (1) (e) 1., or a previous conviction under this section or s. 947.013
9 (1r), (1t), (1v), or (1x).

****NOTE: This provision and the 3 that follow are based on suggestions from Bob Kaiser. If you want a narrower definition of "violent crime," you may want to consider the one in s. 969.035 (1), or I could draft one to cover the specific crimes that you want included. In addition, note that an offense used to prove the "previous conviction" element under this paragraph, par. (b), or sub. (3) (b) may, depending on the nature of the offense, be used to prove one of the elements of the violation of sub. (2) itself. See sub. (2) (a) 2. Is that okay?*

10 SECTION 22. 940.32 (2m) (b) of the statutes is created to read:

11 940.32 (2m) (b) The actor has a previous conviction for a crime, the victim of
12 that crime is the victim of the present violation of sub. (2), and the present violation
13 occurs within 7 years after the prior conviction.

14 SECTION 23. 940.32 (2m) (d) of the statutes is created to read:

15 940.32 (2m) (d) The person violates s. 968.31 (1) or 968.34 (1) in order to
16 facilitate the violation.

17 SECTION 24. 940.32 (2m) (e) of the statutes is created to read:

18 940.32 (2m) (e) The victim is under the age of 18 years at the time of the
19 violation.

20 SECTION 25. 940.32 (3) (intro.) of the statutes is amended to read:

by engaging in conduct described in sub. (2)(a)1.

1 940.32 (3) (intro.) Whoever violates sub. (2) ~~under any of the following~~ ^{applies}
2 ~~circumstances~~ is guilty of a Class ~~E C~~ felony. ^{if any of the following} ~~applies~~

~~****NOTE: This change is based on: 1) the increased penalty under the bill for "simple stalking" (applicable to both pars. (a) and (b) of this subsection); 2) Bob Kaiser's recommendation that the penalties in cases in which a person suffers bodily harm be more severe than those in cases in which the perpetrator gains access to an electronic record containing personally identifiable information — a Class D felony under current sub. (2m) and under this bill (applicable to par. (a)); and 3) the fact that the bill classifies stalking as a Class D felony if the person committed a prior violent offense or stalking or harassment offense against someone other than the victim of the current offense (applicable to par. (b)).~~

~~If, however, you do not want all bodily harm cases to be considered Class C felonies, you could have them all be Class D felonies, have them be Class C felonies only if all of the criteria for one of the other Class D felonies are otherwise satisfied, or have them be Class C felonies only if they involve substantial or great bodily harm.~~

~~In any event, given the number of elements that can be used to increase the penalty, the statute could be amended in a number of other ways to take those elements into account, or the bill may repeal the provisions containing them. If you would like to have the penalties structured differently, please let me know.~~

*Insert
6/2*

3 SECTION 26. 940.32 (3) (b) of the statutes is amended to read:

4 940.32 (3) (b) The actor has a previous conviction for a violent crime, as defined
5 in s. 939.632 (1) (e) 1., or a previous conviction under this section or s. 947.013 (1r),
6 (1t), (1v) or (1x) for a violation against, the same victim of that crime is the victim of
7 the present violation of sub. (2), and the present violation occurs within 7 years after
8 the prior conviction.

9 SECTION 27. 940.32 (3m) of the statutes is repealed.

~~****NOTE: Any offense covered by current par. (a) is covered by sub. (2m) (a). With respect to current par. (b) given the fact that, under the bill, violations of sub. (3) become Class C felonies, I was not sure that you would want the penalties to be further increased based on the use of a record. Therefore, for the time being, this draft repeals that provision as well. If you want to retain par. (b) but do not want to increase the penalties beyond those provided for Class C felonies, you may want to consider two other options: the broader "record" language could replace the "electronic record" language in the bill's sub. (2m) (a), or the "record" language could apply to offenses only under sub. (2) or (2m) (a), (b), (d), or (e).~~

*Insert
6/8*

10 SECTION 28. 947.013 (1t) of the statutes is amended to read:

11 947.013 (1t) Whoever violates sub. (1r) is guilty of a Class E felony if the person
12 has a prior conviction under this subsection or sub. (1r), (1v) or (1x) or s. 940.32 (2),

1 (2m), or (3) or ~~(3m)~~ involving the same victim and the present violation occurs within
2 7 years of the prior conviction.

3 **SECTION 29.** 947.013 (1x) (a) of the statutes is amended to read:

4 947.013 (1x) (a) The person has a prior conviction under sub. (1r), (1t) or (1v)
5 or this subsection or s. 940.32 (2), (2m), or (3) or ~~(3m)~~.

6 (END)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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1 **INSERT 3/10**

2 **SECTION 1.** 940.32 (1) (a) 11. of the statutes is created to read: ✓

3 940.32 (1) (a) 11. Causing a person to engage in any of the acts described in

4 subds. ~~7~~ to 10. ✓

5 **INSERT 6/2**

6 **SECTION 2.** 940.32 (3) (a) of the statutes is amended to read: ✓

7 940.32 (3) (a) The act results in bodily harm to the victim ✓ or a family member

8 of the victim.

9 History: 1993 a. 96, 496.

9 **INSERT 6/8**

10 **SECTION 3.** 940.32 (3) (c) of the statutes is created to read: ✓

11 940.32 (3) (c) The actor uses a dangerous weapon in carrying out any of the acts

12 listed in sub. (1) (a) 1. to 10. ✓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0867/P4dn

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JLD

While limiting a stalker's ability to communicate with a victim may be constitutional, the prohibitions contained in s. 940.32 (1) (a) 7. relating to communicating with a victim's family, employer, coworker, or friend for other purposes may be unconstitutional. They may be construed as having a chilling effect on permitted speech.

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0867/P4dn
MGD:jld.pg

October 11, 2001

While limiting a stalker's ability to communicate with a victim may be constitutional, the prohibitions contained in s. 940.32 (1) (a) 7. relating to communicating with a victim's family, employer, coworker, or friend for other purposes may be unconstitutional. They may be construed as having a chilling effect on permitted speech.

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

Dsida, Michael

To: Patti Seger; Dsida, Michael
Cc: policy@wcasa.org
Subject: RE: Stalking and Privilege

-----Original Message-----

From: Patti Seger [mailto:pattis@inxpress.net]
Sent: Thursday, October 18, 2001 10:27 AM
To: Dsida, Michael
Cc: policy@wcasa.org
Subject: Stalking and Privilege

Hi Mike-

Just got off the phone with Bob Kaiser who essentially said that he couldn't be happier with what was done on the stalking bill! He asked one thing...on pg. 4, section 18, he asked that you put something in your drafter's notes that "course of conduct is not required by this section"). He thought it was apparent to him but figures some judges might not get it. He didn't think it was necessary to make it more explicit in the legislation. He felt that a note on your records would be sufficient to help them understand the intent. You may have already done this...and if you did, ignore this request.

Patti

10/25/2001



*IN EDITING 10/24

~~PRELIMINARY DRAFT NOT READY FOR INTRODUCTION~~

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1 AN ACT *to repeal* 940.32 (1) (d) and 940.32 (3m); *to renumber and amend*
2 940.32 (1) (a), 940.32 (2) (a) and 940.32 (2m); *to amend* 940.32 (1) (b), 940.32
3 (2) (intro.), 940.32 (2) (b), 940.32 (2) (c), 940.32 (3) (intro.), 940.32 (3) (a), 940.32
4 (3) (b), 947.013 (1t) and 947.013 (1x) (a); and *to create* 940.32 (1) (a) 1., 940.32
5 (1) (a) 2., 940.32 (1) (a) 3., 940.32 (1) (a) 4., 940.32 (1) (a) 5., 940.32 (1) (a) 6.,
6 940.32 (1) (a) 7., 940.32 (1) (a) 8., 940.32 (1) (a) 9., 940.32 (1) (a) 10., 940.32 (1)
7 (a) 11., 940.32 (1) (am), 940.32 (2) (a) 2., 940.32 (2m) (a), 940.32 (2m) (b), 940.32
8 (2m) (d), 940.32 (2m) (e) and 940.32 (3) (c) of the statutes; **relating to:** stalking
9 and providing a penalty.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

10 SECTION 1. 940.32 (1) (a) of the statutes is renumbered 940.32 (1) (a) (intro.)
11 and amended to read:

Analysis
insert

1 940.32 (1) (a) (intro.) "Course of conduct" means ~~repeatedly maintaining a~~
2 ~~visual or physical proximity to a person. a series of 2 or more acts carried out over~~
3 ~~time, however short or long, that show a continuity of purpose, including any of the~~
4 following:

5 **SECTION 2.** 940.32 (1) (a) 1. of the statutes is created to read:

6 940.32 (1) (a) 1. Maintaining a [✓]~~visible~~^{visual} or physical proximity to the victim.

7 **SECTION 3.** 940.32 (1) (a) 2. of the statutes is created to read:

8 940.32 (1) (a) 2. Approaching or confronting the victim.

9 **SECTION 4.** 940.32 (1) (a) 3. of the statutes is created to read:

10 940.32 (1) (a) 3. Appearing at the victim's workplace or contacting the victim's
11 employer or coworkers.

12 **SECTION 5.** 940.32 (1) (a) 4. of the statutes is created to read:

13 940.32 (1) (a) 4. Appearing at the victim's home or contacting the victim's
14 neighbors.

15 **SECTION 6.** 940.32 (1) (a) 5. of the statutes is created to read:

16 940.32 (1) (a) 5. Entering property owned, leased, or occupied by the victim.

17 **SECTION 7.** 940.32 (1) (a) 6. of the statutes is created to read:

18 940.32 (1) (a) 6. Contacting the victim by telephone or causing the victim's
19 telephone or any other person's telephone to ring repeatedly or continuously,
20 regardless of whether a conversation ensues.

21 **SECTION 8.** 940.32 (1) (a) 7. of the statutes is created to read:

22 940.32 (1) (a) 7. Sending material by any means to the victim or, for the purpose
23 of obtaining information about, disseminating information about, or communicating
24 with the victim, to a family member, employer, coworker, or friend of the victim.

25 **SECTION 9.** 940.32 (1) (a) 8. of the statutes is created to read:

1 940.32 (1) (a) 8. Placing an object on or delivering an object to property owned,
2 leased, or occupied by the victim.

3 SECTION 10. 940.32 (1) (a) 9. of the statutes is created to read:

4 940.32 (1) (a) 9. Delivering an object to an immediate family member, employer,
5 coworker, or friend of the victim or placing an object on, or delivering an object to,
6 property owned, leased, or occupied by such a person with the intent that the object
7 be delivered to the victim.

8 SECTION 11. 940.32 (1) (a) 10. of the statutes is created to read:

9 940.32 (1) (a) 10. Harming an animal owned or cared for by the victim or a
10 family member of the victim.

11 SECTION 12. 940.32 (1) (a) 11. of the statutes is created to read:

12 940.32 (1) (a) 11. Causing a person to engage in any of the acts described in
13 subs. 7. to 10.

14 SECTION 13. 940.32 (1) (am) of the statutes is created to read:

15 940.32 (1) (am) "Domestic abuse" has the meaning given in s. 813.12 (1) (a).

16 SECTION 14. 940.32 (1) (b) of the statutes is amended to read:

17 940.32 (1) (b) ^(intro.) ^{any of the following:} "Immediate family" "Family member" means a spouse, parent,
18 child, ^{or} sibling, [↓] [↓] [↓] ^{or any} other person ^{Strike} who is related by blood or adoption to another, who ^{§ 1. A}
19 regularly resides in the ^{2. Any} household of another, or who within the prior 6 months
20 regularly resided in the household of another.

21 SECTION 15. 940.32 (1) (d) of the statutes is repealed.

22 SECTION 16. 940.32 (2) (intro.) of the statutes is amended to read:

23 940.32 (2) (intro.) Whoever meets all of the following criteria is guilty of a Class

24 A misdemeanor E felony:

1 **SECTION 17.** 940.32 (2) (a) of the statutes is renumbered 940.32 (2) (a) (intro.)
2 and amended to read:

3 940.32 (2) (a) (intro.) The actor intentionally engages does any of the following:

4 1. Engages in a course of conduct directed at a specific person that would cause
5 a reasonable person under the same circumstances to fear bodily injury to ~~himself~~
6 ~~or herself or a member of his or her immediate family~~ or to fear the death of himself
7 or herself or a family member of his or her immediate family.

8 **SECTION 18.** 940.32 (2) (a) 2. of the statutes is created to read:

9 940.32 (2) (a) 2. After having been found by a court to have committed sexual
10 assault under s. 940.225, 948.02, or 948.025 or any act of domestic abuse, carries out
11 any of the acts listed in sub. (1) (a) 1. to 11. This subsection only applies if the victim
12 under this section was the victim of the sexual assault or the act of domestic abuse.

13 **SECTION 19.** 940.32 (2) (b) of the statutes is amended to read:

14 940.32 (2) (b) The actor ~~has knowledge~~ knows or should have ~~knowledge~~ know
15 that the specific person will be placed in reasonable fear of bodily injury to ~~himself~~
16 ~~or herself or a member of his or her immediate family~~ or ~~will be placed in reasonable~~
17 ~~fear of the death of himself or herself or a~~ family member of his or her immediate
18 family.

19 **SECTION 20.** 940.32 (2) (c) of the statutes is amended to read:

20 940.32 (2) (c) The actor's act or acts induce fear in the specific person of bodily
21 injury to ~~himself or herself or a member of his or her immediate family~~ or ~~induce fear~~
22 ~~in the specific person of the death of himself or herself or a~~ family member of his or
23 ~~her immediate family.~~

24 **SECTION 21.** 940.32 (2m) of the statutes is renumbered 940.32 (2m) (intro.) and
25 amended to read:

1 940.32 (2m) (intro.) Whoever violates sub. (2) by engaging in conduct described
2 in sub. (2) (a) 1. is guilty of a Class D felony if ~~he or she~~ any of the following applies:

3 (c) The actor intentionally gains access or causes another person to gain access
4 to a record in electronic format that contains personally identifiable information
5 regarding the victim in order to facilitate the violation ~~under sub. (2).~~

6 **SECTION 22.** 940.32 (2m) (a) of the statutes is created to read:

7 940.32 (2m) (a) The actor has a previous conviction for a violent crime, as
8 defined in s. 939.632 (1) (e) 1., or a previous conviction under this section or s. 947.013
9 (1r), (1t), (1v), or (1x).

10 **SECTION 23.** 940.32 (2m) (b) of the statutes is created to read:

11 940.32 (2m) (b) The actor has a previous conviction for a crime, the victim of
12 that crime is the victim of the present violation of sub. (2), and the present violation
13 occurs within 7 years after the prior conviction.

14 **SECTION 24.** 940.32 (2m) (d) of the statutes is created to read:

15 940.32 (2m) (d) The person violates s. 968.31 (1) or 968.34 (1) in order to
16 facilitate the violation.

17 **SECTION 25.** 940.32 (2m) (e) of the statutes is created to read:

18 940.32 (2m) (e) The victim is under the age of 18 years at the time of the
19 violation.

20 **SECTION 26.** 940.32 (3) (intro.) of the statutes is amended to read:

21 940.32 (3) (intro.) Whoever violates sub. (2) ~~under any of the following~~
22 circumstances by engaging in conduct described in sub. (2) (a) 1. is guilty of a Class
23 E C felony if any of the following applies:

24 **SECTION 27.** 940.32 (3) (a) of the statutes is amended to read:

1 940.32 (3) (a) The act results in bodily harm to the victim or a family member
2 of the victim.

3 **SECTION 28.** 940.32 (3) (b) of the statutes is amended to read:

4 940.32 (3) (b) The actor has a previous conviction for a violent crime, as defined
5 in s. 939.632 (1) (e) 1., or a previous conviction under this section or s. 947.013 (1r),
6 (1t), (1v) or (1x) for a violation against, the same victim of that crime is the victim of
7 the present violation of sub. (2), and the present violation occurs within 7 years after
8 the prior conviction.

9 **SECTION 29.** 940.32 (3) (c) of the statutes is created to read:

10 940.32 (3) (c) The actor uses a dangerous weapon in carrying out any of the acts
11 listed in sub. (1) (a) 1. to 10.

12 **SECTION 30.** 940.32 (3m) of the statutes is repealed.

13 **SECTION 31.** 947.013 (1t) of the statutes is amended to read:

14 947.013 (1t) Whoever violates sub. (1r) is guilty of a Class E felony if the person
15 has a prior conviction under this subsection or sub. (1r), (1v) or (1x) or s. 940.32 (2),
16 (2m), or (3) or (3m) involving the same victim and the present violation occurs within
17 7 years of the prior conviction.

18 **SECTION 32.** 947.013 (1x) (a) of the statutes is amended to read:

19 947.013 (1x) (a) The person has a prior conviction under sub. (1r), (1t) or (1v)
20 or this subsection or s. 940.32 (2), (2m), or (3) or (3m).

21

(END)

1

analysis INSERT

Under current law, a person commits the offense of stalking if: 1) he or she engages in a course of conduct directed at another person (the victim) that would cause a reasonable person to fear bodily injury to or death of himself or herself or a member of his or her immediate family (the "reasonableness of the fear" element); 2) the person knows or should know that the victim will reasonably fear bodily injury to or death of himself or herself or a member of his or her immediate family; and 3) the person's acts induce such fear in the victim. Current law defines "course of conduct" to mean maintaining, on two or more calendar days, a visual or physical proximity to a person. In addition, current law defines "immediate family" to mean a spouse, parent, child, sibling, or any other person who regularly resides in the household or who within the prior ^{six} months regularly resided in the household.

A person who commits the offense of stalking is guilty of a Class A misdemeanor. More severe penalties may be imposed for stalking under certain circumstances. (The tables below describe the circumstances under which the more severe penalties apply and what those penalties are, as well as the penalties that are applicable under this bill.)

This bill modifies the elements of the offense of stalking and establishes a new penalty structure. First, the bill redefines "course of conduct" to mean a series of two or more acts carried out over time, however short or long, that show a continuity of purpose. The acts may include: 1) maintaining a visual or physical proximity to the victim; 2) approaching or confronting the victim; 3) appearing at the victim's workplace or home or contacting the victim's employer, coworkers, or neighbors; ~~appearing at the victim's home or contacting the victim's neighbors;~~ 4) entering property owned, leased, or occupied by the victim; 5) contacting the victim by telephone or causing the victim's telephone or any other person's telephone to ring repeatedly or continuously; 6) sending or delivering material or an object to the victim or his or her home; 7) delivering an object to an immediate family member, employer, coworker, or friend of the victim with the intent it be delivered to the victim; 8) harming an animal owned or cared for by the victim or a family member of the victim; or 9) causing another person to engage in any of these acts.

Second, the bill revises the ~~reasonableness of the fear~~ element. Under the bill, the court, in determining whether any fear resulting from the course of conduct would be reasonable, must consider whether the course of conduct would induce fear not just in a reasonable person, but in a reasonable person under the same circumstances as the victim. Third, the bill replaces the term "immediate family" with "family member" and defines the latter term to mean: 1) a spouse, parent, child, or sibling; or 2) any person who is related to another individual by blood or adoption, who regularly resides in the household of another, or who, within the prior six months, regularly resided in the household of another.

Fourth, the bill establishes the following penalties for stalking offenses:



Analysis insert
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<u>Special circumstances under which offense occurs</u>	<u>Classification under current law</u>	<u>Classification under bill</u>
None (i.e., basic offense of stalking)	Class A misdemeanor	Class E felony
After conviction for misdemeanor or felony harassment or another stalking conviction	Class D felony (only if offense involves gaining access to a government record)	Class D felony (requirement regarding gaining access to record eliminated)
After conviction for violent crime	N/A	Class D felony
After conviction for any crime against current victim within last seven years	N/A	Class D felony
Involving gaining access to an electronic record containing personally identifiable information regarding the victim	Class D felony	Class D felony (modified to cover causing another person to gain access to the record)
Involving unlawful wiretapping or unlawful tracing of a telephone call	N/A	Class D felony
Victim is a minor	N/A	Class D felony
Victim suffers bodily harm	Class E felony	Class C felony
Family member suffers bodily harm	N/A	Class C felony
After conviction for misdemeanor or felony harassment or another stalking conviction against current victim within last seven years	Class E felony	Class C felony
After conviction for violent crime against current victim within last seven years	N/A	Class C felony
Act involved in the course of conduct involves use of a dangerous weapon	N/A	Class C felony

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Fifth, the bill prohibits a person from engaging in any of the individual acts that can, in combination with other acts, constitute a course of conduct, if all of the following apply: 1) the person was previously convicted of sexual assault or found to have committed an act of domestic abuse; 2) the individual against whom the current act is directed was the victim of the sexual assault or the act of domestic abuse; 3) the person knows or should know that the victim will reasonably fear bodily injury to or death of himself or herself or a member of his or her immediate family; and 4) the person's acts induce such fear in the victim. This new offense is a Class E felony.

The penalties for the offenses described above are as follows:

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CONT

<u>Crime</u>	<u>Maximum fine</u>	<u>Maximum term of Imprisonment</u>
Class A misdemeanor (not used under the bill)	\$10,000	Nine months
Class E felony	\$10,000	Five years
Class D felony	\$10,000	Ten years
Class C felony	\$10,000	Fifteen years

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

(end ins)

Dsida, Michael

From: Dsida, Michael
Sent: Tuesday, December 11, 2001 1:34 PM
To: Heringlake, Katherine
Subject: RE: Stalking bill

Here it is...

-----Original Message-----

From: Dsida, Michael
Sent: Monday, November 26, 2001 12:14 PM
To: Heringlake, Katherine
Subject: Stalking bill

Now that I have had more time to think about the proposed change to s. 940.32 (1) (a) (i.e., making the listed conduct more illustrative), I have two comments about it.

1. Under current law and LRB-0867/1, "maintaining a visual or physical proximity to a person" may be used regardless of the circumstances to show that a person engaged in a "course of conduct." The only difference is that current law requires that it be done "repeatedly," while the bill requires that it be done on 2 or more occasions and that the acts show a "continuity of purpose." Making the "physical proximity" provision more of an illustration of an act that can be used to show a course of conduct may actually make it more difficult to prove stalking (if it is based exclusively on maintaining a physical proximity to the victim) than under current law. Is that your intent?

When you are thinking about this issue, you should think about the "continuity of purpose" provision in s. 940.32 (1) (a) (intro.). We did not discuss that provision in our meeting last week, and we should have. That provision may already accomplish most or all of what we discussed in terms of making the list of acts more illustrative than definitive. Specifically, engaging in one of those acts -- such as approaching the victim -- cannot be used to show a course of conduct unless the acts, in combination, show a continuity of purpose.

As an alternative way to address Corey Mason's concerns about the overinclusiveness of s. 940.32 (1) (a) without making stalking more difficult to prove, you could revise s. 940.32 (2) (b) to link the knowledge requirement more closely to the stalker's course-of-conduct acts (new changes in bold and color):

940.32 (2) (b) The actor ~~has knowledge~~ knows or should ~~have knowledge~~ know that **at least two of the acts that constitute the course of conduct will place** the specific person ~~will be placed~~ in reasonable fear of bodily injury to ~~himself~~ **or herself or a member of his or her immediate family or will be placed in reasonable fear of the death of himself or herself or a family member of his or her immediate family.**

You could then eliminate the "continuity of purpose" provision in s. 940.32 (1) (a) (intro.). As another alternative, you could replace the know/should know requirement in s. 940.32 (2) (b) with an intent requirement. That would reduce the risk of someone (such as a person in the same social circle or office as the victim) being convicted of inadvertent stalking. This alternative, however, might make it more difficult -- albeit only slightly -- to get a conviction. (You could also combine these two alternatives.)

2. If you still want the acts listed in s. 940.32 (1) (a) to be more clearly illustrative without making any of the other changes I describe above, how does that affect s. 940.32 (2) (a) 2.? Is one of those acts -- regardless of the circumstances under which it occurs -- enough for a conviction, as long as the other elements of the offense (i.e., s. s. 940.32 (2) (b) and (c)) are present?

Mike Dsida
Legislative Reference Bureau
608/266-9867
michael.dsida@state.legis.wi.us

Add this w/ intent instead of "know"



2001 BILL

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from
hold~~

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2/28 Regs
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relating clause

Regen

1 AN ACT *to repeal* 940.32 (1) (d) and 940.32 (3m); *to renumber and amend*
 2 940.32 (1) (a), 940.32 (1) (b), 940.32 (2) (a) and 940.32 (2m); *to amend* 940.32
 3 (2) (intro.), 940.32 (2) (b), 940.32 (2) (c), 940.32 (3) (intro.), 940.32 (3) (a), 940.32
 4 (3) (b), 947.013 (1t) and 947.013 (1x) (a); and *to create* 940.32 (1) (a) 1., 940.32
 5 (1) (a) 2., 940.32 (1) (a) 3., 940.32 (1) (a) 4., 940.32 (1) (a) 5., 940.32 (1) (a) 6.,
 6 940.32 (1) (a) 7., 940.32 (1) (a) 8., 940.32 (1) (a) 9., 940.32 (1) (a) 10., 940.32 (1)
 7 (a) 11., 940.32 (1) (am), 940.32 (2) (a) 2., 940.32 (2m) (a), 940.32 (2m) (b), 940.32
 8 (2m) (d), 940.32 (2m) (e) and 940.32 (3) (c) of the statutes; **relating to:** stalking
 9 and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person commits the offense of stalking if: 1) he or she engages in a course of conduct directed at another person (the victim) that would cause a reasonable person to fear bodily injury to or death of himself or herself or a member of his or her immediate family (the "reasonableness of the fear" element); 2) the person knows or should know that the victim will reasonably fear bodily injury to or death of himself or herself or a member of his or her immediate family; and 3) the person's acts induce such fear in the victim. Current law defines "course of

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conduct" to mean maintaining, on two or more calendar days, a visual or physical proximity to a person. In addition, current law defines "immediate family" to mean a spouse, parent, child, sibling, or any other person who regularly resides in the household or who within the prior six months regularly resided in the household.

A person who commits the offense of stalking is guilty of a Class A misdemeanor. More severe penalties may be imposed for stalking under certain circumstances. (The tables below describe the circumstances under which the more severe penalties apply and what those penalties are, as well as the penalties that are applicable under this bill.)

This bill modifies the elements of the offense of stalking and establishes a new penalty structure. First, the bill redefines "course of conduct" to mean a series of two or more acts carried out over time, however short or long, that show a continuity of purpose. The acts may include: 1) maintaining a visual or physical proximity to the victim; 2) approaching or confronting the victim; 3) appearing at the victim's workplace or home or contacting the victim's employer, coworkers, or neighbors; 4) entering property owned, leased, or occupied by the victim; 5) contacting the victim by telephone or causing the victim's telephone or any other person's telephone to ring repeatedly or continuously; 6) sending or delivering material or an object to the victim or his or her home; 7) delivering an object to ~~an immediate family member~~ (employer, coworker, or friend of the victim with the intent it be delivered to the victim; 8) harming an animal owned or cared for by the victim or a ~~family member of the victim~~; or 9) causing another person to engage in any of these acts.

of the victim's family or household

~~Second~~, the bill revises the reasonableness of the fear element. Under the bill, the court, in determining whether any fear resulting from the course of conduct would be reasonable, must consider whether the course of conduct would induce fear not just in a reasonable person, but in a reasonable person under the same circumstances as the victim. ~~Third~~, the bill replaces the term "immediate family" with ~~family member~~ and defines the latter term to mean: 1) a spouse, parent, child, or sibling; or 2) any person who is related to another individual by blood or adoption, who regularly resides in the household of another, or who, within the prior six months, regularly resided in the household of another.

INSERT (move to next page)

~~Fourth~~, the bill establishes the following penalties for stalking offenses:

<u>Special circumstances under which offense occurs</u>	<u>Classification under current law</u>	<u>Classification under bill</u>
None (i.e., basic offense of stalking)	Class A misdemeanor	Class E felony
After conviction for misdemeanor or felony harassment or another stalking conviction	Class D felony (only if offense involves gaining access to a government record)	Class D felony (requirement regarding gaining access to record eliminated)
After conviction for violent crime	N/A	Class D felony

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After conviction for any crime against current victim within last seven years	N/A	Class D felony
Involving gaining access to an electronic record containing personally identifiable information regarding the victim	Class D felony	Class D felony (modified to cover causing another person to gain access to the record)
Involving unlawful wiretapping or unlawful tracing of a telephone call	N/A	Class D felony
Victim is a minor	N/A	Class D felony
Victim suffers bodily harm	Class E felony	Class C felony
Family member suffers bodily harm	N/A	Class C felony
After conviction for misdemeanor or felony harassment or another stalking conviction against current victim within last seven years	Class E felony	Class C felony
After conviction for violent crime against current victim within last seven years	N/A	Class C felony
Act involved in the course of conduct involves use of a dangerous weapon	N/A	Class C felony

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~~Fourth~~ Fifth, the bill prohibits a person from engaging in any of the individual acts that can, in combination with other acts, constitute a course of conduct, if all of the following apply: 1) the person was previously convicted of sexual assault or found to have committed an act of domestic abuse; 2) the individual against whom the current act is directed was the victim of the sexual assault or the act of domestic abuse; 3) the person knows or should know that the victim will reasonably fear, bodily injury to or death of himself or herself or a member of his or her immediate family; and 4) the person's acts induce such fear in the victim. This new offense is a Class E felony.

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The penalties for the offenses described above are as follows:

<u>Crime</u>	<u>Maximum fine</u>	<u>Maximum term of Imprisonment</u>
Class A misdemeanor (not used under the bill)	\$10,000	Nine months
Class E felony	\$10,000	Five years
Class D felony	\$10,000	Ten years
Class C felony	\$10,000	Fifteen years

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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1 **SECTION 1.** 940.32 (1) (a) of the statutes is renumbered 940.32 (1) (a) (intro.)
2 and amended to read:

3 940.32 (1) (a) (intro.) “Course of conduct” means ~~repeatedly maintaining a~~
4 ~~visual or physical proximity to a person.~~ a series of 2 or more acts carried out over
5 time, however short or long, that show a continuity of purpose, including any of the
6 following:

7 **SECTION 2.** 940.32 (1) (a) 1. of the statutes is created to read:

8 940.32 (1) (a) 1. Maintaining a visual or physical proximity to the victim.

9 **SECTION 3.** 940.32 (1) (a) 2. of the statutes is created to read:

10 940.32 (1) (a) 2. Approaching or confronting the victim.

11 **SECTION 4.** 940.32 (1) (a) 3. of the statutes is created to read:

12 940.32 (1) (a) 3. Appearing at the victim’s workplace or contacting the victim’s
13 employer or coworkers.

14 **SECTION 5.** 940.32 (1) (a) 4. of the statutes is created to read:

15 940.32 (1) (a) 4. Appearing at the victim’s home or contacting the victim’s
16 neighbors.

17 **SECTION 6.** 940.32 (1) (a) 5. of the statutes is created to read:

18 940.32 (1) (a) 5. Entering property owned, leased, or occupied by the victim.

19 **SECTION 7.** 940.32 (1) (a) 6. of the statutes is created to read:

20 940.32 (1) (a) 6. Contacting the victim by telephone or causing the victim’s
21 telephone or any other person’s telephone to ring repeatedly or continuously,
22 regardless of whether a conversation ensues.

23 **SECTION 8.** 940.32 (1) (a) 7. of the statutes is created to read:

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1 940.32 (1) (a) 7. Sending material by any means to the victim or, for the purpose
2 of obtaining information about, disseminating information about, or communicating
3 with the victim, to a family member, ^{of the victim's family or household} employer, coworker, or friend of the victim.

4 SECTION 9. 940.32 (1) (a) 8. of the statutes is created to read:

5 940.32 (1) (a) 8. Placing an object on or delivering an object to property owned,
6 leased, or occupied by the victim.

7 SECTION 10. 940.32 (1) (a) 9. of the statutes is created to read:

8 940.32 (1) (a) 9. Delivering an object to an immediate family member, employer,
9 coworker, or friend of the victim or placing an object on, or delivering an object to,
10 property owned, leased, or occupied by such a person with the intent that the object
11 be delivered to the victim.

12 SECTION 11. 940.32 (1) (a) 10. of the statutes is created to read:

13 940.32 (1) (a) 10. Harming an animal owned or cared for by the victim or a
14 ~~family~~ member of the victim. ^{'s family or household}

15 SECTION 12. 940.32 (1) (a) 11. of the statutes is created to read:

16 940.32 (1) (a) 11. Causing a person to engage in any of the acts described in
17 subds. 7. to 10.

18 SECTION 13. 940.32 (1) (am) of the statutes is created to read:

19 940.32 (1) (am) "Domestic abuse" has the meaning given in s. 813.12 (1) (a).

20 SECTION 14. 940.32 (1) (b) of the statutes is renumbered 940.32 (1) (b) ~~and~~

21 and amended to read:

22 940.32 (1) (b) ~~person~~ ^(cb) "Immediate family" ~~Family~~ member means ~~a~~ ^{PLAIN} ~~person~~

23 ~~the following~~

24 ~~any~~ spouse, parent, child, or sibling or any ^{PLAIN} ~~person~~

of a family

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1 ~~2/1/01~~ other person who is related by blood or adoption to another who
2 ~~regularly resides in the household of another or who within the prior 6 months~~
3 ~~regularly resided in the household of another~~

4 SECTION 15. 940.32 (1) (d) of the statutes is repealed.

5 SECTION 16. 940.32 (2) (intro.) of the statutes is amended to read:

6 940.32 (2) (intro.) Whoever meets all of the following criteria is guilty of a Class

7 A misdemeanor E felony:

8 Fix SECTION 17. 940.32 (2) (a) of the statutes is renumbered 940.32(2)(a) (intro)
Component and amended to read:

10 940.32 (2) (a) ~~Whoever~~ The actor intentionally engages Plain ~~does any of the following:~~

11 1. Engage in a course of conduct directed at a specific person that would cause
12 a reasonable person under the same circumstances to fear bodily injury to himself
13 or herself or a member of his or her immediate family or to fear the death of himself
14 or herself or a family member PLAIN of his or her immediate PLAIN family or household

15 SECTION 18. 940.32 (2) (a) 2. of the statutes is created to read:

16 940.32 (2) (a) 2. After having been ~~found by a court to have committed~~ convicted of sexual
17 assault under s. 940.225, 948.02, or 948.025 or any act of domestic offense abuse, carries out
18 any of the acts listed in sub. (1) (a) 1. to 11. This subsection only applies if the victim
19 under this section was the victim of the sexual assault or the act of domestic abuse offense

20 SECTION 19. 940.32 (2) (b) of the statutes is amended to read:

21 940.32 (2) (b) The actor has knowledge ~~that~~ or should have knowledge knows intends
22 that the specific person will be placed in reasonable fear of bodily injury to himself
23 or herself or a member of his or her immediate family or will be placed in reasonable
24 fear of the death of himself or herself or a family member PLAIN of his or her immediate

25 PLAIN family or household

at least two of the acts
that constitute the
course of conduct will place

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1 **SECTION 20.** 940.32 (2) (c) of the statutes is amended to read:

2 940.32 (2) (c) The actor's ~~Act or~~ acts induce fear in the specific person of bodily
3 injury to himself or herself or a member of his or her immediate family or induce fear
4 in the specific person of the death of himself or herself or a family member ^{PLAIN} ~~of his or~~

5 ^{PLAIN} her immediate ^{PLAIN} family or household

6 **SECTION 21.** 940.32 (2m) of the statutes is renumbered 940.32 (2m) (intro.) and
7 amended to read:

8 940.32 (2m) (intro.) Whoever violates sub. (2) ~~by engaging in conduct described~~
9 ~~in sub. (2)(a),~~ is guilty of a Class D felony if he or she any of the following applies:

10 (c) The actor intentionally gains access or causes another person to gain access
11 to a record in electronic format that contains personally identifiable information
12 regarding the victim in order to facilitate the violation ~~under sub. (2).~~

13 **SECTION 22.** 940.32 (2m) (a) of the statutes is created to read:

14 940.32 (2m) (a) The actor has a previous conviction for a violent crime, as
15 defined in s. 939.632 (1) (e) 1., or a previous conviction under this section or s. 947.013
16 (1r), (1t), (1v), or (1x).

17 **SECTION 23.** 940.32 (2m) (b) of the statutes is created to read:

18 940.32 (2m) (b) The actor has a previous conviction for a crime, the victim of
19 that crime is the victim of the present violation of sub. (2), and the present violation
20 occurs within 7 years after the prior conviction.

21 **SECTION 24.** 940.32 (2m) (d) of the statutes is created to read:

22 940.32 (2m) (d) The person violates s. 968.31 (1) or 968.34 (1) in order to
23 facilitate the violation.

24 **SECTION 25.** 940.32 (2m) (e) of the statutes is created to read:

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1 940.32 (2m) (e) The victim is under the age of 18 years at the time of the
2 violation.

3 **SECTION 26.** 940.32 (3) (intro.) of the statutes is amended to read:

4 940.32 (3) (intro.) Whoever violates sub. (2) ~~under any of the following~~
5 circumstances ~~by engaging in conduct described in sub. (2) (a) 1.~~ is guilty of a Class
6 E C felony if any of the following applies:

7 **SECTION 27.** 940.32 (3) (a) of the statutes is amended to read:

8 940.32 (3) (a) The act results in bodily harm to the victim ~~or a family member~~
9 of the victim. 's family or household ✓

10 **SECTION 28.** 940.32 (3) (b) of the statutes is amended to read:

11 940.32 (3) (b) The actor has a previous conviction for a violent crime, as defined
12 in s. 939.632 (1) (e) 1., or a previous conviction under this section or s. 947.013 (1r),
13 (1t), (1v) or (1x) for a violation against, the same victim of that crime is the victim of
14 the present violation of sub. (2), and the present violation occurs within 7 years after
15 the prior conviction.

16 **SECTION 29.** 940.32 (3) (c) of the statutes is created to read:

17 940.32 (3) (c) The actor uses a dangerous weapon in carrying out any of the acts
18 listed in sub. (1) (a) 1. to 10.

19 **SECTION 30.** 940.32 (3m) of the statutes is repealed.

20 **SECTION 31.** 947.013 (1t) of the statutes is amended to read:

21 947.013 (1t) Whoever violates sub. (1r) is guilty of a Class E felony if the person
22 has a prior conviction under this subsection or sub. (1r), (1v) or (1x) or s. 940.32 (2), (2e),
23 (2m), or (3) or (3m) involving the same victim and the present violation occurs within
24 7 years of the prior conviction.

25 **SECTION 32.** 947.013 (1x) (a) of the statutes is amended to read:

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1 947.013 **(1x)** (a) The person has a prior conviction under sub. (1r), (1t) or (1v)
2 or this subsection or s. 940.32 (2), ~~(2m)~~, or (3) ~~or (3m)~~.

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Fifth, the bill replaces the knowledge element with an element based on the actor's intent. Under the bill, in order for a course of conduct to constitute stalking, the actor must intend that at least two of the acts that constitute the course of conduct will place the victim in reasonable fear of bodily injury to or the death of himself or herself or a member of his or her family or household. Sixth, ² ²

analysis INSERT B

² "member of a household." Under the bill, "member of a family" is defined ²

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² "Member of a household" is defined to mean any person ²

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SECTION 1. 940.32 (1) (ap) [✓] of the statutes is created to read:

940.32 (1) (ap) "Domestic abuse offense" means an act of domestic abuse that constitutes a crime. [✓]

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SECTION 2. 940.32 (1) (cd) [✓] of the statutes is created to read:

940.32 (1) (cd) "Member of a household" [✓] means a person who regularly resides in the household of another or who within the previous 6 months regularly resided in the household of another.

INSERT 7/5

SECTION 3. 940.32 (2e) [✓] of the statutes is created to read:

940.32 (2e) Whoever meets all of the following criteria is guilty of a Class E felony:

↓

(a) After having been convicted of sexual assault under s. 940.225, 948.02, or 948.025[✓] or a domestic abuse offense, ^{the actor} engages in any of the acts listed in sub. (1) (a) 1. to 11.[✓], if the act is directed at the victim of the sexual assault or the domestic abuse offense.

(b) The actor[✓] intends that the act will place the specific person in reasonable fear of bodily injury to or the death of himself or herself or a member of his or her family or household.[✓]

(c) The actor's[✓] act induces fear in the specific person of bodily injury to or the death of himself or herself or a member of his or her family or household.[✓]

(end ins)

Barman, Mike

From: Dsida, Michael
Sent: Monday, January 14, 2002 11:05 AM
To: LRB.Legal
Subject: FW: Stalking bill

Could someone fax LRB-0867 for me? thanks

-----Original Message-----

From: Patti Seger [mailto:pattis@inxpress.net]
Sent: Monday, January 14, 2002 8:23 AM
To: Dsida, Michael
Subject: Re: Stalking bill

Good morning Mike.

I never got the copy. Any chance you can fax it to me?
608/255-3560.

patti

----- Original Message -----

From: Dsida, Michael <Michael.Dsida@legis.state.wi.us>
To: <mason@wft.org>
Cc: 'Patti' <pattis@inxpress.net>
Sent: Friday, January 11, 2002 11:33 AM
Subject: RE: Stalking bill

Cory-

Can you let me know if you get your copy? Patti is not getting hers,
and I
am not sure if the problem is with her computer or with mine.

Thanks.

Mike Dsida
Legislative Reference Bureau
608/266-9867
michael.dsida@state.legis.wi.us

> -----Original Message-----

> **From:** Dsida, Michael
> **Sent:** Friday, January 11, 2002 11:19 AM
> **To:** 'Patti'; 'mason@wft.org'
> **Subject:** Stalking bill

>
> Katy Heringlake asked me to send this to each of you. << File:
01-0867/3

> >>

>
> Mike Dsida
> Legislative Reference Bureau
> 608/266-9867
> michael.dsida@state.legis.wi.us

>

Transmission Report

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Legislative Bureau
Wisconsin Assembly

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State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0867/2

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SOON

2001 BILL

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retrieve from
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1 AN ACT *to repeal* 940.32 (1) (d) and 940.32 (3m); *to renumber and amend*
2 940.32 (1) (a), 940.32 (1) (b) and 940.32 (2m); *to amend* 940.32 (2) (intro.),
3 940.32 (2) (a), 940.32 (2) (b), 940.32 (2) (c), 940.32 (3) (intro.), 940.32 (3) (a),
4 940.32 (3) (b), 947.013 (1t) and 947.013 (1x) (a); and *to create* 940.32 (1) (a) 1.,
5 940.32 (1) (a) 2., 940.32 (1) (a) 3., 940.32 (1) (a) 4., 940.32 (1) (a) 5., 940.32 (1)
6 (a) 6., 940.32 (1) (a) 7., 940.32 (1) (a) 8., 940.32 (1) (a) 9., 940.32 (1) (a) 10., 940.32
7 (1) (a) 11., 940.32 (1) (am), 940.32 (1) (ap), 940.32 (1) (cd), 940.32 (2) (a) 2., 940.32
8 (2e), 940.32 (2m) (a), 940.32 (2m) (b), 940.32 (2m) (d), 940.32 (2m) (e) and 940.32
9 (3) (c) of the statutes; **relating to:** stalking and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person commits the offense of stalking if: 1) he or she engages in a course of conduct directed at another person (the victim) that would cause a reasonable person to fear bodily injury to or death of himself or herself or a member of his or her immediate family (the "reasonableness of the fear element"); 2) the person knows or should know that the victim will reasonably fear bodily injury to or death of himself or herself or a member of his or her immediate family (the "knowledge element"); and 3) the person's acts induce such fear in the victim.

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Current law defines "course of conduct" to mean maintaining, on two or more calendar days, a visual or physical proximity to a person. In addition, current law defines "immediate family" to mean a spouse, parent, child, sibling, or any other person who regularly resides in the household or who within the prior six months regularly resided in the household.

A person who commits the offense of stalking is guilty of a Class A misdemeanor. More severe penalties may be imposed for stalking under certain circumstances. (The tables below describe the circumstances under which the more severe penalties apply and what those penalties are, as well as the penalties that are applicable under this bill.)

This bill modifies the elements of the offense of stalking and establishes a new penalty structure. First, the bill redefines "course of conduct" to mean a series of two or more acts carried out over time, however short or long, that show a continuity of purpose. The acts may include: 1) maintaining a visual or physical proximity to the victim; 2) approaching or confronting the victim; 3) appearing at the victim's workplace or home or contacting the victim's employer, coworkers, or neighbors; 4) entering property owned, leased, or occupied by the victim; 5) contacting the victim by telephone or causing the victim's telephone or any other person's telephone to ring repeatedly or continuously; 6) sending or delivering material or an object to the victim or his or her home; 7) delivering an object to a member of the victim's family or household or an employer, coworker, or friend of the victim with the intent it be delivered to the victim; 8) harming an animal owned or cared for by the victim or a member of the victim's family or household; or 9) causing another person to engage in any of these acts.

Second, the bill establishes the following penalties for stalking offenses:

<i>Special circumstances under which offense occurs</i>	<i>Classification under current law</i>	<i>Classification under bill</i>
None (<i>i.e.</i> , basic offense of stalking)	Class A misdemeanor	Class E felony
After conviction for misdemeanor or felony harassment or another stalking conviction	Class D felony (only if offense involves gaining access to a government record)	Class D felony (requirement regarding gaining access to record eliminated)
After conviction for violent crime	N/A	Class D felony
After conviction for any crime against current victim within last seven years	N/A	Class D felony

BILL

Involving gaining access to an electronic record containing personally identifiable information regarding the victim	Class D felony	Class D felony (modified to cover causing another person to gain access to the record)
Involving unlawful wiretapping or unlawful tracing of a telephone call	N/A	Class D felony
Victim is a minor	N/A	Class D felony
Victim suffers bodily harm	Class E felony	Class C felony
Family or household member suffers bodily harm	N/A	Class C felony
After conviction for misdemeanor or felony harassment or another stalking conviction against current victim within last seven years	Class E felony	Class C felony
After conviction for violent crime against current victim within last seven years	N/A	Class C felony
Act involved in the course of conduct involves use of a dangerous weapon	N/A	Class C felony

Third, the bill prohibits a person from engaging in any of the individual acts that can, in combination with other acts, constitute a course of conduct, if all of the following apply: 1) the person was previously convicted of sexual assault or found to have committed an act of domestic abuse; 2) the individual at whom the current act is directed was the victim of the sexual assault or the act of domestic abuse; 3) the person intends that the act will place the victim in reasonable fear of bodily injury to or death of himself or herself or a member of his or her family or household; and 4) the person's acts induce such fear in the victim. This new offense is a Class E felony.

Fourth, the bill revises the reasonableness of the fear element. Under the bill, the court, in determining whether any fear resulting from the course of conduct would be reasonable, must consider whether the course of conduct would induce fear not just in a reasonable person, but in a reasonable person under the same circumstances as the victim.

Fifth, the bill replaces the knowledge element with an element based on the actor's intent. Under the bill, in order for a course of conduct to constitute stalking, the actor must intend that at least two of the acts that constitute the course of conduct will place the victim in reasonable fear of bodily injury to or the death of himself or herself or a member of his or her family or household.

Sixth, the bill replaces the term "immediate family" with separate definitions for "member of a family" and "member of a household." Under the bill, "member of a family" is defined to mean: 1) a spouse, parent, child, or sibling; or 2) any person who is related to another individual by blood or adoption. "Member of a household" is defined to mean any person who regularly resides in the household of another, or who, within the prior six months, regularly resided in the household of another.

BILL

The penalties for the offenses described above are as follows:

<i>Crime</i>	<i>Maximum fine</i>	<i>Maximum term of Imprisonment</i>
Class A misdemeanor (not used under the bill)	\$10,000	Nine months
Class E felony	\$10,000	Five years
Class D felony	\$10,000	Ten years
Class C felony	\$10,000	Fifteen years

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 940.32 (1) (a) of the statutes is renumbered 940.32 (1) (a) (intro.)
2 and amended to read:

3 940.32 (1) (a) (intro.) "Course of conduct" means ~~repeatedly maintaining a~~
4 ~~visual or physical proximity to a person.~~ a series of 2 or more acts carried out over
5 time, however short or long, that show a continuity of purpose, including any of the
6 following:

7 **SECTION 2.** 940.32 (1) (a) 1. of the statutes is created to read:

8 940.32 (1) (a) 1. Maintaining a visual or physical proximity to the victim.

9 **SECTION 3.** 940.32 (1) (a) 2. of the statutes is created to read:

10 940.32 (1) (a) 2. Approaching or confronting the victim.

11 **SECTION 4.** 940.32 (1) (a) 3. of the statutes is created to read:

12 940.32 (1) (a) 3. Appearing at the victim's workplace or contacting the victim's
13 employer or coworkers.

14 **SECTION 5.** 940.32 (1) (a) 4. of the statutes is created to read:

15 940.32 (1) (a) 4. Appearing at the victim's home or contacting the victim's
16 neighbors.

BILL

1 **SECTION 6.** 940.32 (1) (a) 5. of the statutes is created to read:

2 940.32 (1) (a) 5. Entering property owned, leased, or occupied by the victim.

3 **SECTION 7.** 940.32 (1) (a) 6. of the statutes is created to read:

4 940.32 (1) (a) 6. Contacting the victim by telephone or causing the victim's
5 telephone or any other person's telephone to ring repeatedly or continuously,
6 regardless of whether a conversation ensues.

7 **SECTION 8.** 940.32 (1) (a) 7. of the statutes is created to read:

8 940.32 (1) (a) 7. Sending material by any means to the victim or, for the purpose
9 of obtaining information about, disseminating information about, or communicating
10 with the victim, to a member of the victim's family or household or an employer,
11 coworker, or friend of the victim.

12 **SECTION 9.** 940.32 (1) (a) 8. of the statutes is created to read:

13 940.32 (1) (a) 8. Placing an object on or delivering an object to property owned,
14 leased, or occupied by the victim.

15 **SECTION 10.** 940.32 (1) (a) 9. of the statutes is created to read:

16 940.32 (1) (a) 9. Delivering an object to a member of the victim's family or
17 household or an employer, coworker, or friend of the victim or placing an object on,
18 or delivering an object to, property owned, leased, or occupied by such a person with
19 the intent that the object be delivered to the victim.

20 **SECTION 11.** 940.32 (1) (a) 10. of the statutes is created to read:

21 940.32 (1) (a) 10. Harming an animal owned or cared for by the victim or a
22 member of the victim's family or household.

23 **SECTION 12.** 940.32 (1) (a) 11. of the statutes is created to read:

24 940.32 (1) (a) 11. Causing a person to engage in any of the acts described in
25 subs. 7. to 10.

BILL

1 **SECTION 13.** 940.32 (1) (am) of the statutes is created to read:

2 940.32 (1) (am) "Domestic abuse" has the meaning given in s. 813.12 (1) (a).

3 **SECTION 14.** 940.32 (1) (ap) of the statutes is created to read:

4 940.32 (1) (ap) "Domestic abuse offense" means an act of domestic abuse that
5 constitutes a crime.

6 **SECTION 15.** 940.32 (1) (b) of the statutes is renumbered 940.32 (1) (cb) and
7 amended to read:

8 940.32 (1) (cb) "~~Immediate family~~" "Member of a family" means a spouse,
9 parent, child, sibling, or any other person ~~who regularly resides in the household or~~
10 ~~who within the prior 6 months regularly resided in the household~~ who is related by
11 blood or adoption to another.

12 **SECTION 16.** 940.32 (1) (cd) of the statutes is created to read:

13 940.32 (1) (cd) "Member of a household" means a person who regularly resides
14 in the household of another or who within the previous 6 months regularly resided
15 in the household of another.

16 **SECTION 17.** 940.32 (1) (d) of the statutes is repealed.

17 **SECTION 18.** 940.32 (2) (intro.) of the statutes is amended to read:

18 940.32 (2) (intro.) Whoever meets all of the following criteria is guilty of a Class
19 ~~A misdemeanor~~ E felony:

20 **SECTION 19.** 940.32 (2) (a) of the statutes is amended to read:

21 940.32 (2) (a) The actor intentionally engages in a course of conduct directed
22 at a specific person that would cause a reasonable person under the same
23 circumstances to fear bodily injury to ~~himself or herself or a member of his or her~~
24 ~~immediate family or to fear the death of himself or herself or a member of his or her~~
25 ~~immediate family or household.~~

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~~SECTION 20. 940.32 (2) (a) 2. of the statutes is created to read:
 940.32 (2) (a) 2. After having been convicted of sexual assault under s. 940.225,
 948.02, or 948.025 or a domestic abuse offense, carries out any of the acts listed in
 sub. (1) (a) 1. to 11. This subsection only applies if the victim under this section was
 the victim of the sexual assault or the domestic abuse offense.~~

SECTION 21. 940.32 (2) (b) of the statutes is amended to read:

940.32 (2) (b) The actor ~~has knowledge or should have knowledge~~ intends that at least 2 of the acts that constitute the course of conduct will place the specific person will be placed in reasonable fear of bodily injury to ~~himself or herself or a member~~ of his or her ~~immediate family~~ or will be placed in reasonable fear of the death of himself or herself or a member of his or her ~~immediate family~~ or household.

SECTION 22. 940.32 (2) (c) of the statutes is amended to read:

940.32 (2) (c) The actor's acts induce fear in the specific person of bodily injury to ~~himself or herself or a member of his or her immediate family~~ or induce fear in the specific person of the death of himself or herself or a member of his or her ~~immediate family~~ or household.

SECTION 23. 940.32 (2e) of the statutes is created to read:

940.32 (2e) Whoever meets all of the following criteria is guilty of a Class E felony:

(a) After having been convicted of sexual assault under s. 940.225, 948.02, or 948.025 or a domestic abuse offense, the actor engages in any of the acts listed in sub. (1) (a) 1. to 11., if the act is directed at the victim of the sexual assault or the domestic abuse offense.

BILL

1 (b) The actor intends that the act will place the specific person in reasonable
2 fear of bodily injury to or the death of himself or herself or a member of his or her
3 family or household.

4 (c) The actor's act induces fear in the specific person of bodily injury to or the
5 death of himself or herself or a member of his or her family or household.

6 **SECTION 24.** 940.32 (2m) of the statutes is renumbered 940.32 (2m) (intro.) and
7 amended to read:

8 940.32 (2m) (intro.) Whoever violates sub. (2) is guilty of a Class D felony if ~~he~~
9 ~~or she~~ any of the following applies:

10 (c) The actor intentionally gains access or causes another person to gain access
11 to a record in electronic format that contains personally identifiable information
12 regarding the victim in order to facilitate the violation ~~under sub. (2).~~

13 **SECTION 25.** 940.32 (2m) (a) of the statutes is created to read:

14 940.32 (2m) (a) The actor has a previous conviction for a violent crime, as
15 defined in s. 939.632 (1) (e) 1., or a previous conviction under this section or s. 947.013
16 (1r), (1t), (1v), or (1x).

17 **SECTION 26.** 940.32 (2m) (b) of the statutes is created to read:

18 940.32 (2m) (b) The actor has a previous conviction for a crime, the victim of
19 that crime is the victim of the present violation of sub. (2), and the present violation
20 occurs within 7 years after the prior conviction.

21 **SECTION 27.** 940.32 (2m) (d) of the statutes is created to read:

22 940.32 (2m) (d) The person violates s. 968.31 (1) or 968.34 (1) in order to
23 facilitate the violation.

24 **SECTION 28.** 940.32 (2m) (e) of the statutes is created to read:

BILL

1 940.32 (2m) (e) The victim is under the age of 18 years at the time of the
2 violation.

3 **SECTION 29.** 940.32 (3) (intro.) of the statutes is amended to read:

4 940.32 (3) (intro.) Whoever violates sub. (2) ~~under any of the following~~
5 ~~circumstances~~ is guilty of a Class ~~E~~ C felony if any of the following applies:

6 **SECTION 30.** 940.32 (3) (a) of the statutes is amended to read:

7 940.32 (3) (a) The act results in bodily harm to the victim or a member of the
8 victim's family or household.

9 **SECTION 31.** 940.32 (3) (b) of the statutes is amended to read:

10 940.32 (3) (b) The actor has a previous conviction for a violent crime, as defined
11 in s. 939.632 (1) (e) 1., or a previous conviction under this section or s. 947.013 (1r),
12 (1t), (1v) or (1x) for a violation against, the same victim of that crime is the victim of
13 the present violation of sub. (2), and the present violation occurs within 7 years after
14 the prior conviction.

15 **SECTION 32.** 940.32 (3) (c) of the statutes is created to read:

16 940.32 (3) (c) The actor uses a dangerous weapon in carrying out any of the acts
17 listed in sub. (1) (a) 1. to 10. ✓

18 **SECTION 33.** 940.32 (3m) of the statutes is repealed.

19 **SECTION 34.** 947.013 (1t) of the statutes is amended to read:

20 947.013 (1t) Whoever violates sub. (1r) is guilty of a Class E felony if the person
21 has a prior conviction under this subsection or sub. (1r), (1v) or (1x) or s. 940.32 (2),
22 (2e), (2m), or (3) or (3m) involving the same victim and the present violation occurs
23 within 7 years of the prior conviction.

24 **SECTION 35.** 947.013 (1x) (a) of the statutes is amended to read:



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2001 BILL

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1 AN ACT to repeal 940.32 (1) (d) and 940.32 (3m); to renumber and amend
2 940.32 (1) (a), 940.32 (1) (b) and 940.32 (2m); to amend 940.32 (2) (intro.),
3 940.32 (2) (a), 940.32 (2) (b), 940.32 (2) (c), 940.32 (3) (intro.), 940.32 (3) (a),
4 940.32 (3) (b), 947.013 (1t) and 947.013 (1x) (a); and to create 940.32 (1) (a) 1.,
5 940.32 (1) (a) 2., 940.32 (1) (a) 3., 940.32 (1) (a) 4., 940.32 (1) (a) 5., 940.32 (1)
6 (a) 6., 940.32 (1) (a) 7., 940.32 (1) (a) 8., 940.32 (1) (a) 9., 940.32 (1) (a) 10., 940.32
7 (1) (a) 11., 940.32 (1) (am), 940.32 (1) (ap), 940.32 (1) (cd), 940.32 (2e), 940.32
8 (2m) (a), 940.32 (2m) (b), 940.32 (2m) (d), 940.32 (2m) (e) and 940.32 (3) (c) of
9 the statutes; relating to: stalking and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person commits the offense of stalking if: 1) he or she engages in a course of conduct directed at another person (the victim) that would cause a reasonable person to fear bodily injury to or death of himself or herself or a member of his or her immediate family (the "reasonableness of the fear element"); 2) the person knows or should know that the victim will reasonably fear bodily injury to or death of himself or herself or a member of his or her immediate family (the "knowledge element"); and 3) the person's acts induce such fear in the victim.

BILL

Current law defines “course of conduct” to mean maintaining, on two or more calendar days, a visual or physical proximity to a person. In addition, current law defines “immediate family” to mean a spouse, parent, child, sibling, or any other person who regularly resides in the household or who within the prior six months regularly resided in the household.

A person who commits the offense of stalking is guilty of a Class A misdemeanor. More severe penalties may be imposed for stalking under certain circumstances. (The tables below describe the circumstances under which the more severe penalties apply and what those penalties are, as well as the penalties that are applicable under this bill.)

This bill modifies the elements of the offense of stalking and establishes a new penalty structure. First, the bill redefines “course of conduct” to mean a series of ~~two~~ ^{one} or more acts carried out over time, however short or long, that show a continuity of purpose. The acts may include: 1) maintaining a visual or physical proximity to the victim; 2) approaching or confronting the victim; 3) appearing at the victim’s workplace or home or contacting the victim’s employer, coworkers, or neighbors; 4) entering property owned, leased, or occupied by the victim; 5) contacting the victim by telephone or causing the victim’s telephone or any other person’s telephone to ring repeatedly or continuously; 6) sending or delivering material or an object to the victim or his or her home; 7) delivering an object to a member of the victim’s family or household or an employer, coworker, or friend of the victim with the intent it be delivered to the victim; 8) harming an animal owned or cared for by the victim or a member of the victim’s family or household; or 9) causing another person to engage in any of these acts.

Second, the bill establishes the following penalties for stalking offenses:

<i>Special circumstances under which offense occurs</i>	<i>Classification under current law</i>	<i>Classification under bill</i>
None (<i>i.e.</i> , basic offense of stalking)	Class A misdemeanor	Class E felony
After conviction for misdemeanor or felony harassment or another stalking conviction	Class D felony (only if offense involves gaining access to a government record)	Class D felony (requirement regarding gaining access to record eliminated)
After conviction for violent crime	N/A	Class D felony
After conviction for any crime against current victim within last seven years	N/A	Class D felony

BILL

Involving gaining access to an electronic record containing personally identifiable information regarding the victim	Class D felony	Class D felony (modified to cover causing another person to gain access to the record)
Involving unlawful wiretapping or unlawful tracing of a telephone call	N/A	Class D felony
Victim is a minor	N/A	Class D felony
Victim suffers bodily harm	Class E felony	Class C felony
Family or household member suffers bodily harm	N/A	Class C felony
After conviction for misdemeanor or felony harassment or another stalking conviction against current victim within last seven years	Class E felony	Class C felony
After conviction for violent crime against current victim within last seven years	N/A	Class C felony
Act involved in the course of conduct involves use of a dangerous weapon	N/A	Class C felony

Third, the bill prohibits a person from engaging in any of the individual acts that can, in combination with other acts, constitute a course of conduct, if all of the following apply: 1) the person was previously convicted of sexual assault or found to have committed an act of domestic abuse; 2) the individual at whom the current act is directed was the victim of the sexual assault or the act of domestic abuse; 3) the person intends that the act will place the victim in reasonable fear of bodily injury to or death of himself or herself or a member of his or her family or household; and 4) the person's acts induce such fear in the victim. This new offense is a Class E felony.

Fourth, the bill revises the reasonableness of the fear element. Under the bill, the court, in determining whether any fear resulting from the course of conduct would be reasonable, must consider whether the course of conduct would induce fear not just in a reasonable person, but in a reasonable person under the same circumstances as the victim.

Fifth, the bill replaces the knowledge element with an element based on the actor's intent. Under the bill, in order for a course of conduct to constitute stalking, the actor must intend that at least two of the acts that constitute the course of conduct will place the victim in reasonable fear of bodily injury to or the death of himself or herself or a member of his or her family or household.

Sixth, the bill replaces the term "immediate family" with separate definitions for "member of a family" and "member of a household." Under the bill, "member of a family" is defined to mean: 1) a spouse, parent, child, or sibling; or 2) any person who is related to another individual by blood or adoption. "Member of a household" is defined to mean any person who regularly resides in the household of another, or who, within the prior six months, regularly resided in the household of another.

BILL

The penalties for the offenses described above are as follows:

<i>Crime</i>	<i>Maximum fine</i>	<i>Maximum term of Imprisonment</i>
Class A misdemeanor (not used under the bill)	\$10,000	Nine months
Class E felony	\$10,000	Five years
Class D felony	\$10,000	Ten years
Class C felony	\$10,000	Fifteen years

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 940.32 (1) (a) ✓ of the statutes is renumbered 940.32 (1) (a) (intro.)
2 and amended to read:

3 940.32 (1) (a) (intro.) "Course of conduct" means ~~repeatedly maintaining a~~
4 ~~visual or physical proximity to a person. a series of 2 or more acts carried out over~~
5 time, however short or long, that show a continuity of purpose, including any of the
6 following:

7 **SECTION 2.** 940.32 (1) (a) 1. ✓ of the statutes is created to read:

8 940.32 (1) (a) 1. Maintaining a visual or physical proximity to the victim.

9 **SECTION 3.** 940.32 (1) (a) 2. ✓ of the statutes is created to read:

10 940.32 (1) (a) 2. Approaching or confronting the victim.

11 **SECTION 4.** 940.32 (1) (a) 3. ✓ of the statutes is created to read:

12 940.32 (1) (a) 3. Appearing at the victim's workplace or contacting the victim's
13 employer or coworkers.

14 **SECTION 5.** 940.32 (1) (a) 4. ✓ of the statutes is created to read:

15 940.32 (1) (a) 4. Appearing at the victim's home or contacting the victim's
16 neighbors.

BILL

1 **SECTION 6.** 940.32 (1) (a) 5. ✓ of the statutes is created to read:

2 940.32 (1) (a) 5. Entering property owned, leased, or occupied by the victim.

3 **SECTION 7.** 940.32 (1) (a) 6. ✓ of the statutes is created to read:

4 940.32 (1) (a) 6. Contacting the victim by telephone or causing the victim's
5 telephone or any other person's telephone to ring repeatedly or continuously,
6 regardless of whether a conversation ensues.

7 **SECTION 8.** 940.32 (1) (a) 7. ✓ of the statutes is created to read:

8 940.32 (1) (a) 7. Sending material by any means to the victim or, for the purpose
9 of obtaining information about, disseminating information about, or communicating
10 with the victim, to a member of the victim's family or household or an employer,
11 coworker, or friend of the victim.

12 **SECTION 9.** 940.32 (1) (a) 8. ✓ of the statutes is created to read:

13 940.32 (1) (a) 8. Placing an object on or delivering an object to property owned,
14 leased, or occupied by the victim.

15 **SECTION 10.** 940.32 (1) (a) 9. ✓ of the statutes is created to read:

16 940.32 (1) (a) 9. Delivering an object to a member of the victim's family or
17 household or an employer, coworker, or friend of the victim or placing an object on,
18 or delivering an object to, property owned, leased, or occupied by such a person with
19 the intent that the object be delivered to the victim.

20 **SECTION 11.** 940.32 (1) (a) 10. ✓ of the statutes is created to read:

21 940.32 (1) (a) 10. Harming an animal owned or cared for by the victim or a
22 member of the victim's family or household.

23 **SECTION 12.** 940.32 (1) (a) 11. ✓ of the statutes is created to read:

24 940.32 (1) (a) 11. Causing a person to engage in any of the acts described in
25 subs. 7. to 10.

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1 SECTION 13. 940.32 (1) (am) of the statutes is created to read:

2 940.32 (1) (am) "Domestic abuse" has the meaning given in s. 813.12 (1) (a).

3 SECTION 14. 940.32 (1) (ap) of the statutes is created to read:

4 940.32 (1) (ap) "Domestic abuse offense" means an act of domestic abuse that
5 constitutes a crime.

6 SECTION 15. 940.32 (1) (b) of the statutes is renumbered 940.32 (1) (cb) and
7 amended to read:

8 940.32 (1) (cb) "~~Immediate family~~" "Member of a family" means a spouse,
9 parent, child, sibling, or any other person ~~who regularly resides in the household or~~
10 ~~who within the prior 6 months regularly resided in the household~~ who is related by
11 blood or adoption to another.

12 SECTION 16. 940.32 (1) (cd) of the statutes is created to read:

13 940.32 (1) (cd) "Member of a household" means a person who regularly resides
14 in the household of another or who within the previous 6 months regularly resided
15 in the household of another.

16 SECTION 17. 940.32 (1) (d) of the statutes is repealed.

17 SECTION 18. 940.32 (2) (intro.) of the statutes is amended to read:

18 940.32 (2) (intro.) Whoever meets all of the following criteria is guilty of a Class
19 ~~A misdemeanor~~ E felony:

20 SECTION 19. 940.32 (2) (a) of the statutes is amended to read:

21 940.32 (2) (a) The actor intentionally engages in a course of conduct directed
22 at a specific person that would cause a reasonable person under the same
23 circumstances to fear bodily injury to ~~himself or herself or a member of his or her~~
24 ~~immediate family~~ or to fear the death of himself or herself or a member of his or her
25 immediate family or household.

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one ✓

1 **SECTION 20.** 940.32 (2) (b) ✓ of the statutes is amended to read:

2 940.32 (2) (b) The actor ~~has knowledge or should have knowledge~~ intends that
3 at least (2) of the acts that constitute the course of conduct will place the specific person
4 will be placed in reasonable fear of bodily injury to ~~himself or herself or a member~~
5 of his or her immediate family or will be placed in reasonable fear of the death of
6 himself or herself or a member of his or her immediate family or household.

7 **SECTION 21.** 940.32 (2) (c) ✓ of the statutes is amended to read:

8 940.32 (2) (c) The actor's acts induce fear in the specific person of bodily injury
9 to ~~himself or herself or a member of his or her immediate family~~ or induce fear in the
10 specific person of the death of himself or herself or a member of his or her immediate
11 family or household.

12 **SECTION 22.** 940.32 (2e) ✓ of the statutes is created to read:

13 940.32 (2e) Whoever meets all of the following criteria is guilty of a Class E
14 felony:

15 (a) After having been convicted of sexual assault under s. 940.225, 948.02, or
16 948.025 or a domestic abuse offense, the actor engages in any of the acts listed in sub.

17 (1) (a) 1. to 11., if the act is directed at the victim of the sexual assault or the domestic
18 abuse offense.

19 (b) The actor intends that the act will place the specific person in reasonable
20 fear of bodily injury to or the death of himself or herself or a member of his or her
21 family or household.

22 (c) The actor's act induces fear in the specific person of bodily injury to or the
23 death of himself or herself or a member of his or her family or household.

24 **SECTION 23.** 940.32 (2m) ✓ of the statutes is renumbered 940.32 (2m) (intro.) and
25 amended to read:

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1 940.32 (2m) (intro.) Whoever violates sub. (2) is guilty of a Class D felony if he
2 ~~or she~~ any of the following applies:

3 (c) The actor intentionally gains access or causes another person to gain access
4 to a record in electronic format that contains personally identifiable information
5 regarding the victim in order to facilitate the violation ~~under sub. (2).~~

6 SECTION 24. 940.32 (2m) (a) [✓] of the statutes is created to read:

7 940.32 (2m) (a) The actor has a previous conviction for a violent crime, as
8 defined in s. 939.632 (1) (e) 1., or a previous conviction under this section or s. 947.013
9 (1r), (1t), (1v), or (1x).

10 SECTION 25. 940.32 (2m) (b) [✓] of the statutes is created to read:

11 940.32 (2m) (b) The actor has a previous conviction for a crime, the victim of
12 that crime is the victim of the present violation of sub. (2), and the present violation
13 occurs within 7 years after the prior conviction.

14 SECTION 26. 940.32 (2m) (d) [✓] of the statutes is created to read:

15 940.32 (2m) (d) The person violates s. 968.31 (1) or 968.34 (1) in order to
16 facilitate the violation.

17 SECTION 27. 940.32 (2m) (e) [✓] of the statutes is created to read:

18 940.32 (2m) (e) The victim is under the age of 18 years at the time of the
19 violation.

20 SECTION 28. 940.32 (3) (intro.) [✓] of the statutes is amended to read:

21 940.32 (3) (intro.) Whoever violates sub. (2) ~~under any of the following~~
22 circumstances is guilty of a Class E C felony if any of the following applies:

23 SECTION 29. 940.32 (3) (a) [✓] of the statutes is amended to read:

24 940.32 (3) (a) The act results in bodily harm to the victim or a member of the
25 victim's family or household.

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SECTION 30. 940.32 (3) (b) [✓] of the statutes is amended to read:

940.32 (3) (b) The actor has a previous conviction for a violent crime, as defined in s. 939.632 (1) (e) 1., or a previous conviction under this section or s. 947.013 (1r), (1t), (1v) or (1x) for a violation against, the same victim of that crime is the victim of the present violation of sub. (2), and the present violation occurs within 7 years after the prior conviction.

SECTION 31. 940.32 (3) (c) [✓] of the statutes is created to read:

940.32 (3) (c) The actor uses a dangerous weapon in carrying out any of the acts listed in sub. (1) (a) 1. to 10.

SECTION 32. 940.32 (3m) [✓] of the statutes is repealed.

SECTION 33. 947.013 (1t) [✓] of the statutes is amended to read:

947.013 (1t) Whoever violates sub. (1r) is guilty of a Class E felony if the person has a prior conviction under this subsection or sub. (1r), (1v) or (1x) or s. 940.32 (2), (2e), (2m), or (3) ~~or (3m)~~ involving the same victim and the present violation occurs within 7 years of the prior conviction.

SECTION 34. 947.013 (1x) (a) [✓] of the statutes is amended to read:

947.013 (1x) (a) The person has a prior conviction under sub. (1r), (1t) or (1v) or this subsection or s. 940.32 (2), (2e), (2m), or (3) ~~or (3m)~~.

(END)



State of Wisconsin

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January 23, 2002

MEMORANDUM

To: Senator Burke

Ellis

From: Michael Dsida, Legislative Attorney

Re: LRB-0867/4 Stalking

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

___ JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-9867 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.