

2003 DRAFTING REQUEST

Bill

Received: **07/31/2003**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Michael Huebsch (608) 266-0631**

By/Representing: **Bob**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - miscellaneous**

Extra Copies: **rlr**

Submit via email: **YES**

Requester's email: **Rep.Huebsch@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Stalking

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|----------------------|--|------------------------|----------------|------------------------|-----------------|-----------------|
| /? | mdsida 08/29/2003 | jdye 09/15/2003 jdye 09/15/2003 | | _____ | | | |
| /P1 | | | rschluet 09/16/2003 | _____ | sbasford 09/16/2003 | | S&L |

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|--------------|----------------------|--|------------------------|----------------|------------------------|----------------------|-----------------|
| /1 | mdsida 09/25/2003 | jdyer 09/26/2003 jdyer 09/29/2003 | jfrantze 09/29/2003 | _____ | Inorthro 09/29/2003 | lemery 11/06/2003 | S&L |
| /2 | mdsida 11/20/2003 | jdyer 11/20/2003 jdyer 11/20/2003 | pgreensl 11/20/2003 | _____ | lemery 11/20/2003 | lemery 11/20/2003 | |

FE Sent For:

At Intro.

<END>

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| /P1 | | 1/2 11/20 jld | rschlue 09/16/2003 | <u>sell</u> | sbasford 09/16/2003 | | S&L |
| | | | <u>11/20</u> py | | | | |

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| /P1 | | <i>T 9/29 jld</i> | rschluet 09/16/2003 | | sbasford 09/16/2003 | | |

9/29 Pg 9/29

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| /? | mdsida | PI 9/15 jld |  |  | | | |
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FE Sent For:

<END>

P/c to Part:

~~to~~ add suffer serious emotional everywhere
where "fear of bodily injury" appears

cover photos

(2c) add know or should

Proposed Stalking Changes---Wis. Stats. 940.32

1. As to sec. 940.32(a)
 11. by visual, audio, or other electronic means, monitoring and/or recording the activities of the victim wherever they are;
2. As to sec. 940/32 (2)(b)
 - (b) The actor ~~intends~~ knows or should know that at least one of the acts that constitute the course of conduct will place the specific person in reasonable fear of bodily injury to...or death to..., etc.
3. As to sec. 940.32(2)(a)(b)(c):

As to each paragraph before the words "to fear bodily injury" add the words "to suffer serious emotional distress" *or* "
4. Define "Serious emotional distress"

To cause, by intent, another to feel terrified, intimidated, threatened, harassed, tormented, embarrassed, alarmed or annoyed. (Vermont, Wyoming, Texas)

Also include language that states the following..."a victim need not show that he or she received professional treatment or counseling to show that he or she suffered serious emotional distress". (Colorado)

Please feel free to contact PATTI SEGER with any questions
255.0539

Thanks



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3046/2

MGD:.....

Handwritten initials "jld" and a circled "PI".

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

1

AN ACT ...; relating to: stalking. ✓

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:

2

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

3

940.32 (1) (a) 6m. Photographing, videotaping, audiotaping, or, through any

4

other electronic means, monitoring or recording the activities of the victim. This

5

subdivision ✓ applies regardless of where the act occurs.

6

SECTION 2. 940.32 (1) (a) 10. ✓ of the statutes is amended to read:

7

940.32 (1) (a) 10. Causing a person to engage in any of the acts described in

8

subds. 7- 6m. ✓ to 9.

9

History: 1993 a. 96, 496; 2001 a. 109. ✓

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

1 940.32 (1) (d) “Suffer serious emotional distress” means to feel terrified,
2 intimidated, threatened, harassed, tormented, embarrassed, alarmed, or annoyed.

3 **SECTION 4.** 940.32 (2) (a) of the statutes is amended to read:

4 940.32 (2) (a) The actor intentionally engages in a course of conduct directed
5 at a specific person that would cause a reasonable person under the same
6 circumstances to suffer serious emotional distress or to fear bodily injury to or the
7 death of himself or herself or a member of his or her family or household.

8 History: 1993 a. 96, 496; 2001 a. 109.

8 **SECTION 5.** 940.32 (2) (b) of the statutes is amended to read:

9 940.32 (2) (b) The actor ~~intends~~ knows or should know that at least one of the
10 acts that constitute the course of conduct will cause the specific person to suffer
11 serious emotional distress or place the specific person in reasonable fear of bodily
12 injury to or the death of himself or herself or a member of his or her family or
13 household.

14 History: 1993 a. 96, 496; 2001 a. 109.

14 **SECTION 6.** 940.32 (2) (c) of the statutes is amended to read:

15 940.32 (2) (c) The actor’s acts cause the specific person to suffer serious
16 emotional distress or induce fear in the specific person of bodily injury to or the death
17 of himself or herself or a member of his or her family or household.

18 History: 1993 a. 96, 496; 2001 a. 109.

18 **SECTION 7.** 940.32 (2e) (b) of the statutes is amended to read:

19 940.32 (2e) (b) The actor ~~intends~~ knows or should know that the act will cause
20 the specific person to suffer serious emotional distress or place the specific person in
21 reasonable fear of bodily injury to or the death of himself or herself or a member of
22 his or her family or household.

23 History: 1993 a. 96, 496; 2001 a. 109.

23 **SECTION 8.** 940.32 (2e) (c) of the statutes is amended to read:

1 940.32 (2e) (c) The actor's act causes the specific person to suffer serious
2 emotional distress or induces fear in the specific person of bodily injury to or the
3 death of himself or herself or a member of his or her family or household.

4 History: 1993 a. 96, 496; 2001 a. 109.

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

5 940.32 (3m) A prosecutor need not need show that a victim received or will
6 receive treatment from a mental health professional in order to prove that the victim
7 suffered serious emotional distress under sub. (2) (c) or (2e) (c).

8

(END)



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3046/P1

MGD:jld:rs

1

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

1 AN ACT to amend 940.32 (1) (a) 10., 940.32 (2) (a), 940.32 (2) (b), 940.32 (2) (c),
2 940.32 (2e) (b) and 940.32 (2e) (c); and to create 940.32 (1) (a) 6m., 940.32 (1)
3 (d) and 940.32 (3m) of the statutes; relating to: stalking

Analysis by the Legislative Reference Bureau

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

Analysis
Insert

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

4 SECTION 1. 940.32 (1) (a) 6m. of the statutes is created to read:
5 940.32 (1) (a) 6m. Photographing, videotaping, audiotaping, or, through any
6 other electronic means, monitoring or recording the activities of the victim. This
7 subdivision applies regardless of where the act occurs.

8 SECTION 2. 940.32 (1) (a) 10. of the statutes is amended to read:
9 940.32 (1) (a) 10. Causing a person to engage in any of the acts described in
10 subs. 7. 6m. to 9.

1.
-

1 **SECTION 3.** 940.32 (1) (d)^X of the statutes is created to read:

2 940.32 (1) (d) “Suffer serious emotional distress” means to feel terrified,
3 intimidated, threatened, harassed, tormented, embarrassed, alarmed, or annoyed.

4 **SECTION 4.** 940.32 (2) (a)^X of the statutes is amended to read:

5 940.32 (2) (a) The actor intentionally engages in a course of conduct directed
6 at a specific person that would cause a reasonable person under the same
7 circumstances to suffer serious emotional distress or to fear bodily injury to or the
8 death of himself or herself or a member of his or her family or household.

9 **SECTION 5.** 940.32 (2) (b)^X of the statutes is amended to read:

10 940.32 (2) (b) The actor ~~intends~~ knows or should know that at least one of the
11 acts that constitute the course of conduct will cause the specific person to suffer
12 serious emotional distress or place the specific person in reasonable fear of bodily
13 injury to or the death of himself or herself or a member of his or her family or
14 household.

15 **SECTION 6.** 940.32 (2) (c)^X of the statutes is amended to read:

16 940.32 (2) (c) The actor’s acts cause the specific person to suffer serious
17 emotional distress or induce fear in the specific person of bodily injury to or the death
18 of himself or herself or a member of his or her family or household.

19 **SECTION 7.** 940.32 (2e) (b)^X of the statutes is amended to read:

20 940.32 (2e) (b) The actor ~~intends~~ knows or should know that the act will cause
21 the specific person to suffer serious emotional distress or place the specific person in
22 reasonable fear of bodily injury to or the death of himself or herself or a member of
23 his or her family or household.

24 **SECTION 8.** 940.32 (2e) (c)^X of the statutes is amended to read:

1

analysis INSERT

as amended by Act 109,

(Act 109)

2001 Wisconsin Act 109 made substantial changes to the law on stalking. Under that law, a person commits the offense of stalking if:

1. He or she intentionally engages in a course of conduct directed at another person (the victim) that would cause a reasonable person under the same circumstances to fear bodily injury to or the death of himself or herself or a member of his or her family or household.

2. The person intends that at least one 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 (~~the~~ state of mind element).

3. The person's acts induce fear of that type in the victim.

Current law lists a number of acts that may be part of a "course of conduct," including: 1) maintaining a visual or physical proximity to the victim; 2) approaching or confronting the victim; 3) appearing at the victim's workplace or contacting the victim's employer or coworkers; 4) appearing at the victim's home or contacting the victim's neighbors; 5) entering property owned, leased, or occupied by the victim; 6) contacting the victim by telephone or causing the victim's telephone or any other person's telephone to ring repeatedly or continuously; 7) sending material by any means to the victim or, under certain circumstances, to a member of the victim's family or household or an employer, coworker, or friend of the victim; 8) delivering an object to property owned, leased, or occupied by the victim; 9) 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 that the object be delivered to the victim; or 10) causing another person to engage in any of the acts described in items 7) to 9).

A person also commits the offense of stalking if *all of the following apply*

1. The person was previously convicted of sexual assault or a domestic abuse offense against the victim.

2. The person engages in any one of the acts listed in items 1) to 10) *above* (as opposed to a course of conduct).

3. The person intends that the act 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.

4. The person's act induce^s fear of that type in the victim.

This bill makes several changes in the law relating to both types of stalking. First, the bill modifies the state of mind element for both types of stalking offenses. It replaces the requirement that the state prove the offender's intent with a requirement that the state prove that the offender knew or should have known (the level of intent required in the stalking statute before ~~the enactment of 2001 Wisconsin~~ Act 109) that at least part of the course of conduct (or the single act, in the



analysis insert
cont.

case of stalking by a repeat offender) would result in one of the specified adverse consequences (such as fear of bodily injury) for the victim. Second, the bill adds "causing a victim to suffer serious emotional distress" to the list of specified adverse consequences upon which a stalking conviction can be based. Thus, under the bill, causing, or engaging in conduct that the actor knew or should have known would cause, the victim to suffer serious emotional distress is treated the same as conduct that causes the victim to fear bodily harm.

Third, the bill specifies that photographing, videotaping, audiotaping, or, through any other electronic means, monitoring or recording the activities of the victim can be part of a course of conduct (or an act upon which a repeat offender stalking conviction can be based). Fourth, the bill specifies that causing another person to monitor or record the activities of the victim or to engage in any of the acts described in items 1) to 9) ^{2m} not just those listed in items 7) to 9) ^{2m} may be part of a course of conduct (or an act upon which a repeat offender stalking conviction can be based).

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

above ✓

(end ins)

Emery, Lynn

From: Delaporte, Robert
Sent: Thursday, November 06, 2003 9:00 AM
To: LRB.Legal
Subject: Draft review: LRB 03-3046/1 Topic: Stalking

It has been requested by <Delaporte, Robert> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-3046/1 Topic: Stalking

Dsida, Michael

From: Jensen, Jodi
Sent: Wednesday, November 19, 2003 1:31 PM
To: Dsida, Michael
Subject: LRB 3046/1 Stalking

Hi Mike,

After talking with Patti Seger, Rep. Huebsch has decided not to make any changes related to private investigators.

He does want to make the following change: On page three, lines 8 and 9, eliminate "embarrassed" and "annoyed" from the definition of serious emotional distress.

Let me know if you have any questions.

Thanks!

Jodi



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3046

MGD:jld:jf

2

2003 BILL

Regen

- 1 AN ACT *to amend* 940.32 (1) (a) 10., 940.32 (2) (a), 940.32 (2) (b), 940.32 (2) (c),
2 940.32 (2e) (b) and 940.32 (2e) (c); and *to create* 940.32 (1) (a) 6m., 940.32 (1)
3 (d) and 940.32 (3m) of the statutes; **relating to:** stalking.

Analysis by the Legislative Reference Bureau

2001 Wisconsin Act 109 (Act 109) made substantial changes to the law on stalking. Under that law, as amended by Act 109, a person commits the offense of stalking if:

1. He or she intentionally engages in a course of conduct directed at another person (the victim) that would cause a reasonable person under the same circumstances to fear bodily injury to or the death of himself or herself or a member of his or her family or household.

2. The person intends that at least one 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 (state of mind element).

3. The person's acts induce fear of that type in the victim.

Current law lists a number of acts that may be part of a "course of conduct," including: 1) maintaining a visual or physical proximity to the victim; 2) approaching or confronting the victim; 3) appearing at the victim's workplace or contacting the victim's employer or coworkers; 4) appearing at the victim's home or contacting the victim's neighbors; 5) entering property owned, leased, or occupied by the victim; 6) contacting the victim by telephone or causing the victim's telephone or any other

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person's telephone to ring repeatedly or continuously; 7) sending material by any means to the victim or, under certain circumstances, to a member of the victim's family or household or an employer, coworker, or friend of the victim; 8) delivering an object to property owned, leased, or occupied by the victim; 9) 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 that the object be delivered to the victim; or 10) causing another person to engage in any of the acts described in items 7) to 9).

A person also commits the offense of stalking if all of the following apply:

1. The person was previously convicted of sexual assault or a domestic abuse offense against the victim.

2. The person engages in any one of the acts listed in items 1) to 10) above (as opposed to a course of conduct).

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Third, the bill specifies that photographing, videotaping, audiotaping, or, through any other electronic means, monitoring or recording the activities of the victim can be part of a course of conduct (or an act upon which a repeat offender stalking conviction can be based). Fourth, the bill specifies that causing another person to monitor or record the activities of the victim or to engage in any of the acts described in items 1) to 9) above — not just those listed in items 7) to 9) — may be part of a course of conduct (or an act upon which a repeat offender stalking conviction can be based).

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

BILL

1 940.32 (1) (a) 6m. Photographing, videotaping, audiotaping, or, through any
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8 940.32 (1) (d) “Suffer serious emotional distress” means to feel terrified,
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10 **SECTION 4.** 940.32 (2) (a) of the statutes is amended to read:

11 940.32 (2) (a) The actor intentionally engages in a course of conduct directed
12 at a specific person that would cause a reasonable person under the same
13 circumstances to suffer serious emotional distress or to fear bodily injury to or the
14 death of himself or herself or a member of his or her family or household.

15 **SECTION 5.** 940.32 (2) (b) of the statutes is amended to read:

16 940.32 (2) (b) The actor ~~intends~~ knows or should know that at least one of the
17 acts that constitute the course of conduct will cause the specific person to suffer
18 serious emotional distress or place the specific person in reasonable fear of bodily
19 injury to or the death of himself or herself or a member of his or her family or
20 household.

21 **SECTION 6.** 940.32 (2) (c) of the statutes is amended to read:

22 940.32 (2) (c) The actor’s acts cause the specific person to suffer serious
23 emotional distress or induce fear in the specific person of bodily injury to or the death
24 of himself or herself or a member of his or her family or household.

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