

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Sen. Bill Yellowtail, on January 18, 1993, at 10:07 a.m.

ROLL CALL

Members Present:

Sen. Bill Yellowtail, Chair (D)
Sen. Steve Doherty, Vice Chair (D)
Sen. Sue Bartlett (D)
Sen. Bob Brown (R)
Sen. Bruce Crippen (R)
Sen. Eve Franklin (D)
Sen. Lorents Grosfield (R)
Sen. Mike Halligan (D)
Sen. David Rye (R)
Sen. Tom Towe (D)

Members Excused: Sen. Harp, Sen. Blaylock

Members Absent: NONE

Staff Present: Valencia Lane, Legislative Council
Rebecca Court, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 37
Executive Action: NONE

HEARING ON SB 37

Opening Statement by Sponsor:

Senator Towe, District 46, stated that one third of all women that have been murdered in this country were killed by their husbands and boyfriends and 90% of them were stalked before they were murdered. To stalk, to follow, harass, or intimidate, is not an offense under present law. SB 37 is a sensitive matter concerning constitutional rights. SB 37 requires five separate elements. In order to stalk under SB 37 you first must follow, or harass, threaten, intimidate, alarm or annoy. Each must be done knowingly and repeatedly and cause substantial emotional distress or reasonable apprehension of bodily injury or death in the victim. The offender must cease after being asked to stop.

Those who have been convicted of stalking would be subject to one year in jail or a \$1000 fine, a misdemeanor. A second offense would increase to a \$10,000 fine, 5 years maximum in jail, or both, making it a felony. If a person commits an offense after there has been a restraining order served, it would be a felony and subjected to a five year sentence, \$10,000 fine, or both. The perpetrators may be sentenced to pay all medical, counseling and other cost incurred on behalf of the victim as a result of the offense. SB 37 does not define the word harass or require a credible threat. SB 37 does not provide for an enhanced bail, an absence of bail, or a warrantless arrest. SB 37 exempts any constitutional activity, legitimate law enforcement investigation or any organized labor activity. SB 37 does not cover the areas of private investigators, licensed investigators, investigative journalist, workers compensation fund, or right to life associations. SB 37 deals with the concern of people who are harassed and feel threatened by someone who gets a charge out of following someone else. (Exhibit #1, Exhibit #2, Exhibit #3.)

Proponents' Testimony:

Representative Randy Vogel, District 86, talked about the frustration that he feels as a police officer, the inability to act when these stalking instances occur. Stalkers are generally known to the victim or have been identified. Currently there is no law that says you can not watch or follow someone, so nothing can be done to stop these people. Rep. Vogel stated that government should do something to protect these victims and pass SB 37.

Doreen Papich, told the Committee about a pedophile who was stalking her daughter during the last nine months. Ms. Papich said there was no protection for her daughter. Ms. Papich further stated that this matter has affected not only her daughter, but also her family. Ms. Papich urges support to pass SB 37.

Stacy Papich, Doreen Papich's nine year old daughter, told the Committee about the person who was stalking her.

Ruth Hill, Southside Task Force, told the Committee of her ordeal of being stalked after winning a civil suit.

Rodney Garcia, Chairman of Southside Task Force in Billings, read from prepared testimony. (Exhibit #4) Petitions in support of SB 37. (Exhibit #5)

Jerri Tate, Southside Task Force, urges the Committee to pass SB 37.

Kelly Vollrath, supports SB 37.

David Colton, South Side Task Force, stated he would like SB 37 to pass as soon as possible.

Susanne Hall read from prepared testimony. (Exhibit #6)

Senator Franklin, District 17, stated that stalking is not an isolated crime or a situation that only affects a few people. Senator Franklin asked the Committee to consider the extensive nature of this activity and the frustration of both the victims and law enforcement's limitations to respond appropriately. Senator Franklin asked the Committee to look at the proposed amendment and to pass SB 37.

Janet Thompson, resident of Red Lodge, told the Committee about the man stalking her. (Exhibit #7, Exhibit #8, Exhibit #9)

Jim Smith, Montana Psychological Association, told the Committee that the people who stalk are deeply disturbed individuals and the people to whom this is done suffer severe and long lasting emotional trauma that often times takes psychological counseling. (Exhibit #10)

John Conner, Assistant Attorney General, Montana County Attorneys Association, told the Committee about problems in SB 37. Mr. Conner feels it is not appropriate to require the stalked person to communicate to the stalking person to discontinue that behavior. Mr. Conner said the language was not defined if the communication is to be verbal, physical, or emotional. Mr. Conner stated he would like to work with the Committee on amendments for SB 37 so prosecutors will not have a problem enforcing the law.

Tim Shanks, Montana Police Protective Association, a police officer from Great Falls, spoke in support of SB 37 but stated there are some problems which need to be amended. Mr. Shanks said there is a need for an antistalking law and urges support for SB 37 in the amended form. Mr. Shanks read a letter from the Victim-Witness Assistance Services. (Exhibit #11)

Martin Timman, President of Montana Private Investigators Association and Security Operators Association, told the Committee that they support SB 37. Mr. Timman requested changes be made in the exemption portion of SB 37. This would cleanup certain cases in order to expedite the prosecution of individuals that are involved stalking.

Larry Nordell read from prepared testimony. (Exhibit #12)

Kathy Seacat read from prepared testimony. (Exhibit #13)

Joe McCracken, Superintendent of Lockwood Schools, told about an employee who was stalked and the effects on the employee. Mr. McCracken supports the passage of SB 37.

Loren Frazier, Executive Director of School Administrations of Montana, supports SB 37.

Amy Pfeiffer, Chair of Womens Law Section of the State Bar of Montana, supports SB 37, but has concerns about the bill. Ms. Fifer asked that the section regarding the victim having to ask the offender to stop the activity to be deleted. Ms. Fifer also asked that an amendment be made in the Marriage and Dissolution Code to include stalking as a reason to get a protection order. The third proposed amendment provides that a person who is accused of stalking would be required to see a judge to have bail set. Ms. Fifer told the Committee that Senator Franklin has the proposed amendments.

Diane Sands, Executive Director of Montanas Womens Lobby, stands in support of SB 37 and the proposed amendments.

Bergetta Hubbard told the Committee, on behalf of her friend Tracy who took two bullets to the chest and one to the head, that she believes a stalking law would have saved Tracy's life.

Arlette Randash, Montana Right to Life, urges consideration of amendment that would exempt pro-life activities under SB 37. Pro-life activity may be targeted because of the vague wording of SB 37. If SB 37 were successfully misapplied against a pro-life picketer that person may be subjected to a fine up to \$10,000 or 5 yrs in prison. The Montana Right to Life organization is not opposed to SB 37, but urges the consideration on an amendment to exempt pro-life activities.

Representative Tim Whalen, strongly urges the Committee to pass SB 37, including an amendment to exempt pro-life activities.

Bill Fleiner, Montana Sheriffs and Peace Officers Association, supports SB 37.

Representative Rice, District 36, supports SB 37.

Senator Forester, supports SB 37.

Opponents' Testimony:

Riley Johnson, Montana Broadcasters Association, supports the concept of SB 37. The concern is that the news media is not included in the exemptions. Mr. Riley submitted an amendment to address the news media. (Exhibit #14)

Charles Walk, Executive Director of the Montana Newspaper Association, opposes SB 37 as drafted and supports the amendment covering news gathering activities.

Questions From Committee Members and Responses:

Senator Crippen asked Mr. Conner about the constitutional provisions. Mr. Conner replied that it is not necessary to articulate general exemptions in SB 37. If a defendant felt their constitutionally protected activities were being infringed

on it would serve as a defense in a criminal case. When the language appears, when used in a general sense, it does cause some problems.

Senator Crippen asked Senator Towe why the phrase "constitutionally protected activity" was in SB 37. Senator Towe replied that when California enacted the first stalking law they put in an exemption for constitutionally protected activity and virtually every state has since. Constitutionally protected activities would alleviate the fears of some and avoid the need for making a list of exempted activities.

Senator Halligan asked Senator Towe about the provision to communicate to the stalker. Senator Towe said that provision gives us protection and if we take that provision out of SB 37 then we should define harass and address the question of a credible threat. Senator Towe feels that more is gained in protecting the victims who need protecting by leaving the provision in so SB 37 can be more liberal in other areas. This is a good provision because it is simple for the law enforcement person to go out and talk to the suspected stalker and say not to do that anymore.

Senator Halligan asked Senator Towe about the definition of substantial emotional distress. Senator Towe replied that substantial emotional distress is used in other states' statutes, but if the Committee wanted to, they could define it.

Senator Halligan commented that the bail provision in SB 37 needs to be looked at so we do not allow the perpetrator to post bail and get out. Senator Halligan suggested a notice provision to the victim when the person has posted bail. The temporary restraining order statutes need to be expanded to allow victims of stalkers be included as to those that can get a restraining order. Senator Halligan suggested a committee bill to deal with these issues. Senator Towe agreed with the bail provision, but didn't feel we needed to go beyond the family law section and reproduce the structure for restraining orders.

Senator Doherty asked Senator Towe whether it would be a crime if there was only one instance of stalking. Senator Towe said that was correct.

Senator Doherty asked about communication. Senator Towe said that anyone can communicate to the perpetrator to tell them to stop. The type of communication could be clarified in SB 37 if there is a need. Senator Towe feels there is merit in keeping the communication provision in SB 37.

Senator Doherty asked Mr. Conner about proof problems in communication to the perpetrator. Mr. Conner said that there would be problems unless there is testimony from a law enforcement officer that a communication to the perpetrator took place.

Senator Doherty asked Mr. Conner about the constitutional effects of listing specific exemptions to the bar against stalking. Mr. Conner said if specific exceptions were listed the argument would be that only those activities that were listed would be allowed; unlisted activities would thus be unlawful, even if they were otherwise constitutionally protected. Mr. Conner stated that it would be best for SB 37 to cover stalking only.

Senator Rye asked Mr. Walk if SB 37 would affect the media staking out someone's yard. Mr. Walk replied that it would.

Senator Grosfield asked Senator Towe about page one where it reads, "if it is impossible to communicate." Senator Towe said page one implies that if there was a situation where it is impossible to communicate it would create an exception. Senator Towe feels the Committee should work on that language.

Senator Grosfield asked Senator Towe about the effective date for SB 37. Senator Towe said he was not sure why the effective date for SB 37 is not effective immediately, but perhaps to allow law enforcement time to learn about SB 37.

Senator Franklin said she would like to work with Senator Halligan and Senator Towe on amendments.

Senator Halligan asked Mr. Conner about the warrantless arrest. Mr. Conner replied that under the law now, you have the right to make a warrantless arrest if there is probable cause to believe that an offense is being committed and circumstances require an arrest to be made.

Closing by Sponsor:

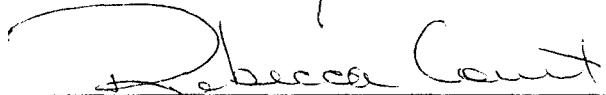
Senator Towe said the hearing has shown a good deal of controversy, but feels that everyone supports the idea and concept of SB 37. Senator Towe said the Committee will have to work on what exemptions should be allowed and the language to preserve the concept of a warning to make it easier to prosecute the offense of stalking. SB 37 does not want to prosecute the person who is unintentionally doing something that someone else views as harassment, but wants to prosecute the one who persists in stalking another individual. Senator Towe would like to see SB 37 passed and will help with any amendments.

ADJOURNMENT

Adjournment: 11:58 a.m.



BILL YELLOWTAIL, Chair



REBECCA COURT, Secretary

BY/rc

ROLL CALL

SENATE COMMITTEE

Judiciary

DATE 1-18-93

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty	X		
Senator Brown	X		
Senator Crippen	X		
Senator Grosfield	X		
Senator Halligan	X		
Senator Harp			X
Senator Towe	X		
Senator Bartlett	X		
Senator Franklin	X		
Senator Blaylock			X
Senator Rye	X		

F08

Attach to each day's minutes

Continued story

Stalker

From Page One

"Kids are getting watched every day," an angry Pabich says. "There has to be more protection out there for kids."

Pabich said her family first noticed the stranger three weeks before school ended last spring. Since then, she has learned that the man lives across town, but regularly drives to the South Side to watch and follow her daughter. He's frequently sat in his car and waited for hours to see the youngster, and has even driven down the wrong side of the street to follow her on her bicycle.

Immediately after noticing the stranger last spring, Pabich began contacting local authorities for help. She learned that the law is woefully inadequate for her problem. She tried to obtain a restraining order, but learned that she couldn't because the man wasn't a relative.

Frustrated officers have few laws to work with in such situations, according to Wilson. He says he favors the idea of enacting an anti-stalking law because "we officers could then do something."

"If he goes on private property, there's trespass laws, but on the open street, we're sort of limited," Wilson says.

The officer also said the loitering statute gives law enforcement some leeway, but only if a person is caught sitting in the same place for long periods of time. The man Pabich says is stalking her daughter has been charged with loitering, a misdemeanor, and awaits a non-jury trial in City Court Dec. 17.

Police have talked to the man and warned him to stay away from the Pabiches, but the harassment persists, Pabich says. He also has been undaunted by warnings from her family.

"The guy feels no threat," Pabich says. "What law is he breaking? There is no law."

Pabich says she's tired of the disruption in her life and the lives of her children.

"He has stopped our lives," an outspoken Pabich declares. "I'm afraid to leave home. I have to watch my house all the time. I have to watch my daughter all the time. He's damn dangerous, and I know that."

Stacee, whom Pabich describes as a bright, loving and smiling youngster, is held prisoner in her own neighborhood. Her family won't leave her alone for a moment for fear that the man will harm her physically. Already he has caused Stacee frequent nightmares that jolt her awake in the night, leaving her trembling in cold sweats, her mother says.

On the advice of a Yellowstone County prosecutor, Pabich turned to Montana Legal Services, where Deborah Anspach got her copies of anti-stalking statutes enacted in other states.

From there, Pabich set out on her own to get a similar law passed in Montana. She began contacting local legislators and enlisted support for her cause from Rod Garcia and the South Side Neighborhood Task Force, which is funding a petition drive to gain additional backing.

Armed with the petitions seeking public support for the anti-stalking measure, Pabich has visited schools and gone door-to-door at South Billings housing units. She was alarmed to find that other mothers know of other people who make a habit of stalking their children.

Pabich says she wants to increase public awareness of the problem and convince other people to join in her efforts. "We need people to help take petitions around the city," Pabich says.

The 37-year-old mother says she won't run out of steam until an anti-stalking law is passed.

"The rage is getting pretty bad with me," she says. "If I don't put full force into doing this, I think I could kill him."

But Pabich stresses that she can't get the law passed without the public's help.

"I'm tired of doing this every day," the mother says. "I can't rest. I can't let this die between here and January. What other choice do I have to protect my daughter?"

MAGAZINE



Christopher Columbus is the focus of much debate this year.

Columbus' legacy: The great debate

As 500th anniversary of Christopher Columbus' voyage approaches, people of all races and ages are reflecting on what has happened in "The New World."

— MAGAZINE/1E

BUSINESS

Lodging industry grows in Billings

With three hotels recently completed or under construction, the lodging industry is posting its biggest growth in recent years. The expansion bucks the national trend in which lodging has been hurt by the recession.

— BUSINESS/4D

Mother fights stalker's terror

She leads crusade for anti-stalking law

By RITA MUNZENRIDER
Of the Gazette Staff

FOR MONTHS, a man has stalked Doreen Pabich's 10-year-old daughter, Stacey, as she walks home from her South Billings school. But the law says he's done nothing wrong.

Pabich wants to change that. After learning that police officers' hands are tied, Pabich has turned to local legislators.

The Billings mother's story sparked the interest of several Billings lawmakers. Sen. Tom Towe, D-Billings, has asked the Montana Legislative Council to draft a bill for the upcoming session that would make it a crime to stalk or harass another person. Pabich has dubbed the measure "Stacey's bill."

"I think it is needed," Towe says. "The example given by Doreen certainly illustrates the need for it. That's why I agreed to get the bill drafted."

In the process, Pabich wants to make other parents and children aware that there is a problem with stalkers in Billings.

As recently as Thursday morning, Pabich saw the man in her neighborhood near Garfield School. Police officers, who have done what they can to help Pabich, say they've had other complaints about the same man.

Pabich emphasizes that her daughter is not the only victim. Other parents have told her of individuals stalking their children in Billings.

It is unknown how widespread the stalking problem is, partly because it has never been a crime. But Billings Police Patrolman Rusty Wilson says officers are aware of several individuals who stalk children and women.

(More on Stalker, Page 15A)



Gazette photo by Larry Meyer

Doreen Pabich is trying to get an anti-stalking law passed for her daughter Stacey.

Other states have passed laws to foil stalkers

California passed the first anti-stalking law in 1990, making it a crime to repeatedly follow or harass someone with a "credible threat" to cause fear of bodily harm.

Now Sen. Tom Towe has asked the Montana Legislative Council to draft a bill patterned after the California law, borrowing penalties from Arizona's statute. The local lawmaker wants to make it a crime for repeat offenders also who would be liable for violation of temporary restraining orders.

Besides California, at least 20 other states now have anti-stalking laws that are aimed at halting patterns of threats and harassment that often precede violent acts, such as assault, rape, child molestation and murder.

Stalking bills also are pending in other states and before the U.S. Congress.

While most state's laws are misdemeanors carrying penalties of a year or less in jail, laws in some states allow police to use against stalkers, proponents say.

The South Side Neighborhood Task Force has voted to support the proposed legislation for Montana. The organization invites all Billings senators and representatives to its regular meeting on Nov. 19 to discuss the measure.

Meanwhile, the task force also plans upcoming fund-raisers to help transport parents and other members of the public to Helena for the legislative session.

— 993 M

Local case spurs consideration of anti-stalking law

Suspect accused of new incident

By MICHAEL W. BABCOCK
Tribune Staff Writer

A Great Falls man convicted last year of assaulting a school girl by exposing himself to her has been jailed on charges connected with a new incident involving the same girl.

The parents of that girl and another who claims she was victimized by the man have convinced Great Falls legislators Rep. Sheila Rice and Sen. Eve Franklin to introduce an anti-stalking bill in the 1993 Legislature.

Charles Ferrill Patton, 28, was arrested Sunday afternoon at 4709 Diana Drive, the home of his par-

■ Local legislators assess the problem / 6A

■ What to do if you think you're being stalked / 6A

ents, after the 12-year-old girl he assaulted 18 months ago complained that he was following her again.

Police said Patton was driving in his car, and the girl was on her bicycle when the incident occurred Sunday at 3rd Avenue North and 27th Street.

They confirmed the girl was the same as the one Patton assaulted in May 1991.

Patton, who gave police a Helena address and told them he worked at a convenience store there, is charged with assault, driving while his license is suspended and criminal possession of marijuana.

On Tuesday, he pleaded guilty in City Court to the driving and drug charges but pleaded innocent to assault. Each of the charges is a misdemeanor and is punishable by up to six months in jail and a fine of \$515.

Judge Nancy Luth sentenced Patton to seven days in jail and fined him \$315 and ordered him taken immediately to jail.

Patton's bail had been set at \$115, but Assistant City Attorney Randy



Tribune Photo by Wayne Arnst

Charles Ferrill Patton appears in Great Falls City Court Tuesday.

Winner moved to increase that to \$10,000 and Luth scheduled a hearing on that for Friday at 10:30 a.m.

Last year Patton was convicted of assault and indecent exposure and was sentenced to six months in the Cascade County Jail. Luth ordered Patton released a month early to attend sex offender treatment sessions at a clinic in Helena.

At that hearing Luth asked Patton if he felt he needed treatment and he replied, "Yes, I do."

But Tuesday, Winner said Patton had dropped out of the classes one week after the court's jurisdiction over him ended.

Patton was convicted in Everett, Wash., in 1989 on three counts of lewd conduct. According to Linda Bond, administrator of the Everett Municipal Court, there is an outstanding warrant against Patton for unlawful use of weapons to intimidate another.

Great Falls Police Officer Keith Kercher explained that an assault charge can be filed when a victim is harmed through fear.

"If the victim has reasonable apprehension that (she) could possibly be injured, that is enough for an assault even if there is no contact," Kercher said.

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 1-18-93

FILE NO. SB3+

by
Donna Hunzeker

January 1993

Volume 1, No. 4

Stalking Laws

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

*Restraining orders
inadequate*

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

*Twenty-nine states
with stalking laws*

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

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

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

*Stalking defined,
classified*

States typically have defined stalking as willful, malicious and repeated following and harassing of another person. Most stalking laws require that the perpetrator make a "credible threat of violence" against the victim, and in many states, it includes threats against the immediate family of the victim. Many provisions require that the victim have "reasonable fear of death or great bodily injury."

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

SENATE JUDICIARY
SENATE NO. 3
DATE 1-18-93
BILL NO. SB37

NATIONAL
CONFERENCE
OF STATE
LEGISLATURES

Executive Director, William T. Pound

Copyright National Conference
of State Legislatures

Denver Office: 1560 Broadway,
Suite 700
Denver, Colorado 80202
303.830.2200

Washington Office: 444 N. Capitol St., N.W.,
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Nineteen states have both misdemeanor and felony classifications of stalking with up to one year of jail typical for first offenses. Tougher penalties of up to three, five and even six years often apply to second or subsequent stalking offenses. Enhanced penalties also apply in 18 states where a stalker violates a protective order.

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

Constitutionality

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

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

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

STALKING CRIME CLASSIFICATIONS

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

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

Selected References

Thomas, Kenneth B. *Anti-Stalking Statutes: Background and Constitutional Analysis*. Washington, D.C.: Congressional Research Service, Library of Congress, September 26, 1992.

Resnick, Rosalind. "States Enact 'Stalking' Laws." *The National Law Journal* (May 11, 1992): 3 and 27.

Contacts for Further Information

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SOUTH SIDE NEIGHBORHOOD TASK FORCE

BILLINGS, MONTANA

Chairman
Rodney Garcia
259-7812

Vice Chairman
Stephen Bradley

SENATE JUDICIARY COMMITTEE

FILED TO 4

DATE 1-18-93

FILED BY SB37

January 18, 1993

To: Senate Judiciary Committee

From: South Side Task Force

Good morning, I am Rodney Garcia, Chairman of the South Side Task Force of the City of Billings.

The South Side Task Force which was formed in 1977, has worked as neighbors to rebuild the older part of the City of Billings. And I must say, we have been very successful. But lets get to the issue on hand. Anti-Stalker laws are being demanded nation wide. Montana now has the opportunity to join other states that have passed Anti-Stalker laws. California being the first to pass such a law. At prsent their are 29 states that have Anti-Stalker laws. With Montana becoming number thirty and North Dakota being thirty first. Presently California, reports to having 142 cases since 1990 with 37 cases still pending. As according to Lt. John Lane of the L.A.P.D. As of today, according to Federal Agent Greg Hoenchen, who is with the Federal Bureau of Investigation, their are no National Statistics. Congressman Joseph Kennedy is offering a bill to Congress. Which will help define and enforce states stalking laws, with Federal support. This bill will be before Congress in 1993. With the nation eyes on Montana. This August body, has a unique opporunity to show a leadership role in the support of this important bill before this committee. The South Side Task Force has taken a role in researching and drafting of this important bill before you. We support the bill as drafted. Although we understand their are groups which believe exemptions should be granted.

EXHIBIT 5, 1/18/93, SB 37, IS STORED AT THE HISTORICAL
SOCIETY AT 225 NORTH ROBERTS STREET, HELENA, MT 59620-1201.
THE PHONE NUMBER IS 444-2694.

Testimony for anti-stalking bill January 18, 1993

My name is Suzanne Hall. I live in Bozeman and I am here to speak in support of the proposed anti-stalking bill. For the last ten months I have lived in fear of a man with whom I used to live. He threatened to kill me, he watched my comings and goings, he followed me, he chased me, and he made regular visits to my property. He terrorized me. Even though I obtained a restraining order and worked very closely with the police, the legal system did almost nothing to help ensure my safety. I'd like to tell you about some of the things that have happened to me and how the legal system responded.

During the time that Joe and I were ~~splitting up~~ ^{ending our relationship} in April of 1992 a number of very frightening things happened. He threatened to kill me by holding a knife to my throat and ~~telling~~ ^{told} me that if I didn't change he would slit my throat. My cat disappeared, my car engine blew up, and he took all of the money in our savings account. He followed all of this by telling me that the coup de gras was still to come and that he would make it impossible for me to remain living in Bozeman.

I went to the police to tell them that I thought my safety was in danger. The police suggested that I obtain a restraining order against him. That same day I went to the courthouse and within a few hours had obtained a judge's approval for a restraining order to be served. I told the sherrif's department where they could find ~~him~~ ^{Joe}, but it took them 5 days to get around to serving him, during which time he wasn't even aware that I had filed any complaint, ^{nor was I yet protected by the order.}

The restraining order stated that Joe could not harm, bother, molest, disturb, follow, harrass, intimidate, telephone, or threaten me ^{in any way}. Violation of the order would be considered a criminal offense. The wording souned good and in my naivety I assumed that once the restraining order had been served, my trouble with Joe would be over. I have since learned that this is rarely the case with restraining orders ^{both because of the disregard for the order after it's served by those who have the orders served to them — and because of weak enforcement of the order.} Over the next seven months Joe violated the terms of the restraining order again and again, very often in terrifying ways. The BPD

by law
enforcement
officials.

became very supportive of me as the weeks and months went past and Joe continued doing what he had been ordered to stop ~~doing~~. The police always responded to my calls promptly and with sincere concern but in essence they acted like a secretarial service for me, logging in incidents and complaints but doing nothing more for me. Under the city's interpretation of the restraining order they were unable to do anything to protect me from Joe.

I can't count the number of times that I heard a heartfelt "I'm so sorry that this is happening to you. I wish we could do something for you." But the police had their hands tied. As the restraining order was interpreted and used by the city of Bozeman the police had to log in each complaint of a violation, make a written report to the city attorney, who in turn had to make a written request to the city judge. (This can be an incredibly slow process. In one instance it took upwards of two weeks, even with persistent calls to the city attorney's office from myself and my personal attorney.) It is then up to the judge's discretion (getting the story third hand at this point) whether an arrest warrant is justified. Unlike many other crimes,

Under the city's interpretation of the restraining order the only exception to this (~~in practice at least~~) is if Joe were to physically injure me. The restraining order was established to protect me from someone who a judge had deemed to be a serious potential threat to my safety and welfare, but getting Joe arrested for a violation of the order seemed to take forever in the few cases that it did happen, but in most cases ~~never happened at all~~.

I'd like to share with you some of the things that I have had to live with this past year, ~~but~~ that Joe was technically responsible for under the restraining order, and that with a strong anti-stalking law ~~that~~ I know he would have been in deep trouble for.

Over the spring and summer a pattern developed. Every time I would see Joe (for example just passing in our cars on the street), something creepy would happen within the next few hours. Usually it amounted to something being stolen from my yard or a crash in the night, which usually turned out to be porch furniture being turned over. On one occasion I had a stink bomb thrown in a window in the middle of the night. Another time I came home ~~from a~~ ~~work~~ to find that all of my flower beds around my house had been doused with gasoline. On each occasion the police took a report, but did nothing to Joe. They were afraid that since there was

for the city attorney to get around to even looking at a complaint

is a suspect is simply identified and arrested - the process for a restraining order is a bureaucratic mess.

I was told by the attorney

me, hearing

"
no hard evidence linking these things to Joe, their approaching him or interrogating him could be viewed by Joe as harrasment, something they didn't want to get charged with.

Joe also made it a habit to sit in his car near my house, drive up and down the dead end street that I live on, and watch me as I went about my business downtown. I never went anywhere without looking out for him. I jumped every time I saw a car that looked like his and ~~pretty well came out~~ every time ~~when~~ it was him. I kept my house and car doors locked at all times. I stopped letting my cat go outside. I wouldn't go to public places with my friends for fear that he would show up. I basically stopped living my life.

to stay with my sister - just to be out from under his watchful eye - but then I'd worry that some thing would happen to my house while I was gone
Over a period of months I received literally hundreds of hangup phone calls. This began immediately after Joe moved out. They came at all hours of the day and night. I had my phone number changed, unlisted and was very careful about who I gave it to, but somehow he got ahold of it almost immediately and the calls continued. The city attorney told me that all I needed was proof that at least three of these calls were coming from Joe's phone and they could prosecute on two counts, violation of the restraining order and violation of the privacy in communications act. I went through the difficult process of getting US West to put a tap on my phone and then for a three week period had to log ~~and report~~ all suspicious calls.. During this time I reported about 40 calls. Most of the calls turned out to be coming from payphones on the MSU campus where Joe is a student and from other payphones around town, but we did get 4 calls coming from his phone. This was one more than we needed to prosecute. The police made the necessary report to the city attorney and that's where it ended. The city attorney ~~admitted~~ *changed her tone and said* that she didn't think we had enough for a case. The one thing that she did do was to write Joe a letter threatening him, letting him know that she had evidence against him and that she would prosecute him on those charges if he did anything else. We all thought that this would be a great deterrant to further activity but we were wrong. The letter didn't seem to phase him as a week later he approached me at a bar and tried to talk to me, then when I left the bar he followed me across town. When this happened I was sure the city would have him arrested *and prosecute on the telephone charges.* ~~Again - nothing happened.~~ Because I was in such fear of him and his potentially violent reactions to things I have been afraid to date for most of this last year. I was afraid of the violent ~~reaction~~ *other men* that might occur if he saw me with a male friend. On the first date I did have (4 1/2 months

after I had split up with Joe), Joe saw and approached me. When I ignored his demands for me to tell him the name of the man I was with he became enraged and yelled obscenities at me. When I arrived home that night I found that some belongings had been stolen from my porch and that my yard had been doused with gasoline ^{once} again. I made a report to the police and feeling certain that I wasn't safe staying at my home alone, I went to spend the night at a girlfriend's house. When I returned in the morning I saw that he had returned sometime before dawn, as more things were missing from my yard.

After this incident the police were so fed up and frustrated that they did call him in for questioning (though they felt that they still didn't have the evidence to legally interrogate him) The police did their best to frighten and threaten him, but their talk didn't work. He went right back to his tricks. *but they took the chance.*

On another occasion when I had a date, Joe followed us into a bar and chose to sit at a table right behind us. When we got up to leave he followed us into the parking lot. I called the police and requested that they ask the city attorney to request an arrest warrant. Nothing was done *by the city attorney or the judge.*

Because the system has been so ineffective in guarding my safety and in keeping Joe away from me, I have had to hire both a private investigator and a lawyer. This has amounted to quite an expense for me. An expense that most of us cannot afford.

watch my house during times that the private inv. has been available to watch me and that I felt Joe was the most dangerous.

An interesting note is that since Joe and I split up I have been hearing stories of other women who have also had a terrible time with him. None of them, however were brave enough to warn me about him for fear that he would begin terrorizing them again. There is an incredibly consistent and frightening pattern from woman to woman. Two of the women never even dated Joe, but because they thwarted his advances he began harrassing them. Both of them were frightened to the point that they bought guns and kept them loaded. A third woman actually fled the state to get away from him, and she has never let him find out where she is.

we together
been very careful to

I have also been hearing through the grapevine that Joe has gone out of his way to get close to people who know male friends of mine in order to get information about ~~my~~ relationships with ~~them~~ *their* me.

EXHIBIT 6

1-18-93

has been going as far as to ask people who he doesn't even know, and who hardly know me - if they know anything about my sex life.

Finally, ^{to my relief,} ~~in the last few months~~ Joe has been arrested twice. The first time was for chasing a friend and myself across town in his car. ~~we were scared the headlights out of us~~ And it only let up when he saw that ^{we were petrified} we were driving toward the police station. The second time was for ^{when it was happen} approaching and following me in the grocery store, and then prohibiting me from leaving when I finally left my shopping ^{car} and tried to go to my car. He has been charged with 4 counts of violation of the restraining order. He has plead not guilty to all charges, has requested a jury trial, and has hired a lawyer to represent him. We will probably see a court date in the next month or so and I look forward to it with ^{a great amount of} fear. Two of the women who have had similar problems with Joe have made sworn statements that will be read and used in sentencing if he is convicted. In addition to my own safety I am now nervous for the safety of these two women. It was 10 months ago that this all started, but I still keep a can of mace beside my bed. These two other women think I'm crazy not to have a gun and have warned me that ^{I'm told that if Joe is convicted he'll probably} I've told that if Joe is convicted he'll probably

serve a maximum of a week or two in jail and pay up to \$2000 fine.

The bottom line is that I am petrified of this man. He has watched me, followed me, harassed me, intimidated me, and he has chased me. The restraining order has done nothing to keep him away. Having the police haul him in, interrogate him, and remind him of the restraining order, didn't work. Receiving a letter from the City Prosecutor telling him that the city has evidence ~~that he was making~~ ^{the incredible support of my family} ~~harassing phone calls to me~~, that this was serious and punishable, and that he would be prosecuted if the pattern continued has had no effect on the man's behavior.

I want to know when I ^{can look forward to} ~~will finally~~ feel safe living in Bozeman? I have really felt all along that he was that one being protected and that he has been allowed more rights than me. I am so sick of hearing the police say that they have to be careful not to harass him. I want to see that man get a taste of his own medicine.

The alst thing that I want to leave you with is a word of advice that I got from two different police officers. Thees officers were two people who had come to be very concerned about me and who I had come to appreciate and respect. Separate of one another these two officers told me that based ^{to share} ~~on the kind of mentality Joe had~~, and based on the currnt legal system, there was only one thing that could

→ Joe's behavior

effectively
be done to force Joe into leaving me alone. They suggested that I go outside the legal system, take the law into my own hands and find someone or a group of someones, to beat the daylights out of Joe and give him the scare of his life. I think that's a pretty heavy statement about the lack of power ~~in the~~ system when it comes to protecting its citizens.

under the
current system

Those are the sentiments
of two concerned and
frustrated cops.

I can't imagine that this bill won't pass - what concerns me is how well it will be enforced to protect people like the Pabich family and myself.

I hope it works.

EXHIBIT 7, 1/18/93, SB 37, IS AN AUDIO CASSETTE. IT IS
STORED AT THE HISTORICAL SOCIETY AT 225 NORTH ROBERTS
STREET, HELENA, MT 59620-1201. THE PHONE NUMBER IS
444-2694.

Stalking Legislation Sweeps the Nation

Violent, harassing and threatening behaviors toward innocent citizens have always been a serious problem particularly for victims of domestic violence and sexual abuse. Yet it has taken a series of high profile cases during the last few years — often involving celebrity victims — to focus public attention on stalking as a serious crime problem.

While laws such as protective injunctions and stay-away orders do exist to protect victims from violent pursuers, law enforcement officers may not intervene until such orders have been violated. By then, it is usually too late to prevent the offenders from harming or even killing those whom such orders were designed to protect.

In recognition of the ineffectiveness of such orders and in response to a series of tragic crimes committed by perpetrators who stalked and harassed their victims before turning to violence, California passed the nation's first "stalking" law in 1990. In simple terms, the law makes it a crime to engage in a pattern of behavior that harasses and/or threatens other people. Its purposes are two-fold: to eliminate behaviors which disrupt normal life for the victim, and to prevent such behaviors from escalating into violence.

In July 1991, the Center included the concept of stalking laws in its *Crime Victims and Corrections* training and technical assistance project sponsored by the U.S. Department of Justice Office for Victims for Crime. Two months later, Center staff appeared on NBC's *The Today Show* and *A Closer Look with Faith Daniels* to emphasize the importance of stalker laws. In September 1992, Center staff joined journalist Ted Koppel on ABC's *Nightline* to defend the constitutionality of such legislation.

California's landmark legislation has led to an unprecedented deluge of "anti-stalking" legislation nationwide. To date, twenty-seven states have passed laws based on the California model this year alone.

In most states, stalking is defined as the "willful, malicious and repeated following or harassing of another person, and requires the existence of a credible threat of violence." Penalties for violation vary; however, most carry a penalty of one year in jail and/or a \$1000 fine.

Senator Bill Cohen (R-ME) has introduced legislation which charges the National Institute of Justice with developing a model stalking law which should pass constitutional muster. This model would then be made available to state legislators.

In Los Angeles, stalking laws have led to the creation of the four-member *Threat Management Division* of the Los Angeles Police Department. In the last year and a half, the Division has handled more than 150 stalking cases. In other states, law enforcement officials are already making arrests under these newly passed statutes.

The National Victim Center has acted as an information clearinghouse regarding stalking laws. By providing interested legislators with information and technical assistance, and heightening public awareness through the media, the Center has assisted many states in drafting and passing anti-stalking laws. The Center intends to keep abreast of all aspects of this significant and expedient legislative trend.

For additional information, please contact the Center's Director of Public Affairs, David Beatty, at (703) 276-2880.

States With Anti-Stalking Laws

- California
- Colorado
- Connecticut
- Delaware
- Florida
- Idaho
- Iowa
- Illinois
- Hawaii
- Kentucky
- Louisiana
- Massachusetts
- Mississippi
- Nebraska
- New York
- North Carolina
- Ohio
- Oklahoma
- South Carolina
- South Dakota
- Tennessee
- Utah
- Virginia
- Washington
- West Virginia
- Wisconsin

SENATE JUDICIARY

SENATE NO. 7

1-18-93

SEN. NO. 50 31

BROWN
GERBASE CEBULL
FULTON HARMAN
ROSS P.C.
LAW FIRM, EST. 1911

Rockwood Brown
C.J. Gerbase, Jr.
Richard F. Cebull
Angus B. Fulton
Steven J. Harman
John Walker Ross
John J. Russell
John A. Dostal
Michael W. Tolstedt
Michael P. Heringer
Guy W. Rogers
Scott G. Gratton
Timothy A. Filz

315 North 24th Street
P.O. Drawer 849
Billings, Montana 59103-0849
406 248-2611
FAX 406 248-3128

August 15, 1991

Erwin Draper
Box 766
Red Lodge, MT 59068

RE: Janet Thompson

Dear Mr. Draper:

Enclosed you will find a check from Janet Thompson in the amount of \$50.00 as payment in full for your services in cleaning her yard. This payment is made pursuant to our agreement that this is payment in full, and that you will not attempt to further collect on the bill for \$200 which was previously provided to Ms. Thompson.

If you have any further questions, please advise.

Sincerely,



JOHN A. DOSTAL

JAD:jm
Enclosure
cc: Janet Thompson

DATE 1-18-93
FILE NO. SB 37

BROWN
GERBASE CEBULL
FULTON HARMAN
ROSS P.C.
LAW FIRM, EST. 1911

315 North 24th Street
P.O. Drawer 849
Billings, Montana 59103-0849
406 248-2611
FAX 406 248-3128

Rockwood Brown
C.J. Gerbase, Jr.
Richard F. Cebull
Angus B. Fulton
Steven J. Harman
John Walker Ross
John J. Russell
John A. Dostal
Michael W. Tolstedt
Michael P. Heringer
Guy W. Rogers
Scott G. Gratton
Timothy A. Filz

August 6, 1991

Irwin Draper
Box 766
Red Lodge, MT 59068

RE: Janet Thompson

Dear Mr. Draper:

Our offices represent Janet Thompson. She has requested that I notify you that she no longer wishes any personal contact with you whatsoever. You are to cease calling her, coming to her place of residence, or even attempting to talk to her in public places. If you do not cease your intrusions into her personal life, she will obtain a restraining order against you. Then, any violation of the restraining order will be a contempt of court punishable by a jail sentence and/or fine. Janet does not want to put either of you through the time and expense of such a proceeding. Only your future actions will determine whether it is necessary.

You have threatened to tell "everything" so that gossip can be spread about Janet. I will remind you that the dissemination of false information to others will subject you to a libel and slander lawsuit for damages by Janet.

You have sent a bill for yard work to Janet in the amount of \$200. Janet did not request your services. She only asked you to watch her house and to water her plants. There was no promise by her for payment of any kind. Although she owes you nothing, she may be willing to pay you something for your services, but not \$200.00.

If you have any questions regarding this letter, do not call Janet. Please call me.

Sincerely,



JOHN A. DOSTAL

JAD:jm
cc: Janet Thompson

1-18-93
SB 37

**COUNSELING & CONSULTATION
SERVICES**

P.O. BOX 21472
BILLINGS, MONTANA 59104

SENATE BILL NO.

10

DATE

1-18-93

FILE NO.

SB37

CHERYL L. SULLIVAN, M.S.
NORMAN S. HONEYMAN,
Ph.D.

(406) 252-3355

1/8/93

Dear Mr. Smith: Re Senate Bill #37

In response to our phone conversation - I have worked with female survivors of Domestic abuse for the last 15 years here and in California.

I cannot count the times I have had a terrorized woman in my office who recounts an all too familiar story of a rampaging husband who has threatened to kill her after she has left a long term abusive relationship. This fear often keeps them in the abuse longer than they might have stayed. They recount numerous beatings, guns held to their heads and threats "if you leave me you'll be killed!!" or "the kids".

After they leave they and their children live in fear. He often sends them beatings and the kids, vandalizes her car, terrorizes her one and over. Her only recourse is to run and keep on running.

COUNSELING & CONSULTATION SERVICES

P.O. BOX 21472
BILLINGS, MONTANA 59104

II

CHERYL L. SULLIVAN, M.S.
NORMAN S. HONEYMAN,
Ph.D.

(406) 252-3355

on to defend herself. If she chooses the latter she often ends up in prison.

I have no solutions to offer at these times when they are the victims of obscene phone calls and death threats and daily harassment. Some of them are killed my wife, a counselor handled a case in Reno, Nevada where after months of harassment "he" hid in his ex-wife's car and shot her in the head - she died, he's in prison and the children's lives were destroyed.

Please provide some measure of safety for the women of Montana -

Please pass the Anti-Stalker law - for us all

Sincerely,

Norm Honeyman PhD



VICTIM-WITNESS ASSISTANCE SERVICES

P.O. Box 5021, Great Falls, MT 59403 Ph. 727-5881 ext. 207

January 15, 1993

Senate Judiciary Committee
State Capital
Helena, MT 59620

RE: Anti-Stalking Legislation SB 37

Victim-Witness Assistance Services (V-WAS) supports the concept of anti-stalking legislation. We have been involved in a case where a juvenile was victimized in this manner and the trauma she is dealing with is very real. There SHOULD be a law to protect innocent citizens from this type of predatory behavior.

V-WAS has a concern with the draft of SB 37 as it stands. It seems much too vague and general to hold up in court. We know that the criminal justice system, with its mandate to protect the accused until proven guilty, often re-victimizes the victim in the process of prosecuting the offender. Passing a generalized statute that will be successfully challenged on appeal is not in the best interest of the victim.

Several states have already had experience with enacting legislation that passes court scrutiny. One source to contact regarding these successful statutes is David Beatty, National Victim Center's Director of Public Affairs, (703) 276-2880.

The whole mission of V-WAS can be capsulated in the phrase "restore and enhance the well-being of the crime victim." We know that is the intent of SB 37 and we applaud that intent. However, we cannot support the statute in its present form.

On behalf of V-WAS, sincerely,

Delnita Davis
Chair

SENATE JUDICIARY

FILE NO. 11

DATE 1-18-93

FILE NO. SB37

January 18, 1993
Senate Judiciary Committee
SB 37, "An act creating the offense of stalking"
Senator Tom Towe

Testimony of Dr. Lawrence P. Nordell
1953 Oro Fino Gulch
Helena, Montana 59601
443-4817

SENATE JUDICIARY
EXHIBIT NO. 12
DATE 1-18-93
BILL NO. SB37

My name is Larry Nordell. I am an economist with the Montana DNRC. My appearance here is on my own behalf, not that of DNRC, and I am testifying on my own time.

My interest in this issue comes because a member of my family has been a victim of stalking for most of the past year, and I am here to tell you that stalking also victimizes family and friends. Our lives have been disrupted by worry and anger and rage at our inability and the inability of the legal authorities to put a stop to the behavior. I had to make an emergency trip to Bozeman to accompany my sister-in-law when she entered her apartment after finally getting her ex-boyfriend to leave, not knowing what or who we would find there. My father-in-law has made several emergency trips from his home in Massachusetts to stay with his daughter to deter the threat and harassment. My brother-in-law came up from Utah to help her, and to talk to the Bozeman police to ask for help. My 9 year old son, who was also for a while the subject of this person's attention, goes into a state of panic if he thinks he recognizes the person in a crowd.

Last summer I started collecting stalking legislation from different states. At last count I was up to 26. The problem of stalking is not confined to Montana. An old friend of mine, Ellen Story, who was a freshman legislator in Massachusetts last year co-sponsored their stalking bill, and read into the record a list of 29 cases in the previous year of women who had been harassed and stalked and finally murdered by former husbands or boyfriends. The bill was supported by the Governor, Attorney General, leadership of both parties, police organizations and battered women's groups. My friend suggested that you call William Bulger, the President of the Massachusetts Senate; Charles Flaherty, Speaker of the House; Scott Harshbarger, Attorney General, or Governor William Weld, if you have any questions about how important they thought their stalking bill was. The Massachusetts bill passed unanimously. We can do the same.

This bill is a response to public outrage over a rising pattern of obsessive behavior. Stalking offenses result from obsessions: obsession with an individual, obsession for revenge. We have read countless newspaper articles of such events. Most often we read of rejected spouses or lovers who want revenge, and who make life a permanent terror for their target until the stalker either tires of it or finds a new victim or decides to take his victim's life. But obsession is not bound by emotional ties, as obsessions with

strangers are also a common story, whether it is with a celebrity, as in the well known case of David Letterman, or a child's face in the street, as in the case in ^{Great Falls} Billings that was one of the cases leading to this bill. What is common to these cases is the fear raised in the victim and the apparent inability of the law to do anything until someone is killed. Montana needs a way to stop these crimes before they escalate, to protect people from interference with their enjoyment of their lives. We need a law that will make a strong statement that obsessive stalking will not be tolerated and that the full force of law will come down on a violator.

Senator Towe's bill is a good start. It has a good defensible definition that does not depend on intent, and it provides a stiff penalty for first violation and a stiffer one for repeat violations and for violating a court order. I have looked at around 26 different states' stalking laws and would like to suggest some additions to Senator Towe's bill.

1. Definitions:

Delete: ~~If it is possible to communicate a request to the person to stop and if the person after being asked to stop~~

Reason: The person may be afraid to communicate with the stalker, or may not know who it is (eg phone harassment or anonymous tricks). Further according to the definition, if it is not possible to communicate then the offense doesn't exist.

Add: causes or uses another person to cause

Reason: An obsessive stalker may enlist friends or strangers to help in harassment, or may distribute the victim's telephone number with a suggestion to harass.

Additional sections for consideration that may have been included in other states' stalking legislation:

1. Denial of bail: Some states provide that a judge may deny bail if a stalker has violated an order to cease the harassment or to stay away from and not communicate with the victim. Montana should have this in our stalking law.

2. Warrantless arrest: Again, some states provide that a stalker may be arrested without a warrant if he or she is in violation of a judge's order to avoid communicating with or to stay away from the victim.

3. Rules of evidence at bail hearing: In conjunction with (1), if a stalker is in violation of a court order or if there is a repeated pattern of offense, a lesser standard of evidence may be appropriate at the bail hearing. In particular some states do not require the victim to be present to testify. The stalker's rights are maintained at the trial, but the victim is provided an

EXHIBIT 12
DATE 1-18-93
SB 37

additional protection against intimidation.

4. Notification of victim of change in stalker's status: If a stalker is released on bail, or released on parole or sent to a prerelease center or moved to another location, the victim of stalking should be required by the law to be notified by the authorities.

5. Previous violations count: A function of the law is to provide disincentive to obsessive stalking. If stalking is a violation of the law, a stalker should face a stiffer penalty for a second violation even if the first violation took place in another state or against a different victim.

6. Minimum sentences: The draft bill contains maximum sentences that are adequate, but should also contain minimum sentences. A stalker should not be able to get off by arguing that his behavior was justified by the victim's rejection.

7. Sentences to run consecutively: Repeated offenses should add to the time a stalker must serve, and sentences for repeated offenses should run consecutively, not concurrently.

8. Effective date: The bill should become effective upon signing. There are too many cases of stalking going on now to wait until July 1 to put the bill in force.

9. Additional deterrence: I have not come across this in any other state, but a possible additional deterrence might be available through seizure of assets. Allow a court to seize a stalker's car, house, bank accounts and he may come to realize the behavior is too costly to continue.

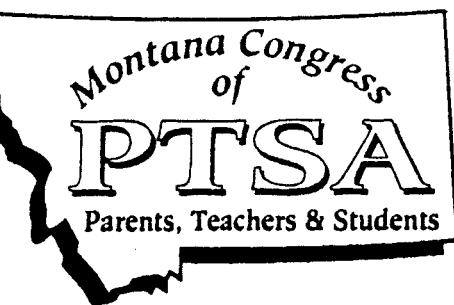
10. Self-defense: *Finally, we should*

~~offer a victim the right to defend themselves and the sanctity of their lives with at least the possibility they won't have to trade their lives to the state instead of the stalker. I suggest that if a victim of stalking uses force, even deadly force, to deter a stalker who has repeated and credibly threatened them then there should be a presumption of self-defense for their actions. Colorado's stalking bill contains a definition of credible threat that could be used in this context. It reads as follows:~~

(b) For the purposes of this subsection (4), "credible threat" means a threat that would cause a reasonable person to be in fear for the person's life or safety, and "repeatedly" means on more than one occasion. [C.R.S. 18-9-111(4)]

As parents of Suzanne Hall of Bozeman, a woman whose life has been ruled by a stalker for the better part of a year, we implore you to do all in your power to pass an effective bill to save her and others from further stalking and harassment.

Ann and Vernon Hall
10 Worcester Rd
Princeton Massachusetts 01541



Testimony S.B. 37

Senate Judiciary Committee

SENATE JUDICIARY

EXHIBIT NO. 13

DATE 1-18-93

FILE NO. SB37

Chairman Yellowtail and Members of the Senate Judiciary Committee;

I am Kathy Seacat, Legislative Coordinator for the Montana Congress of Parents, Teachers and Students. We are commonly known as the Montana PTSA and we are the largest child advocacy organization within the state. The National PTA, our parent organization, is the largest child advocacy organization in the nation with 7 million members. The welfare and safety of children and youth is at the heart of all we do and advocate. One of our objects is to secure adequate laws for the care and protection of children and youth in our state and nation.

Today I am here on behalf of the 10,204 members I represent to address S.B. 37 and to ask you to support "creating the offense of stalking." The National Conference of State Legislatures in its January 1993 'Legisbrief' (Volume 1, No.4) on Stalking Laws states that twenty-nine other states have stalking laws. The NCSL also states that "typically states have defined stalking as willful, malicious and repeated following and harassing of another person. Most stalking laws require that the perpetrator make a 'credible threat of violence' against the victim, and in many states, it includes threats against the immediate family of the victim. In some states with a felony stalking provision, bail can be established to increase the likelihood or duration of detention of alleged stalkers."

'Newsweek' (Vol:120, Issue 2, Pg 60-62) in an article entitled "Murderous Obsession" states that "behind almost every state bill has been at least one local tragedy. The new laws aim at halting a pattern of threats and harassment that often precedes violent acts, from assault to rape, child molestation and murder. Stalking can involve celebrities, co-workers or complete strangers. Not all victims are female. Law enforcement officials admit there is very little they can do in the face of a persistent stalker. The new laws do give police one more weapon to employ against stalkers--and if they deter even a small percentage of crimes, that's better than none."

Our children are not immune from this menacing and growing phenomenon. PTA's across the state want action. Crystal Peterson, a ten year old, from Independence, Oregon, population 3500, was stalked for three years by a neighbor. In an article from 'Good Housekeeping' (November 1992) her parents were quoted to say "Fear moved into the family home, we kept the shades drawn, argued and kept the kids indoors and out of sight. The whole family became obsessed with his obsession."

Let's offer the children of Montana legal protection from stalkers. Please support the passage of S.B. 37 with the strongest legal penalties possible. Thank you for your time and attention.

Kathy Seacat
2710 Tizer Road
Helena, MT 59601
443-6637

PROPOSED AMENDMENT TO SB-37

Line 24

Following: "investigations,"

Insert: "news gathering activities"

END

SENATE JUDICIARY
AMENDMENT NO. 14
DATE 1-18-93
SB 37

DATE 1-18-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: S.B. 37 Sen. Towne

Name	Representing	Bill No.	Check One	
			Support	Oppose
Amy Pfeifer	Women's Law Section, State Bar	SB 37	<input checked="" type="checkbox"/> with amend.	<input type="checkbox"/>
RILEY Johnson	MT. Broadcasters Assn	SB 77	<input checked="" type="checkbox"/> with amend.	<input type="checkbox"/>
Ron Silvers	Center for Sexual Health Mental Health Services	SB 37	<input checked="" type="checkbox"/> with amend.	<input type="checkbox"/>
Tim Shanks	MT Police Protective Assn	SB 37	<input checked="" type="checkbox"/> concept	<input type="checkbox"/>
Chico Elbert	MT Newspaper Assn	SB 37	<input type="checkbox"/>	<input checked="" type="checkbox"/> amend
Stephen E. Bradley	Booth Side Task Force	SB 73	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kep Landy Legal	HD 86		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kelly Vollrath	self	SB 73	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kathy Seacat	Montana Parents Teachers & Students	SB 37	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Maureen Timmerman	Pro-Conf. Parent Association	37	<input checked="" type="checkbox"/> Amendment 1	<input type="checkbox"/>
Suzanne Hall	self	37	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Larry Nordell	self	37	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amyth Dupuis		37	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chico Elbert	support with amend with Montana Right to Life	37	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Jim Smith	MT. Psych. Assoc.	37	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bill Fleiner	MT. Sheriff's & Peace Officers Assoc	37	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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DATE 1-18-93SENATE COMMITTEE ON JudiciaryBILLS BEING HEARD TODAY: SB375 talkingSen. Tor Tor

Name	Representing	Bill No.	Check One Support Oppose
Diane SAVIS	MT Women Lilly	SB37	<input checked="" type="checkbox"/> Support
Kirk Galt	Southside Task Force	SB37	<input checked="" type="checkbox"/> Support
Janis Galt	Southside Task Force	SB37	<input checked="" type="checkbox"/> Support
JOHN CONNOR	MT County Attys Assn	SB37	<input checked="" type="checkbox"/> Support
Stacey Pabich	Southside Task Force	SB37	<input checked="" type="checkbox"/> Support
Dorinda Pabich	SS Task Force	SB37	<input checked="" type="checkbox"/> Support
Johnny Garcia	Southside Task Force	SB37	<input checked="" type="checkbox"/> Support
Janet Thompson	Pico Cit - Red Lodge		
David COTTON	Southside Task Force	SB37	<input checked="" type="checkbox"/> Support
GARY FORRESTER	SD #49	SB37	<input checked="" type="checkbox"/> Support
JOE McCracken	Lockwood Schools	SB37	<input checked="" type="checkbox"/> Support
Loran FRAZIER	SAM	SB37	<input checked="" type="checkbox"/> Support
Betsy Hall Nordell	self	SB37	<input checked="" type="checkbox"/> Support
Harold J Schmidt	self	SB37	<input checked="" type="checkbox"/> Support
Bergetta Hubbard	self	SB37	<input checked="" type="checkbox"/> Support
Rep Tim Whalen	self	SB37	<input checked="" type="checkbox"/> Support

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