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House Bill No. 1268
Senate Judiciary Committee
Testimony Presented by Seth O'Neill, JD, MSW
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Chairwoman Larson and members of the Committee, my name is Seth O'Neill and I am representing CAWS North Dakota in support of HB1268.

This bill would add our current definition of stalking to domestic violence for the purposes of a domestic violence protection order. These orders allow victims of domestic violence to be physically safe from their abusers.

In order for an individual to receive a domestic violence protection order they need to petition the Court. The Court must schedule a hearing within fourteen days to determine actual or imminent domestic violence has occurred. If the Court makes a finding of domestic violence, then the Court may order that the respondent refrain from contacting the petitioner and other additional remedies. If a petitioner alleges immediate and present danger of domestic violence, a court may order an ex-parte temporary order. This order remains in effect until the hearing is held. Currently, for a petitioner to receive a protection order they must prove they have experienced physical harm, bodily injury, sexual activity compelled by physical force, assault, or the threat of these things. What we are finding is domestic violence abusers are intentionally avoiding physical harm but using other methods to control their victims. Or in other situations physical harm was used in the past but is no longer needed to control the victim. By doing this, they avoid court involvement while still gaining control over their victims life. One of the most common methods of doing this is through stalking. As our current definition states, stalking is

“an intentional course of conduct directed at a specific person which frightens, intimidates, or harasses that person and which serves no legitimate purpose.” This behavior can look different depending on the situation. Perhaps one of the most glaring examples is an individual repeatedly making threatening statements to a victim but not enough to count as “imminent physical harm.” I have represented victims in cases where respondents have repeatedly told the victim they will kill her if something doesn’t go his way. In these situations, the Court has found that although the behavior is concerning, the threat is not imminent enough. The problem with this is it can be difficult to determine the imminency of a threat like this and if an order is not granted in this situation someone could die.

This bill would change that by including stalking within the domestic violence protection order process. In the situation I described above, an individual could petition that this conduct is frightening them due to the legitimate fear for their life. I have included with my testimony factsheets with recent statistics regarding stalking. One of the most glaring statistics is the fact that stalking increases the risk of intimate partner homicide by three times.

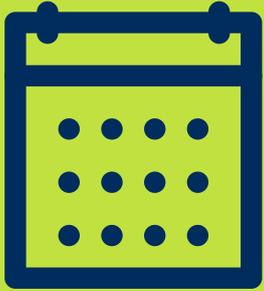
The second portion of the bill is a language clean-up and simply clarifies the ability to serve an individual by publication if they cannot be located. This is not a requirement but just simply an option for petitioners. I have represented victims in cases where the order was forced to be dismissed because the respondent could not be located to be served and the judge did not allow service by publication. This language would prevent that from happening.

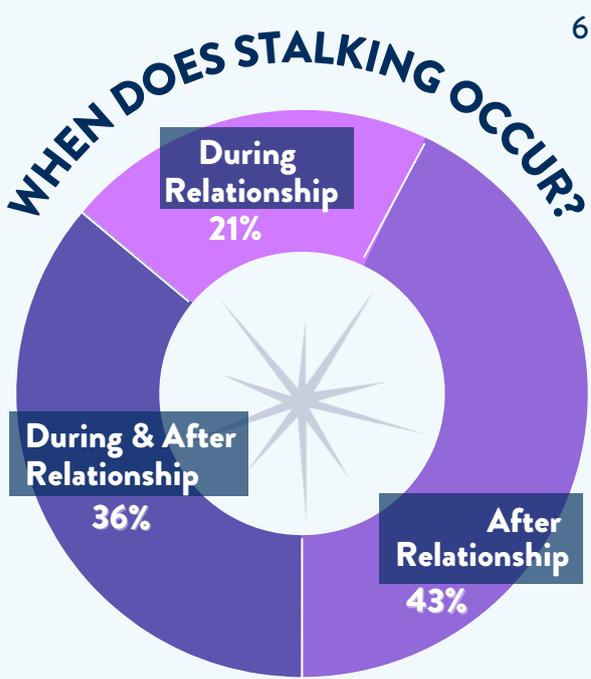
Due to these reasons, we encourage the committee to increase public safety for domestic violence victims by giving HB1268 a do pass recommendation. I appreciate your time and I am happy to answer any questions you may have. Thank you.

STALKING & DOMESTIC VIOLENCE

All stalkers can be dangerous. On average, intimate partner stalkers pose the greatest threats to their victims.

85% INTIMATE PARTNER FEMICIDES ¹
of attempted
76% of completed were preceded by **stalking** in the prior year

2 YEARS 
is the average duration of intimate partner stalking.²



Stalking can occur before, during, and/or after a relationship.

43% of female STALKING VICTIMS ARE TARGETED by (current or former) **INTIMATE PARTNERS**
32% of male

Victims of intimate partner stalking have

MORE SEPARATION ATTEMPTS



than victims of intimate partner violence alone.⁴

BOTH STALKING³ & INTIMATE PARTNER VIOLENCE⁵ ARE PREVALENT



1 in 3 women



1 in 4 women



1 in 6 men



1 in 10 men

experience stalking in their lifetimes

are impacted by intimate partner stalking, sexual violence, and/or physical violence in their lifetimes

Citations

1 McFarlane, J., Campbell, J.C., Wilt, S., Ulrich, Y., & Xu, X. (1999). Stalking and Intimate Partner Femicide. *Homicide Studies* 3 (4), 300-316.
2 Brewster, M. (2003). Power and control dynamics in pre-stalking and stalking situations. *Journal of Family Violence*, 18, 4, 207-217.
3 Smith, S.G., Basile, K.C., & Kresnow, M. (2022). The National Intimate Partner and Sexual Violence Survey (NISVS): 2016/2017 Report on Stalking. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.
4 Sheridan, L. & Davies, G.M. (2006). Violence and the Prior Victim-Stalker Relationship. *Criminal Behaviour and Mental Health* 11(2): 102-116.
5 Smith, S.G., Zhang, X., Basile, K.C., Merrick, M.T., Wang, J., Kresnow, M., & Chen, J. (2018). The National Intimate Partner and Sexual Violence Survey (NISVS): 2015 Data Brief. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.
6 Tjaden, P. & Thoennes, N. (1998). Stalking in America: Findings from the National Violence Against Women Survey (NCJ#169592). Washington, DC: National Institute of Justice Centers for Disease Control and Prevention.

STALKING & INTIMATE PARTNER VIOLENCE: FACT SHEET



There is a real and frighteningly significant connection between stalking and intimate partner violence. Stalking often co-occurs with intimate partner violence and can be an indicator of other forms of violence. Stalking can be a way to exert power and control during and/or after an abusive relationship.

DID YOU KNOW?

- 40% of stalking victims are stalked by current or former intimate partners.^A
- 57% of intimate partner stalking victims are stalked during the relationship.^B
- 74% of those stalked by a former intimate partner report violence and/or coercive control during the relationship.^C
- 81% of women stalked by a current or former husband or cohabitating partner were also physically assaulted by that partner.^D
- 31% of women stalked by an intimate partner were also sexually assaulted.^E
- 41% of victims stalked by a current intimate partner and 35% stalked by a former intimate partner experience threats of harm, compared to 24% stalked by a non-intimate partner.^F
- The average length of partner stalking is 2.2 years (longer than the average of just over 1 year for non-intimate partner cases).^G

STALKING & PARTNER HOMICIDE

- Stalking increases the risk of intimate partner homicide by three times.^H
- The most common use of the criminal justice system prior to attempted or completed intimate partner homicide was reporting intimate partner stalking.^I
- Among female victims of attempted and completed intimate partner homicide by male partners, in the 12 months prior to the attack:^J
 - 85% of attempted and 76% of completed homicide victims were stalked.
 - 91% of attempted and 89% of completed homicide victims who had been physically abused during the relationship had also been stalked.
 - 46% of attempted and 54% of completed homicide victims reported stalking before the attack, most commonly to police.

INTIMATE PARTNER STALKING OFFENDERS

- Abusive partners who stalk are more likely (than abusive partners who do not stalk) to verbally degrade, threaten, use a weapon to attack, sexually assault, and/or physically injure their victims.^K
- Intimate partner stalkers are more likely (than stalkers who are not intimate partners) to:
 - Use the widest range of stalking tactics.^L
 - Contact and approach victims more frequently.^M
 - Assault their victims.^N
 - Be insulting and interfere in the victim's life.^O
 - Escalate the frequency and intensity of pursuit more often.^P
 - Threaten victims with weapons or actually use weapons on their victims.^Q
 - Be threatening to their victims and reoffend.^R
 - Follow through on threats of violence.^S One study found that among stalking victims threatened, 71% of intimate partner victims were actually assaulted compared to 33% of non-intimate partner victims.^T
 - Assault third parties.^U
 - Reoffend after a court intervention and reoffend more quickly.^V
- The risk of physical violence is heightened when the intimate partner stalker:^W
 - Issues direct threats of violence;
 - Expresses jealousy of the victim's relationships with others during the relationship; and
 - Uses illegal drugs.

STALKING & SEPARATION

- Victims stalked by violent partners report more separation attempts than partner violence victims who were not stalked.^X
- Intimate partner stalking made victims more likely to want to leave the relationship than other factors, including psychological aggression and injury.^Y
- Stalking after a separation may increase the risk of violence.^{ZAABB}

STALKING & INTIMATE PARTNER VIOLENCE: FACT SHEET

SOURCES

- ^A Smith, S.G., Basile, K.C., & Kresnow, M. (2022). The National Intimate Partner and Sexual Violence Survey (NISVS): 2016/2017 Report on Stalking. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.
- ^B Tjaden, P. & Thoennes, N. (1998). Stalking in America: Findings from the national violence against women survey (NCJ# 169592). Washington, DC: National Institute of Justice Centers for Disease Control and Prevention.
- ^C Brewster, M. (2003). Power and control dynamics in pre-stalking and stalking situations. *Journal of Family Violence*, 18(4), 207-217.
- ^D Tjaden, P. & Thoennes, N. (1998). Stalking in America: Findings from the national violence against women survey (NCJ# 169592). Washington, DC: National Institute of Justice Centers for Disease Control and Prevention.
- ^E Ibid.
- ^F Brady, P. (2022). *Analysis of threats and violence by stalker relationship*. [2016 Supplemental Victimization Survey to the National Crime Victim Survey]. Bureau of Justice Statistics. <https://bjs.ojp.gov/library/publications/stalking-victimization-2016>
- ^G Brewster, M. (2003). Power and control dynamics in pre-stalking and stalking situations. *Journal of Family Violence*, 18(4), 207-217.
- ^H Spencer, C.M. & Stith, S.M. (2018). Risk Factors for Male Perpetration and Female Victimization of Intimate Partner Homicide: A Meta-Analysis. *Trauma, Violence, & Abuse*, 21(3): 527-540.
- ^I McFarlane, J., Campbell, J.C., & Watson, K. (2001). The Use of the Justice System Prior to Intimate Partner Femicide. *Criminal Justice Review*, 26(2): 193-208.
- ^J McFarlane, J., Campbell, J.C., Wilt, S., Ulrich, Y., & Xu, X. (1999). Stalking and Intimate Partner Femicide. *Homicide Studies*, 3(4), 300-316.
- ^K Logan, T.K., Shannon, L., & Cole, J. (2007). Stalking Victimization in the Context of Intimate Partner Violence. *Violence Vict.*, 22(6), 669-683.
- ^L Johnson, M. & Kercher, G. (2009). Identifying predictors of negative psychological reactions to stalking victimization. *Journal of Interpersonal Violence*, 24(5), 886-882.
- ^M Davis, K., Ace, A., & Andra, M. (2000). Stalking perpetrators and psychological maltreatment of partners: Anger, jealousy, attachment insecurity, need for control, and break-up context. *Violence and Victims*, 15(4), 407-425.
- ^N James, D. & Farnham, F. (2003). Stalking and serious violence. *Journal of the American Academy of Psychiatry and the Law*, 31, 432-439.
- ^O Mohandie, K., Meloy, J., McGowan, M., & Williams, J. (2006). The RECON typology of stalking: Reliability and validity based upon a large sample of north American stalkers. *Journal of Forensic Science*, 51(1), 147-155.
- ^P Ibid.
- ^Q Ibid.
- ^R Palarea, R., Zona, M., Lane, J. & Langhinrichsen-Rohling, J. (1999). The dangerous nature of intimate relationship stalking: Threats, violence and associated risk factors. *Behavioral Sciences and the Law*, 17, 269-283.
- ^S Ibid.
- ^T Thomas, S., Purcell, R., Pathé, M., & Mullen, P. (2008). Harm associated with stalking victimization. *Australian and New Zealand Journal of Psychiatry*, 42, 800-806.
- ^U Sheridan, L. & Davies, G. (2001). Violence and the prior victim-stalker relationship. *Criminal Behavior and Mental Health*, 11, 102-116.
- ^V Rosenfeld, B. (2003). Recidivism in stalking and obsessional harassment. *Law and Human Behavior*, 27(3), 251-265.
- ^W Roberts, K. (2005). Women's Experience of Violence During Stalking by Former Romantic Partners: Factors Predictive of Stalking Violence. *Violence Against Women*, 11(1), 89-114.
- ^X Logan, TK, Shannon, L., & Cole, J. (2007). Stalking victimization in the context of intimate partner violence. *Violence and Victims*, 22(6), 669-683.
- ^Y Matlow, R.B. & DePrince, A.P. (2015). The Impact of Appraisals and Context on Readiness to Leave a Relationship Following Intimate Partner Abuse. *Violence Against Women*, 21(9): 1043-1064.
- ^Z Logan, TK, Walker, R., Jordan, C., & Campbell, J. (2004). An integrative review of separation and victimization among women: Consequences & Implications. *Violence, Trauma, & Abuse*, 5(2), 143-193.
- ^{AA} Logan, TK, Walker, R., Shannon, L., & Cole, J. (2008). Factors associated with separation and ongoing violence among women with civil protective orders. *Journal of Family Violence*, 23, 377-385.
- ^{BB} Mechanic, M., Uhlmansiek, M., Weaver, T. & Resick, P. (2000). The impact of severe stalking experienced by acutely battered women: An examination of violence, psychological symptoms and strategic responding. *Violence and Victims*, 15(4), 443-458.