

AB 1982

Stalking Victim Protections

Assemblymember
Phil Ting
19TH DISTRICT



SUMMARY

California adopted the nation's first anti-stalking law in 1991, but it now needs to be updated to more effectively protect stalking victims. In order for a criminal anti-stalking restraining order to be issued under state law, a court must first determine that the stalker has specific intent to harm the victim. This threshold is much higher and harder to meet than the requirement in many other states, which operate under a general intent standard. General intent enables the court to consider a stalker's behavior, not just their intentions, when issuing a restraining order. AB 1982 adopts these anti-stalking standards, which have been implemented in over twenty states, and includes updates to California's statute to reflect modern understandings of stalking behavior. These reforms will dramatically improve the recourse victims may seek to protect themselves and their families.

BACKGROUND

Under current California stalking law, the state must prove the stalker's intentions when he or she was stalking; that not only did they intend to stalk, but they made a "credible threat" and were stalking with the specific intent to place their victim(s) in fear. This shifts focus from intentional stalking behavior to the underlying reasons motivating that stalking behavior. While some stalkers are motivated by the wish to threaten their victims and place them in fear, not all stalkers are similarly motivated. Having a stalking law that only addresses stalkers within that narrow category excludes other true victims from the protection of the stalking law. In other words, without a credible threat, a stalking victim has no recourse under California law. This subjects victims to continued stalking outside their homes or work or anywhere they venture to go. And, sophisticated stalkers know they can take advantage of this loophole.

General intent stalking statutes have been adopted across the country and have been upheld by courts of law. States that adopted a general intent standard include: Alaska, Arizona, Colorado, District of Columbia, Delaware, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Maine, Michigan, Minnesota, Mississippi, Nevada, New Jersey, New York, North Dakota, Oklahoma, Oregon, Tennessee and Washington.

In a stalking case where there was a current or prior dating relationship, the prosecutors may presumptively introduce evidence of prior domestic violence-related stalking by the same defendant against a previous victim. But in cases involving acquaintances, strangers or other family members, evidence of prior stalking is presumptively excluded from the trial. While the courts have some discretion to allow such evidence to establish intent or the defendant's identity, the prosecutors have to overcome that general rule, which is that such evidence is inadmissible. This makes it especially difficult when it comes to unusual stalking behavior because it becomes even harder to directly argue that the prior evidence demonstrates a clear indication of intent.

THIS BILL

AB 1982 seeks to:

- Modernize the anti-stalking statute from specific into to general intent
- Make changes to the evidentiary code to put stranger-stalking cases on equal procedural footing with stalking involving domestic violence
- Increase penalties for criminal stalking committee against a minor
- Include targeting a person's domesticated pet in the definition of criminal stalking behavior. Existing law already specifies targeting a victim's family within the definition of stalking.

STATUS

02/20/2014: Introduced

03/03/2014: Referred to Assembly Public Safety

SUPPORT

San Francisco District Attorney George Gascón
[SPONSOR]

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