**A question of intent: why changing California stalking law from specific intent to general intent will protect more victims of stalking**

In 1990, California was the first state to enact a stalking statute. Because it was the first, and it’s creators wanted to ensure it would survive judicial scrutiny, the law was very narrowly tailored: it required that the stalker make a “credible threat” with the specific intent “to place that person in reasonable fear for his or her safety, or the safety or his or her immediate family.”

To better understand the limitations of the law, imagine this scenario:

Amanda is a college student who is being stalked by a man she met briefly at a party. He found her on social media and began messaging her: asking her out, and eventually claiming that they were soul mates. She ignored his messages. In the following weeks, she started noticing the man in places where she hadn’t seen him before: at her bus stop, near the park where she jogged, near her home. She became frightened at the way his attention escalated. The man would follow her when she went out with friends. She became frightened to leave her home, wondering whether he would be outside waiting for her.

Amanda went to the police. When the police contacted the man, he claimed that they were friends; that he loved her and would never hurt her and it was just a big misunderstanding. The police officer told Amanda there was little he could do.

Under current California stalking law, the emphasis isn’t on the stalking behavior but rather on proving the stalker’s intentions or thinking when he (or she) was stalking: proving that they were stalking to place their victim in fear. The focus shifts from the stalking to the stalker’s *motive*. For victims like Amanda, where the stalker claims he is motivated by “love” and where there is no explicit threat, stalking cases can be difficult or impossible to prove.

Since California’s enactment of anti-stalking legislation, every other state in the country has followed suit, although many states have rejected the specific intent requirement in favor of a broader general intent statute. To illustrate the difference between a general intent statue and a specific intent statute, consider the scenario with Amanda and her stalker. The stalker has the general intent to follow her, to contact her, to wait outside her house. In essence, general intent merely requires proof that the stalker’s actions were intentional. Specific intent requires proving what the stalker was thinking when he was stalking, for example, in the case of California law, that the stalker threatened Amanda with the specific intention to place her in fear for her safety.

General intent stalking statutes have been adopted across the country and have been upheld. In 1996, the Supreme Court of Washington state upheld the state stalking law that allowed a defendant to be convicted under a general intent standard. *State v. Lee, 135 Wn.2d 369.* New Jersey’s general intent stalking law was upheld by its Supreme Court in 2010. *State v. Fareed Gandhi, 201 N.J. 161.* 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.