

SB 166 STALKING – Senator Wirth

SJC Committee Substitute as Amended

- The bill streamlines the language in our current stalking statute.
- Stalking consists of knowingly pursuing a pattern of conduct, without lawful authority, directed at a specific individual when a person intends that the pattern of conduct would place the individual in reasonable apprehension of death, bodily harm, sexual assault, confinement or restraint of the individual or another individual.
- “Pattern of conduct” is defined to include the ever changing methods and technology being used by perpetrators to stalk.
 - “two or more acts, on more than one occasion, in which the alleged stalker directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, surveils, threatens or communicates to or about a person”
- Knowingly pursuing a pattern of conduct “without lawful authority”
 - This language would exclude activities of a person that are carried out within the scope of their lawful employment and constitutionally protected activity,
- According to the 2005 Statewide Victimization Survey, stalking in New Mexico occurs at a rate of 12 per 1000 persons, with one in four women, and one in fourteen men being stalked.
- In 2006, 48 percent of stalking cases were reported to law enforcement, and only 5.5 percent of those reported cases resulted in an arrest.
- Of those resulting in arrest, 51 percent resulted in a conviction (Dr. Caponera, *Incidence and Nature of Domestic Violence in New Mexico VII*).
- *The NM Domestic Violence Homicide Review Team’s annual report and review of 2005 homicides, issued 12/15/08 indicates:*
 - *15 of the 21 (71%) of the 2005 domestic violence homicides occurred while the victim and the offender were separated (broken up, breaking up, getting a divorce, etc.)*
 - *12 of the 21 (57%) of the 2005 domestic violence homicides involve the offender committing the crime of stalking prior to the murder.*
 - *Their recommendations was for legislators to ensure that New Mexico has an effective stalking statute for law enforcement to utilize, specifically ensuring that the behaviors stalkers are engaging in are covered under the statute.*

SB4 - Senator Rod Adair
Criminal Damage or Deprivation of Property
Against a Household Member

- This Bill creates a new offense under the Crimes Against Household Member Act .
- Closes the gap in victim protection, created by State v. Powels, 134 N.M. 118 (Ct. App. 2003), where the Court held that if damaged property is community property or jointly owned property, an offender could not be charged under our current Criminal Damage to Property statute.
- Under the bill, an offense of Criminal Damage must be done with intent to intimidate, threaten or harass and involves damage to any real or personal property that is not solely owned by the accused.
- An offense of Deprivation of Property must be done with the intent to intimidate or threaten and involves deprivation of any personal property that is not solely owned by the accused.
- Penalties for criminal damage to property against a household member would be:
 - Under \$1,000.00 = full misdemeanor
 - \$1,000.00 or over = 4th degree felony
- Penalties for deprivation of property against a household member would be a full misdemeanor.
- Would apply even in cases where the parties are unmarried and do not jointly own the property but have a “Household Member” relationship.
 - Those cases would ordinarily be charged with simple Criminal Damage to Property.
 - This would allow us to track these offenses as domestic violence offenses under the Crimes Against Household Members Act.

SB68 As Amended – Senator Ortiz y Pino

Promoting the Financial Independence of Victims of Domestic Violence, Sexual Assault and Stalking

- This Act would allow victims of domestic abuse up to 14 cumulative days of unpaid employment leave in one calendar year to attend to limited but critical needs, such as:
 - to obtain or attempt to obtain any judicial relief, including, but not limited to, an order of protection;
 - To meet with law enforcement officials;
 - consult with attorneys and/or the district attorney's victim advocates; and
 - To attend court proceedings related to the domestic abuse.
 - This is not limited to criminal proceedings and includes civil proceedings relating to the abuse.
- This limited leave will give victims:
 - The ability to maintain the financial independence necessary to escape a violent relationship.
 - An opportunity to seek protections from abuse without jeopardizing their employment.
 - Participate in legal proceedings that otherwise might be dismissed without their participation.
- Employees utilizing this leave must show documentation evidencing the proceedings and their required attendance.
- Language in the Act has been purposefully narrowed to address critical needs and circumstances.
- This narrowly tailored approach reduces the likelihood this legislation will be a burden on small or rural employers.
- Under Executive Order 2008-047, signed by the Governor in September, the largest employer in the state, which is state government, is already providing this type of leave under much broader circumstances.