

January is Stalking Awareness Month

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In Delaware, stalking is defined as:

Knowingly engaging in a course of conduct directed at as specific person that would cause:

- **a reasonable person to fear physical injury to him/herself or another person, or**
- **suffer other significant mental anguish or distress that may, but does not necessarily, require medical or other professional treatment or counseling.**

The crime of stalking is a felony. (See Delaware Criminal Code: 11 Del. C. § 1312.)

Delaware's stalking statute is based on the model stalking code, adopted by a majority of states. It provides that a person who knowingly and repeatedly engages in activities that any reasonable person would find physically threatening or significantly emotionally distressing is committing the crime of stalking.

Stalking is often an abusive strategy used by domestic violence perpetrators to intimidate, to gather information, and to threaten harm. Although it is a very prevalent crime (7.5 million people are stalked annually, Centers for Disease Control and Prevention), it is often minimized and misunderstood.

In some stalking cases, the offender will engage in obviously threatening behavior such as physically following, vandalizing property or sending frightening messages, but in many cases the stalker's behavior is "hidden" behind the obsessive need to control. The stalker will claim that they are 'in love' with the victim, or trying to 'protect the victim' by watching them. The stalker may attempt to foster a relationship, whether the recipient of the behavior is interested or not.

Stalking is a contextual crime and although behaviors such as sending flowers to work, waiting outside someone's home, leaving messages on someone's car may appear to be romantic gestures, to the person receiving these unwanted messages and relentless attention, it can be terrifying. Because stalking is a contextual crime it is essential to consider the impact on the victim and not the intent of the perpetrator, which is always difficult to prove or easily disguised. Delaware's current criminal statute protects against stalking behavior that creates fear of physical harm as well as stalking behavior that causes mental anguish and distress. If a reasonable person would find the behavior threatening or distressing, then it is a crime.

Currently, there is an effort in the state to change Delaware's criminal code, including Stalking, and these changes will likely weaken the protections afforded by the statute. The proposed changes will make stalking a type of harassment rather than its own crime. Stalking should remain its own criminal statute to help with recognizing and enforcing it. Stalking involves a pattern of behavior or as stated in the criminal code a "course of conduct." The current Delaware stalking statute provides a definition of "course of conduct" which is fairly comprehensive and includes language that accounts for the use of technology to stalk.

As many victims can attest, stalkers pursue by a variety of means, including following, showing up where the victim lives or works, leaving gifts, using third parties to monitor, destroying property, tracking via GPS or other technology, posting on social media, sending texts and making phone calls. This unwanted contact can be terribly frightening for stalking victims because it is unrelenting and invasive in all parts of the victim's life.

Most stalking cases involve technology, from phones, to computers, to GPS tracking devices. Including this use of technology language in the criminal code helps victims and law enforcement with recognizing the crime and the tactics used. Unfortunately, this type of clarity around the "course of conduct" and specifically, the use of technology is not included within the proposed changes to the criminal code and the lack of this information will weaken the stalking statute.

Stalking is an overwhelming crime for victims and requires an easily understandable and enforceable criminal code. DCADV has been involved in a victim advocates workgroup reviewing some of the proposed changes to Delaware's code and we are advocating that the current Stalking statute remain as is, namely, as its own statute separate from harassment, as a felony, and with language that includes how technology is used to stalk.

If you are a victim of stalking or you know someone who is a victim, there is help available. Please call one of the 24-hour Domestic Violence Hotline numbers:

- **CHILD, Inc.'s Domestic Violence Program**
New Castle County
302-762-6110
- **The SAFE Program at People's Place II**
Kent & Sussex Counties
302-422-8058
- **Abriendo Puertas Bilingual Hotline**
Sussex County
302-745-9874

There is also a national resource center that provides training and technical assistance to first responders and victim advocates, operated through Aequitas, a technical assistance center for prosecutors. This Stalking Prevention, Awareness, Resource Center can be reached at this website: <http://www.aequitasresource.org/stalking-prevention-awareness-and-resource-center.cfm>.