

Chairman Keane
Honorable Members of House Business & Labor Committee

RE: HB 567

For the record, my name is Tootie Welker. I am the director of a domestic violence/sexual assault program in Sanders County. I have been working with battered women and women who have been victimized for over 15 years. I'm a peer reviewer for the Federal Office on Violence Against Women and a member of the Western Montana Legislative committee, which works on domestic violence/sexual assault legislation. I am here in support of HB 567 by Rep. Windham.

In 2001, I was before this committee, including some of the same members, with a bill to allow victims of domestic violence to collect unemployment if they needed to quit their job or were fired due to domestic violence. And the Honorable Committee Members and the Legislature passed that bill almost unanimously. The Legislature has become very well educated on domestic violence and are very supportive of legislation that will assist victims.

Mistakenly, when I brought that bill forward I failed to include victims of stalking and sexual assault or rape. So I am back before you to request MCA 39-51-2111 be amended to include victims of a sexual offense or stalking.

I am requesting that rape and sexual assault victims also be eligible for UI if they quit or are fired due to the sexual offenses. Few rapes are ever reported to law enforcement for a variety of reasons. That would mean they would not then qualify for Victims Compensation, which will pay some wage loss for worked missed due to the victimization. For many rape victims, working, going to school, just leaving the home can be frightening and require some time for the victim to again feel safe. And if the person who assaulted her also works with her or comes into her place of employment, that could be devastating to her. Date rape and acquaintance rape happen far more frequently than most people would imagine. Young girls, especially during their first year of college are at an extreme risk of being sexually assaulted or raped. Many will not want to tell their families and need to work to stay in school. After experiencing the trauma of rape, many victims have a very difficult time functioning. And if they don't have a supportive work environment, they may be fired if they become incompetent in their job due to the emotional stress from the rape.

Although stalking often occurs within the context of domestic violence it can also happen when there was no previous relationship. And stalkers can be very scary. They tend to be obsessive/compulsive types and may or may not have a mental illness. Some stalk simply because they get a sick enjoyment from causing fear and anxiety in the stalked victim. Sometimes it's due to an imagined belief that the stalked victim actually wants the relationship.

If someone is being stalked, and the stalker only knows where the person works, leaving that employment might be required. Or they may be fired because the stalker is causing a disruption of the work environment. Either way, an income is needed – very few have the luxury of not needing to work. I've had law enforcement officers or the county prosecutor instruct victims that

for their safety, they need to find new employment or even to leave the county. Now she has a financial stressor added to the mix.

Victims may also need to quit working because they are suffering from PTSD due to the emotional stress and fear and simply can't work. We know in domestic violence that those who are obsessed with their victims are the most likely to kill – This can be applied to some stalkers as well.

From July 2001 to December 31, 2004, there were 77 applicants for UI for victims of domestic violence – an average of 1.83 per month. Out of the 77, only 39 were allowed, which averages to 1 a month with a total cash payout of \$55,888. That averages out to \$1,433 per claimant. By adding sexual offenses and stalking to the statute, it may increase the number of allowed applicants it by 1 every two months, which would increase the yearly amount by \$8,598. So, for a very low cost it could have some far reaching benefits to victims.

I hope you will give HB 567 a due pass motion.

Thank you for your time and attention.

Tootie Welker

Stalking resource center

www.ncvc.org/src
Tel. (202) 467-8700
E-mail: src@ncvc.org

stalking fact sheet

THE NATIONAL CENTER FOR
Victims of Crime

Crime victims can call:
1-800-FYI-CALL
for assistance M-F 8:30 AM - 8:30 PM

WHAT IS STALKING?

While legal definitions of stalking vary from one jurisdiction to another, a good working definition of stalking is *a course of conduct directed at a specific person that would cause a reasonable person to feel fear.*

STALKING IN AMERICA

- 1,006,970 women and 370,990 men are stalked annually in the United States.
 - 1 in 12 women and 1 in 45 men will be stalked in their lifetime.
 - 77% of female and 64% of male victims know their stalker.
 - 87% of stalkers are men.
 - 59% of female victims and 30% of male victims are stalked by an intimate partner.
 - 81% of women stalked by a current or former intimate partner are also physically assaulted by that partner.
 - 31% of women stalked by a current or former intimate partner are also sexually assaulted by that partner.
 - The average duration of stalking is 1.8 years.
 - If stalking involves intimate partners, the average duration of stalking increases to 2.2 years.
 - 61% of stalkers made unwanted phone calls; 33% sent or left unwanted letters or items; 29% vandalized property; and 9% killed or threatened to kill a family pet.
 - 28% of female victims and 10% of male victims obtained a protective order. 69% of female victims and 81% of male victims had the protection order violated.
- Tjaden & Thoennes. (1998). "Stalking in America," NIJ.

STATE LAWS*

- Stalking is a crime under the laws of all 50 states, the District of Columbia, and the Federal Government.
- 14 states classify stalking as a felony upon the first offense.*
 - 34 states classify stalking as a felony upon the second offense and/or when the crime involves aggravating factors.*
- Aggravating factors may include: possession of a deadly weapon; violation of a court order or condition of probation/parole; victim under 16; same victim as prior occasions.

* For a complete list of state, tribal and Federal laws visit: www.ncvc.org/src
* Last updated July 2003

THE STALKING RESOURCE CENTER

The Stalking Resource Center is a program of the National Center for Victims of Crime. Our dual mission is to raise national awareness of stalking and to encourage the development and implementation of multidisciplinary responses to stalking in local communities across the country. We can provide you with:

- Training
- Technical Assistance
- Protocol Development
- Resources
- Help in collaborating with other agencies and systems in your community

Contact us at: 202-467-8700 or src@ncvc.org.

TYPOLOGIES OF STALKERS*

- Simple obsessional stalkers are the most common type. They have some prior relationship with the victim, usually an intimate one. These cases most often occur in the context of domestic violence.
 - Love obsessional stalkers have had no existing relationship with the victim. Many of these stalkers target celebrities.
 - Erotomaniac stalkers delusionally believe that they are loved by the victim. This is the rarest category of stalkers.
- * Individual perpetrators may not precisely fit any single stalker category, and often exhibit characteristics associated with more than one category; it is important to remember that these typologies are merely guides.
Meloy. (1998). "The Psychology of Stalking," AP.

THE SEXUAL VICTIMIZATION OF COLLEGE WOMEN

- 13% of college women were stalked during one six to nine month period.
 - 80% of campus stalking victims knew their stalkers.
 - 3 in 10 college women reported being injured emotionally or psychologically from being stalked.
- Fisher, Cullen, and Turner. (2000). "The Sexual Victimization of College Women," NIJ/BJA.

IMPACT OF STALKING ON VICTIMS

- 56% of women stalked took some type of self-protective measure; often as drastic as relocating (11%). (Tjaden & Thoennes. (1998). "Stalking in America," NIJ)
 - 26% of stalking victims lost time from work as a result of their victimization, and 7% never returned to work. (Tjaden & Thoennes.)
 - 30% of female victims and 20% of male victims sought psychological counseling. (Tjaden & Thoennes.)
- The prevalence of anxiety, insomnia, social dysfunction, and severe depression is much higher among stalking victims than the general population, especially if the stalking involves being followed or having one's property destroyed. (Blauus et. al. (2002). "The Toll of Stalking," J. Interpersonal Viol.)

STALKING & INTIMATE PARTNER FEMICIDE*

- 76% of femicide victims had been stalked by the person who killed them.
- 67% had been physically abused by their intimate partner.
- 89% of femicide victims who had been physically abused had also been stalked in the 12 months before the murder.
- 79% of abused femicide victims reported stalking during the same period that they reported abuse.
- 85% of attempted femicide cases involved at least one episode of stalking within 12 months prior to the attempted femicide.
- 54% of femicide victims reported stalking to police before they were killed by their stalkers.

* The murder of a woman
McFarlane et al. (1999). "Stalking and Intimate Partner Femicide," Homicide Studies.

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HB 567 Handout

July 1, 2001 to December 31, 2004 = 42 Months

77 applications = 39 allowable claims

39 Allowable Applicants = \$55,888

\$55,888 divided by 39 claims = \$1,433 per claimant

42 months divided by 39 claims = 1.07 DV claims per month

New sexual offense/stalking = .5 per claim per month

6 new claims at \$1,433 average claim = \$8,598 per year

Unemployment Insurance for Survivors of Domestic Violence

NELP

Fact Sheet for Advocates

Advocating for the working poor and the unemployed

National
Employment
Law Project

55 John St. 7th Floor
New York, NY 10038
(212) 285-3025
(212) 285-3044 fax
nelp@nelp.org
www.nelp.org

May 2002

UNEMPLOYMENT INSURANCE FOR SURVIVORS OF DOMESTIC VIOLENCE **Expanding Unemployment Insurance for Women,** **Low-Wage & Part-Time Workers** By National Employment Law Project

Many victims and survivors of domestic violence, sexual assault, and stalking must leave work in order to protect themselves, their families, and their coworkers. A growing group of local and national advocates has encouraged making victims eligible for unemployment insurance (UI) benefits when they are forced to leave their jobs because of their fear for their safety and that of their families. These initiatives are part of a larger effort in states across the country to reform the unemployment insurance system to better meet the changing needs of today's workers.

Some facts about domestic violence, sexual assault, stalking, and employment: One out of every four American women suffers physical abuse by an intimate partner at some point in her life. Ninety six percent of employed domestic violence (DV) victims in one survey stated that the domestic violence in their lives interfered with her ability to work. A woman may be harassed by threatening phone calls at work or may need to miss days of work because of injuries or attempts to seek legal remedies for the abuse. In the worst cases, a victim may be attacked by the perpetrator at work.

Rape, sexual assault, and stalking are aspects of domestic violence that may prevent a victim from maintaining employment. A perpetrator may stalk a victim at her workplace because it may be the only place he knows to find her. Stalking may include up to 20 phone calls a day, waiting outside her workplace in his car, or coming into the workplace and verbally or physically assaulting her. These experiences may also cause a victim to be forced to leave her employment to seek safety.

A survey of survivors of domestic violence found that abusive husbands and partners harassed 74% of employed battered women at work. Domestic violence caused 56% of them to be late for work at least five times a month, 28% to leave early at least five days a month, and 54% to miss at least three full days of work a month. One-quarter of battered women say they had to quit work at least partly due to domestic violence. One-half of women who survive sexual assaults say they had to quit work due to the assault.

What are the hurdles that survivors of violence face when they must leave work and apply for unemployment insurance? Workers are generally not able to qualify for unemployment insurance when they leave work "voluntarily," unless they have "good cause" related to work. In many states, personal reasons cannot constitute "good cause" for leaving a job, so survivors of domestic violence and assault who must leave work to flee violence or protect themselves from violence and stalking may not qualify for unemployment insurance.

Even where domestic violence is "good cause" to leave work, women may not qualify for unemployment compensation benefits because they are not "able and available" to work as required by state unemployment laws; that is, they are moving, caring for small children, healing from injuries, residing in a safe house, in medical facilities or treatment and unable to engage in an intensive search for work. In still others, survivors may need to refuse an offer of work because it interferes with achieving safety.

Which states permit survivors of domestic violence to quit work and receive unemployment insurance? Twenty-four states have passed new laws that explicitly allow survivors of domestic violence to leave their jobs due to the violence. These are California, Colorado, Connecticut, Delaware, Kansas, Indiana, Maine, Massachusetts, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Rhode Island, South Dakota, Texas, Washington, Wisconsin and Wyoming. In recent legislative sessions, bills have been introduced in Arizona, Georgia, Hawaii, Iowa, Louisiana, Maryland, North Dakota, Tennessee, Vermont and West Virginia. The most recent states to pass legislation, in 2003, are Kansas, Indiana, New Mexico, Oklahoma, South Dakota and Texas.

In three additional states, domestic violence is not a specific reason to justify leaving a job, but court decisions, rules, or agency policies allow DV survivors to receive unemployment insurance. These are Arkansas, Florida, and Pennsylvania. States that do not explicitly protect domestic violence survivors, but do permit personal reasons as valid reasons to leave work include Alaska, Arizona, Hawaii, Nevada, Ohio, South Carolina, Utah and Virginia. In these states, court rulings or administrative policy changes could more specifically allow DV survivors to receive unemployment insurance. Even in those remaining states that still require some fault on the part of the employer for a worker to qualify for unemployment benefits, there is a strong case to be made that benefits should not be denied when the employer has failed to adopt adequate policies that address domestic violence and the workplace.

Some states' definitions of "domestic violence" explicitly include sexual assault and/or stalking. These include Indiana, North Carolina, Texas and Washington.

What if the "work search" requirement interferes with a woman's ability to protect herself? In some states, women may initially qualify for unemployment, but later not be considered eligible because they are not able to actively search for work. State laws often include burdensome work search requirements that may interfere with a survivor's ability to get medical or legal help or find a safe place to live.

In four states, Kansas, Indiana, Oregon, Massachusetts and Washington, legislation helps a woman continue to receive compensation while she is seeking safety. In a letter to NELP in fall of 2000, the U.S. Department of Labor agreed that states can, consistent with federal law, change to

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\$11,138
Maximum 10 weeks

