
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2023 - 2024 Regular Session

SB 89 (Ochoa Bogh) - Crimes: stalking

Version: April 13, 2023

Urgency: No

Hearing Date: April 24, 2023

Policy Vote: PUB. S. 5 - 0

Mandate: Yes

Consultant: Matthew Fleming

Bill Summary: SB 89 would expand the offense of stalking to include willfully, maliciously, and repeatedly following or willfully and maliciously harassing another person and also making a credible threat with the intent to place that person in reasonable fear for the safety of that person's pet, service animal, emotional support animal, or horse.

Fiscal Impact:

- **Judicial Branch:** Unknown court workload cost pressures to adjudicate additional misdemeanor and felony charges brought under the provisions of this bill (Trial Court Trust Fund, General Fund).*
- **CDCR:** Unknown increase in costs to the Department of Corrections and Rehabilitation (CDCR) for additional commitments to state prison for persons found guilty of owning, purchasing, receiving or possessing a firearm while under specified firearms prohibitions (General Fund).*

*See Staff Comments for additional details.

Background: Stalking is generally understood as repeated threatening behavior that is intended to place the subject of the stalking in reasonable fear for their safety or the safety of their family. The elements of stalking are (1) repeatedly following or harassing another person, (2) making a credible threat, (3) with the intent to place that person in reasonable fear for their own safety or the safety of an immediate family member. "Immediate family" is defined as "any spouse, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household." This bill would additionally provide that stalking occurs when the credible threat causes the person to be in fear for the safety of a pet, service animal, emotional support animal, or horse.

Proposed Law: Expands the offense of stalking to include willfully, maliciously, and repeatedly following or willfully and maliciously harassing another person and also making a credible threat with the intent to place that person in reasonable fear for the safety of that person's pet, service animal, emotional support animal, or horse.

Staff Comments: SB 89 would expand the wobbler offense stalking to include situations where a person makes a credible threat to the safety of a person's pet, service animal, emotional support animal, or horse, while engaging in other malicious

behavior. It is unknown how many additional prosecutions will be brought as a result of SB 89. However, both felony and misdemeanor charges carry the potential for incarceration, therefore certain defendants' rights are attached to the proceedings. These include the right to a jury trial and the right to counsel (at public expense if the defendants are unable to afford the costs of representation) which could lead to lengthier and more complex court proceedings. It generally costs about \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased staff time and resources may create a need for increased funding for courts from the General Fund (GF) to perform existing duties. Numerous trial court operations are funded through the imposition and collection of criminal fines and fees. However, the Legislature has reduced and eliminated criminal fines and fees over the past decade. As a result, the 2023-24 proposed budget anticipates an ongoing annual allocation of \$109.3 million from the GF to backfill declining revenue to the Trial Court Trust Fund.

Felony stalking is punishable imprisonment in the state prison, meaning CDCR will be impacted by convictions under this bill. The fiscal impact to CDCR cannot be known with certainty, as the actual impact will depend on a number of factors, including, but not limited to, the frequency of stalking offenses committed that violate the provisions of SB 89, prosecutorial discretion, the criminal history of the defendant, and the factors unique to each case. The proposed 2022-23 per capita cost to house a person in a state prison is \$104,079 annually, with an annual marginal rate per inmate of approximately \$10,000.

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