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**SUBSTITUTE SENATE BILL 5162**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** Senate Committee on Law & Justice (originally sponsored by Senators Niemi, A. Smith, Prentice, McAuliffe, Drew, Spanel, Skratek, Loveland, Talmadge, Moore, Wojahn, Snyder, Fraser, Rinehart, Vognild, Williams, Bluechel, Bauer, Sheldon, Newhouse, Sutherland, Prince, Pelz, Jesernig and Gaspard)

Read first time 02/08/93.

1 AN ACT Relating to prohibiting interference with access to health  
2 care, health care providers, and health care service delivery; amending  
3 RCW 10.31.100 and 10.97.070; adding a new chapter to Title 9A RCW;  
4 creating a new section; prescribing penalties; and declaring an  
5 emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that seeking or  
8 obtaining health care is fundamental to public health and safety.

9 NEW SECTION. **Sec. 2.** Unless the context clearly requires  
10 otherwise, the definitions in this section apply throughout this  
11 chapter.

12 (1) "Health care facility" means a facility that provides health  
13 care services directly to patients, including but not limited to, a  
14 hospital, clinic, health care provider's office, health maintenance  
15 organization, diagnostic or treatment center, neuropsychiatric or  
16 mental health facility, hospice, or nursing home.

17 (2) "Health care provider" has the same meaning as defined in RCW  
18 7.70.020 (1) and (2), and also means an officer, director, employee, or

1 agent of a health care facility who sues or testifies regarding matters  
2 within the scope of his or her employment.

3 (3) "Aggrieved" means:

4 (a) A person, physically present at the health care facility when  
5 the prohibited actions occur, whose access is or is about to be  
6 obstructed or impeded;

7 (b) A person, physically present at the health care facility when  
8 the prohibited actions occur, whose care is or is about to be  
9 disrupted;

10 (c) The health care facility, its employees, or agents;

11 (d) The owner of the health care facility or the building or  
12 property upon which the health care facility is located.

13 NEW SECTION. **Sec. 3.** (1) It is unlawful for a person, alone or in  
14 concert with others, to willfully or recklessly interfere with access  
15 to or from a health care facility or willfully or recklessly disrupt  
16 the normal functioning of such facility by:

17 (a) Physically obstructing or impeding the free passage of a person  
18 seeking to enter or depart from the facility or from the common areas  
19 of the real property upon which the facility is located;

20 (b) Making noise that unreasonably disturbs the peace within the  
21 facility;

22 (c) Trespassing on the facility or the common areas of the real  
23 property upon which the facility is located;

24 (d) Telephoning the facility repeatedly, or knowingly permitting  
25 any telephone under his or her control to be used for such purpose; or

26 (e) Threatening to inflict injury on the owners, agents, patients,  
27 employees, or property of the facility or knowingly permitting any  
28 telephone under his or her control to be used for such purpose.

29 (2) Nothing in this section shall prohibit picketing or other  
30 publicity for the sole purpose of providing the public with  
31 information.

32 NEW SECTION. **Sec. 4.** A violation of section 3 of this act is a  
33 gross misdemeanor. A person convicted of violating section 3 of this  
34 act shall be punished as follows:

35 (1) For a first offense, a fine of not less than two hundred fifty  
36 dollars and a jail term of not less than twenty-four consecutive hours;

1 (2) For a second offense, a fine of not less than five hundred  
2 dollars and a jail term of not less than seven consecutive days; and

3 (3) For a third or subsequent offense, a fine of not less than one  
4 thousand dollars and a jail term of not less than thirty consecutive  
5 days.

6 **Sec. 5.** RCW 10.31.100 and 1988 c 190 s 1 are each amended to read  
7 as follows:

8 A police officer having probable cause to believe that a person has  
9 committed or is committing a felony shall have the authority to arrest  
10 the person without a warrant. A police officer may arrest a person  
11 without a warrant for committing a misdemeanor or gross misdemeanor  
12 only when the offense is committed in the presence of the officer,  
13 except as provided in subsections (1) through ~~((+8))~~ (9) of this  
14 section.

15 (1) Any police officer having probable cause to believe that a  
16 person has committed or is committing a misdemeanor or gross  
17 misdemeanor, involving physical harm or threats of harm to any person  
18 or property or the unlawful taking of property or involving the use or  
19 possession of cannabis, or involving the acquisition, possession, or  
20 consumption of alcohol by a person under the age of twenty-one years  
21 under RCW 66.44.270 shall have the authority to arrest the person.

22 (2) A police officer shall arrest and take into custody, pending  
23 release on bail, personal recognizance, or court order, a person  
24 without a warrant when the officer has probable cause to believe that:

25 (a) An order has been issued of which the person has knowledge  
26 under RCW 10.99.040(2), 10.99.050, 26.09.060, 26.44.063, chapter 26.26  
27 RCW, or chapter 26.50 RCW restraining the person and the person has  
28 violated the terms of the order restraining the person from acts or  
29 threats of violence or excluding the person from a residence or, in the  
30 case of an order issued under RCW 26.44.063, imposing any other  
31 restrictions or conditions upon the person; or

32 (b) The person is eighteen years or older and within the preceding  
33 four hours has assaulted that person's spouse, former spouse, or a  
34 person eighteen years or older with whom the person resides or has  
35 formerly resided and the officer believes: (i) A felonious assault  
36 has occurred; (ii) an assault has occurred which has resulted in bodily  
37 injury to the victim, whether the injury is observable by the  
38 responding officer or not; or (iii) that any physical action has

1 occurred which was intended to cause another person reasonably to fear  
2 imminent serious bodily injury or death. Bodily injury means physical  
3 pain, illness, or an impairment of physical condition. When the  
4 officer has probable cause to believe that spouses, former spouses, or  
5 other persons who reside together or formerly resided together have  
6 assaulted each other, the officer is not required to arrest both  
7 persons. The officer shall arrest the person whom the officer believes  
8 to be the primary physical aggressor. In making this determination,  
9 the officer shall make every reasonable effort to consider: (i) The  
10 intent to protect victims of domestic violence under RCW 10.99.010;  
11 (ii) the comparative extent of injuries inflicted or serious threats  
12 creating fear of physical injury; and (iii) the history of domestic  
13 violence between the persons involved.

14 (3) Any police officer having probable cause to believe that a  
15 person has committed or is committing a violation of any of the  
16 following traffic laws shall have the authority to arrest the person:

17 (a) RCW 46.52.010, relating to duty on striking an unattended car  
18 or other property;

19 (b) RCW 46.52.020, relating to duty in case of injury to or death  
20 of a person or damage to an attended vehicle;

21 (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or  
22 racing of vehicles;

23 (d) RCW 46.61.502 or 46.61.504, relating to persons under the  
24 influence of intoxicating liquor or drugs;

25 (e) RCW 46.20.342, relating to driving a motor vehicle while  
26 operator's license is suspended or revoked;

27 (f) RCW 46.61.525, relating to operating a motor vehicle in a  
28 negligent manner.

29 (4) A law enforcement officer investigating at the scene of a motor  
30 vehicle accident may arrest the driver of a motor vehicle involved in  
31 the accident if the officer has probable cause to believe that the  
32 driver has committed in connection with the accident a violation of any  
33 traffic law or regulation.

34 (5) Any police officer having probable cause to believe that a  
35 person has committed or is committing a violation of RCW 88.12.100  
36 shall have the authority to arrest the person.

37 (6) An officer may act upon the request of a law enforcement  
38 officer in whose presence a traffic infraction was committed, to stop,  
39 detain, arrest, or issue a notice of traffic infraction to the driver

1 who is believed to have committed the infraction. The request by the  
2 witnessing officer shall give an officer the authority to take  
3 appropriate action under the laws of the state of Washington.

4 (7) Any police officer having probable cause to believe that a  
5 person has committed or is committing any act of indecent exposure, as  
6 defined in RCW 9A.88.010, may arrest the person.

7 (8) A police officer may arrest and take into custody, pending  
8 release on bail, personal recognizance, or court order, a person  
9 without a warrant when the officer has probable cause to believe that  
10 an order has been issued of which the person has knowledge under  
11 chapter 10.14 RCW and the person has violated the terms of that order.

12 (9) Any police officer having probable cause to believe that a  
13 person has, within twenty-four hours of the alleged violation,  
14 committed a violation of section 3 of this act may arrest such person.

15 (10) Except as specifically provided in subsections (2), (3), (4),  
16 and (6) of this section, nothing in this section extends or otherwise  
17 affects the powers of arrest prescribed in Title 46 RCW.

18 (~~(10)~~) (11) No police officer may be held criminally or civilly  
19 liable for making an arrest pursuant to RCW 10.31.100(2) or (8) if the  
20 police officer acts in good faith and without malice.

21 NEW SECTION. **Sec. 6.** (1) A person or health care facility  
22 aggrieved by the actions prohibited by section 3 of this act may seek  
23 civil damages from those who committed the prohibited acts and those  
24 acting in concert with them. A plaintiff in an action brought under  
25 this chapter shall not recover more than his or her actual damages and  
26 additional sums authorized in section 7 of this act. Once a plaintiff  
27 recovers his or her actual damages and any additional sums authorized  
28 under this chapter, additional damages shall not be recovered. A  
29 person does not have to be criminally convicted of violating section 3  
30 of this act to be held civilly liable under this section. It is not  
31 necessary to prove actual damages to recover the additional sums  
32 authorized under section 7 of this act, costs, and attorneys' fees.  
33 The prevailing party is entitled to recover costs and attorneys' fees.

34 (2) The superior courts of this state shall have authority to grant  
35 temporary, preliminary, and permanent injunctive relief to enjoin  
36 violations of this chapter.

37 In appropriate circumstances, any superior court having personal  
38 jurisdiction over one or more defendants may issue injunctive relief

1 that shall have binding effect on the original defendants and persons  
2 acting in concert with the original defendants, in any county in the  
3 state.

4 Due to the nature of the harm involved, injunctive relief may be  
5 issued without bond in the discretion of the court, notwithstanding any  
6 other requirement imposed by statute.

7 The state and its political subdivisions shall cooperate in the  
8 enforcement of court injunctions that seek to protect against acts  
9 prohibited by this chapter.

10 NEW SECTION. **Sec. 7.** In a civil action brought under this  
11 chapter, an individual plaintiff aggrieved by the actions prohibited by  
12 section 3 of this act may be entitled to recover up to five hundred  
13 dollars for each day that the actions occurred, or up to five thousand  
14 dollars for each day that the actions occurred if the plaintiff  
15 aggrieved by the actions prohibited under section 3 of this act is a  
16 health care facility.

17 NEW SECTION. **Sec. 8.** Section 3 of this act shall not be  
18 interpreted to apply to the actions of any agent, officer, or employee  
19 of the health care facility, acting within the scope of his or her  
20 agency, office, or employment, nor to the actions of any law  
21 enforcement officer, acting within the scope of his or her agency.

22 NEW SECTION. **Sec. 9.** A court having jurisdiction over a criminal  
23 or civil proceeding under this chapter shall take all steps reasonably  
24 necessary to safeguard the individual privacy and prevent harassment of  
25 a health care patient or health care provider who is a party or witness  
26 in a proceeding, including granting protective orders and orders in  
27 limine.

28 **Sec. 10.** RCW 10.97.070 and 1977 ex.s. c 314 s 7 are each amended  
29 to read as follows:

30 (1) Criminal justice agencies may, in their discretion, disclose to  
31 persons who have suffered physical loss, property damage, or injury  
32 compensable through civil action, the identity of persons suspected as  
33 being responsible for such loss, damage, or injury together with such  
34 information as the agency reasonably believes may be of assistance to  
35 the victim in obtaining civil redress. Such disclosure may be made

1 without regard to whether the suspected offender is an adult or a  
2 juvenile, whether charges have or have not been filed, or a prosecuting  
3 authority has declined to file a charge or a charge has been dismissed.

4 (2) Unless the agency determines release would interfere with an  
5 ongoing criminal investigation, in any action brought pursuant to this  
6 chapter criminal justice agencies shall disclose identifying  
7 information, including photographs of suspects, if the acts are alleged  
8 by the plaintiff or victim to be a violation of section 3 of this act.

9 (3) The disclosure by a criminal justice agency of investigative  
10 information pursuant to subsection (1) of this section shall not  
11 establish a duty to disclose any additional information concerning the  
12 same incident or make any subsequent disclosure of investigative  
13 information, except to the extent an additional disclosure is compelled  
14 by legal process.

15 NEW SECTION. Sec. 11. Nothing in this chapter shall be construed  
16 to limit the right to seek other available criminal or civil remedies.  
17 The remedies provided in this chapter are cumulative, not exclusive.

18 NEW SECTION. Sec. 12. If any provision of this act or its  
19 application to any person or circumstance is held invalid, the  
20 remainder of the act or the application of the provision to other  
21 persons or circumstances is not affected.

22 NEW SECTION. Sec. 13. Sections 2 through 4, 6 through 9, and 11  
23 of this act shall constitute a new chapter in Title 9A RCW.

24 NEW SECTION. Sec. 14. This act is necessary for the immediate  
25 preservation of the public peace, health, or safety, or support of the  
26 state government and its existing public institutions, and shall take  
27 effect immediately.

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