
ENGROSSED SUBSTITUTE HOUSE BILL 1338

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Thibaudeau, Appelwick, Ballasiotes, H. Myers, Flemming, Dyer, Eide, Cooke, Zellinsky, Johanson, Romero, Forner, Reams, Rust, Schmidt, Riley, Dunshee, Brough, Ogden, J. Kohl, Locke, Anderson, Ludwig, Edmondson, Horn, Heavey, Cothorn, R. Johnson, King, Voloria, Rayburn, Bray, Orr, Pruitt, Karahalios, Lemmon, Carlson, Kessler, Wolfe, R. Fisher, Hansen, Jacobsen, Morris, Quall, Franklin, L. Johnson, Leonard, Jones, Valle, G. Cole, Holm, Wang, Grant, Dorn, Sheldon, Sommers, Miller, Finkbeiner, Brown, Scott, Roland, Shin, R. Meyers, Springer, Basich, Campbell, Wood, Long, Wineberry and Dellwo)

Read first time 02/25/93.

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, willfully or recklessly to interfere with access
15 to or from a health care facility or willfully or recklessly to disrupt
16 the normal functioning of such a facility by:

17 (a) Impeding a person's entry to or departure from the facility or
18 from the common areas of the real property upon which the facility is
19 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; or

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

26 (2) A violation of this section is a misdemeanor.

27 NEW SECTION. Sec. 4. (1) It is unlawful for a person, alone or in
28 concert with others, willfully or recklessly to interfere with access
29 to or from a health care facility by:

30 (a) Physically preventing a person's entry to or departure from the
31 facility or from the common areas of the real property upon which the
32 facility is located;

33 (b) Using words or conduct to place another person in reasonable
34 fear of serious harm to his or her person or property; or

35 (c) Knowingly permitting any telephone under his or her control to
36 be used to place another person in reasonable fear of harm to his or
37 her person or property.

1 (2) A violation of this section is a gross misdemeanor punishable
2 as follows:

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

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

7 (c) For a third or subsequent offense, a fine of not less than one
8 thousand dollars and a jail term of not less than thirty consecutive
9 days.

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

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

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

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

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

36 (b) The person is eighteen years or older and within the preceding
37 four hours has assaulted that person's spouse, former spouse, or a
38 person eighteen years or older with whom the person resides or has

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

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

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

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

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

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

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

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

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

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

4 (6) An officer may act upon the request of a law enforcement
5 officer in whose presence a traffic infraction was committed, to stop,
6 detain, arrest, or issue a notice of traffic infraction to the driver
7 who is believed to have committed the infraction. The request by the
8 witnessing officer shall give an officer the authority to take
9 appropriate action under the laws of the state of Washington.

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

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

18 (9) Any police officer having probable cause to believe that a
19 person has, within twenty-four hours of the alleged violation,
20 committed a violation of section 3 or 4 of this act may arrest such
21 person.

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

25 (~~(10)~~) (11) No police officer may be held criminally or civilly
26 liable for making an arrest pursuant to RCW 10.31.100(2) or (8) if the
27 police officer acts in good faith and without malice.

28 NEW SECTION. Sec. 6. (1) A person or health care facility
29 aggrieved by the actions prohibited by section 3 or 4 of this act may
30 seek civil damages from those who committed the prohibited acts and
31 those acting in concert with them. A plaintiff in an action brought
32 under this chapter shall not recover more than his or her actual
33 damages and additional sums authorized in section 7 of this act. Once
34 a plaintiff recovers his or her actual damages and any additional sums
35 authorized under this chapter, additional damages shall not be
36 recovered. A person does not have to be criminally convicted of
37 violating section 3 or 4 of this act to be held civilly liable under
38 this section. It is not necessary to prove actual damages to recover

1 the additional sums authorized under section 7 of this act, costs, and
2 attorneys' fees. The prevailing party is entitled to recover costs and
3 attorneys' fees.

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

7 In appropriate circumstances, any superior court having personal
8 jurisdiction over one or more defendants may issue injunctive relief
9 that shall have binding effect on the original defendants and persons
10 acting in concert with the original defendants, in any county in the
11 state.

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

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

18 NEW SECTION. **Sec. 7.** In a civil action brought under this
19 chapter, an individual plaintiff aggrieved by the actions prohibited by
20 section 3 or 4 of this act may be entitled to recover up to five
21 hundred dollars for each day that the actions occurred, or up to five
22 thousand dollars for each day that the actions occurred if the
23 plaintiff aggrieved by the actions prohibited under section 3 or 4 of
24 this act is a health care facility.

25 NEW SECTION. **Sec. 8.** Section 3 of this act shall not be
26 interpreted to apply to:

27 (1) The actions of any agent, officer, or employee of the health
28 care facility, acting within the scope of his or her agency, office, or
29 employment; or

30 (2) The actions of any law enforcement officer, acting within the
31 scope of his or her agency; or

32 (3) Any expressive conduct protected from legal prohibition by the
33 first article of amendment to the Constitution of the United States, or
34 Article I, section 5 of the State Constitution; or

35 (4) Conduct by a party to a labor dispute in furtherance of labor
36 or management objectives in that dispute.

1 NEW SECTION. **Sec. 9.** Nothing in section 3 of this act shall
2 prohibit lawful picketing or other publicity for the purpose of
3 providing the public with information.

4 NEW SECTION. **Sec. 10.** A court having jurisdiction over a criminal
5 or civil proceeding under this chapter shall take all steps reasonably
6 necessary to safeguard the individual privacy and prevent harassment of
7 a health care patient or health care provider who is a party or witness
8 in a proceeding, including granting protective orders and orders in
9 limine.

10 **Sec. 11.** RCW 10.97.070 and 1977 ex.s. c 314 s 7 are each amended
11 to read as follows:

12 (1) Criminal justice agencies may, in their discretion, disclose to
13 persons who have suffered physical loss, property damage, or injury
14 compensable through civil action, the identity of persons suspected as
15 being responsible for such loss, damage, or injury together with such
16 information as the agency reasonably believes may be of assistance to
17 the victim in obtaining civil redress. Such disclosure may be made
18 without regard to whether the suspected offender is an adult or a
19 juvenile, whether charges have or have not been filed, or a prosecuting
20 authority has declined to file a charge or a charge has been dismissed.

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

27 (3) The disclosure by a criminal justice agency of investigative
28 information pursuant to subsection (1) of this section shall not
29 establish a duty to disclose any additional information concerning the
30 same incident or make any subsequent disclosure of investigative
31 information, except to the extent an additional disclosure is compelled
32 by legal process.

33 NEW SECTION. **Sec. 12.** Nothing in this chapter shall be construed
34 to limit the right to seek other available criminal or civil remedies.
35 The remedies provided in this chapter are cumulative, not exclusive.

1 NEW SECTION. **Sec. 13.** If any section or subsection of this act or
2 its application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the section or subsection to
4 other persons or circumstances is not affected.

5 NEW SECTION. **Sec. 14.** Sections 2 through 4, 6 through 10, and 12
6 of this act shall constitute a new chapter in Title 9A RCW.

7 NEW SECTION. **Sec. 15.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of the
9 state government and its existing public institutions, and shall take
10 effect immediately.

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