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**SENATE BILL 5299**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Braun, Rolfes, Conway, Holy, Mullet, Torres, Wagoner, Warnick, C. Wilson, and L. Wilson

AN ACT Relating to law enforcement officer protection; amending RCW 9A.36.031, 9.94A.831, and 10.118.030; adding a new section to chapter 9.61 RCW; adding a new section to chapter 4.24 RCW; and prescribing penalties.

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

**Sec.**  RCW 9A.36.031 and 2013 c 256 s 1 are each amended to read as follows:

(1) A person is guilty of assault in the third degree if he or she, under circumstances not amounting to assault in the first or second degree:

(a) With intent to prevent or resist the execution of any lawful process or mandate of any court officer or the lawful apprehension or detention of himself, herself, or another person, assaults another; or

(b) Assaults a person employed as a transit operator or driver, the immediate supervisor of a transit operator or driver, a mechanic, or a security officer, by a public or private transit company or a contracted transit service provider, while that person is performing his or her official duties at the time of the assault; or

(c) Assaults a school bus driver, the immediate supervisor of a driver, a mechanic, or a security officer, employed by a school district transportation service or a private company under contract for transportation services with a school district, while the person is performing his or her official duties at the time of the assault; or

(d) With criminal negligence, causes bodily harm to another person by means of a weapon or other instrument or thing likely to produce bodily harm; or

(e) Assaults a firefighter or other employee of a fire department, county fire marshal's office, county fire prevention bureau, or fire protection district who was performing his or her official duties at the time of the assault; or

(f) With criminal negligence, causes bodily harm accompanied by substantial pain that extends for a period sufficient to cause considerable suffering; or

(g) Assaults a law enforcement officer or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault; or

(h) Assaults a law enforcement officer or other employee of a law enforcement agency who was off duty at the time of the assault, but the assault was committed with the intent to specifically target the person due to their employment as a law enforcement professional; or

(i) Assaults a peace officer with a projectile stun gun; or

((~~(i)~~)) (j) Assaults a nurse, physician, or health care provider who was performing his or her nursing or health care duties at the time of the assault. For purposes of this subsection: "Nurse" means a person licensed under chapter 18.79 RCW; "physician" means a person licensed under chapter 18.57 or 18.71 RCW; and "health care provider" means a person certified under chapter 18.71 or 18.73 RCW who performs emergency medical services or a person regulated under Title 18 RCW and employed by, or contracting with, a hospital licensed under chapter 70.41 RCW; or

((~~(j)~~)) (k) Assaults a judicial officer, court-related employee, county clerk, or county clerk's employee, while that person is performing his or her official duties at the time of the assault or as a result of that person's employment within the judicial system. For purposes of this subsection, "court-related employee" includes bailiffs, court reporters, judicial assistants, court managers, court managers' employees, and any other employee, regardless of title, who is engaged in equivalent functions; or

((~~(k)~~)) (l) Assaults a person located in a courtroom, jury room, judge's chamber, or any waiting area or corridor immediately adjacent to a courtroom, jury room, or judge's chamber. This section shall apply only: (i) During the times when a courtroom, jury room, or judge's chamber is being used for judicial purposes during court proceedings; and (ii) if signage was posted in compliance with RCW 2.28.200 at the time of the assault.

(2) Assault in the third degree is a class C felony.

NEW SECTION. **Sec.**  A new section is added to chapter 9.61 RCW to read as follows:

(1) A person is guilty of doxing if:

(a) The person intentionally posts another person's personally identifiable information without his or her consent;

(b) The person knows that posting the personally identifiable information is reasonably likely to cause the person whose information is posted to experience harassment, bodily injury, or death; and

(c) The posting of the personally identifiable information causes the person whose information is posted to experience a substantial life disruption, harassment, bodily injury, or death.

(2) It is not an offense under this section for a person to:

(a) Provide another person's personally identifiable information when reporting unlawful activity or when providing such information in response to, or in connection with, an investigation conducted by a government agency or employer; or

(b) Provide a person's personally identifiable information in connection with lawful and constitutionally protected activity.

(3)(a) Except as provided in (b) of this subsection, doxing is a gross misdemeanor.

(b) A person who commits cyber harassment is guilty of a class C felony if the person has previously been convicted of doxing.

(4) Doxing may be committed in more than one location. The offense is deemed to have been committed in any location in which any element of the offense occurred or in the location in which the person whose personally identifiable information resides.

(5) Nothing in this section shall be construed to: Conflict with 47 U.S.C. Sec. 230 of the communications decency act; conflict with 42 U.S.C. Sec. 1983 of the civil rights act; or prohibit any activity protected under the Constitution of the United States or the state Constitution.

(6) For the purposes of this section:

(a) "Bodily injury" has the same meaning as provided in RCW 9A.04.110.

(b) "Electronic communication" means any transfer of signs, signals, writings, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo optical system that affects interstate or foreign commerce.

(c) "Harassment" means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, harasses, or is detrimental to such person, and which serves no legitimate or lawful purpose. The course of conduct must: Be such as would cause a reasonable person to suffer substantial emotional distress, and actually cause substantial emotional distress to the person; or be such as would cause a reasonable parent to fear for the well-being of the parent's child.

(d) "Personally identifiable information" means:

(i) Any information that can be used to distinguish or trace an individual's identity, such as name, prior legal name, alias, mother's maiden name, social security number, date or place of birth, address, phone number, or biometric data;

(ii) Any information that is linked or linkable to an individual, such as medical, financial, education, consumer, or employment information, data, or records;

(iii) Any sensitive private information that is linked to a specific identifiable individual, such as gender identity, sexual orientation, or any sexually intimate visual depiction; or

(iv) Any information that provides access to a person's teleconferencing, video teleconferencing, or other digital meeting room.

(e) "Post" means to circulate, deliver, distribute, disseminate, transmit, or otherwise make available to two or more persons through electronic communication.

(f) "Substantial life disruption" means that a person significantly modifies that person's actions or routines either to avoid the person who posted the information or as a result of the posting, such as changing a phone number, changing an electronic mail address, deleting personal electronic accounts or significantly decreasing use of the internet, moving from an established residence, changing daily routines, changing routes to and from work, changing employment or work schedule, or losing time from work or a job.

NEW SECTION. **Sec.**  A new section is added to chapter 4.24 RCW to read as follows:

(1) A person who is a victim of an offense under section 2 of this act may bring a civil action against the person who committed the offense or against any person who knowingly benefits, financially or by receiving anything of value, from participating in any venture that the person knew or should have known violated RCW 9A.36.031, and may recover damages and any other appropriate relief, including reasonable attorneys' fees.

(2) A person who is found liable under this section shall be jointly and severally liable with each other person, if any, who is found liable under this section for damages arising from the same conduct.

(3) A court in which a suit is brought under this section, on the motion of a party, may issue a temporary restraining order or permanent injunction to restrain or prevent the disclosure or continued disclosure of personally identifiable information.

**Sec.**  RCW 9.94A.831 and 2009 c 141 s 1 are each amended to read as follows:

In a criminal case where:

(1) The defendant has been convicted of assaulting a law enforcement officer or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault as provided under RCW 9A.36.031; and

(2) There has been a special allegation pleaded and proven beyond a reasonable doubt that the defendant intentionally committed the assault with what appears to be a ((~~firearm~~)) deadly weapon as defined in RCW 9A.04.110;

the court shall make a finding of fact of the special allegation, or if a jury trial is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to the special allegation.

**Sec.**  RCW 10.118.030 and 2021 c 326 s 4 are each amended to read as follows:

(1) Each law enforcement agency in the state is required to report each incident where a law enforcement officer employed by the agency used force and:

(a) A fatality occurred in connection with the use of force;

(b) Great bodily harm occurred in connection with the use of force;

(c) Substantial bodily harm occurred in connection with the use of force; or

(d) A law enforcement officer:

(i) Discharged a firearm at or in the direction of a person;

(ii) Pointed a firearm at a person;

(iii) Used a chokehold or vascular neck restraint;

(iv) Used an electronic control weapon including, but not limited to, a taser, against a person;

(v) Used oleoresin capsicum spray against a person;

(vi) Discharged a less lethal shotgun or other impact munitions at or in the direction of a person;

(vii) Struck a person using an impact weapon or instrument including, but not limited to, a club, baton, or flashlight;

(viii) Used any part of their body to physically strike a person including, but not limited to, punching, kicking, slapping, or using closed fists or feet;

(ix) Used a vehicle to intentionally strike a person or vehicle; or

(x) Deployed a canine by releasing it from the physical control of the law enforcement officer or had under the law enforcement officer's control a canine that bites a person.

(2) Each report required in subsection (1) of this section must include the following information:

(a) The date and time of the incident;

(b) The location of the incident;

(c) The agency or agencies employing the law enforcement officers;

(d) The type of force used by the law enforcement officer;

(e) The type of injury to the person against whom force was used, if any;

(f) The type of injury to the law enforcement officer, if any;

(g) Whether the person against whom force was used was armed or unarmed;

(h) Whether the person against whom force was used was believed to be armed;

(i) The type of weapon the person against whom force was used was armed with, if any;

(j) The age, gender, race, and ethnicity of the person against whom force was used, if known;

(k) The tribal affiliation of the person against whom force was used, if applicable and known;

(l) Whether the person against whom force was used exhibited any signs associated with a potential mental health condition or use of a controlled substance or alcohol based on the observation of the law enforcement officer;

(m) The name, age, gender, race, and ethnicity of the law enforcement officer, if known;

(n) The law enforcement officer's years of service;

(o) The reason for the initial contact between the person against whom force was used and the law enforcement officer;

(p) Whether any minors were present at the scene of the incident, if known;

(q) The entity conducting the independent investigation of the incident, if applicable;

(r) Whether dashboard or body worn camera footage was recorded for an incident;

(s) The number of officers who were present when force was used; and

(t) The number of suspects who were present when force was used.

(3) Each law enforcement agency must also report any additional incidents and data required by the statewide use of force data program developed in section 3, chapter 326, Laws of 2021.

(4) Each law enforcement agency in the state must also report each incident where a law enforcement officer employed by the agency is physically harmed by a citizen while performing duties within the scope of their employment including:

(a) Details regarding the physical harm committed and the means of committing the physical harm;

(b) Whether or not subsequent charges were filed against the citizen;

(c) If charges were filed, the ultimate disposition of the case; and

(d) Reasoning if charges were not filed.

(5) All law enforcement agencies shall submit the reports required by this section in accordance with the requirements of the statewide use of force data program no later than three months after the office of the attorney general determines that the system procured in RCW 10.118.040 can accept law enforcement agency reports. Reports must be made in the format and time frame established in the statewide use of force data program.

((~~(5)~~)) (6) A law enforcement agency has satisfied its reporting obligations pursuant to chapter 326, Laws of 2021 by submitting the reports and data required under this section. The contractor shall provide technical assistance to any law enforcement agency in gathering, compiling, and submitting the required reports and data for each incident.

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

**--- END ---**