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**SENATE BILL 5489**

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

**By** Senators Trudeau, Wellman, Dhingra, Hasegawa, Hunt, Keiser, Liias, Lovelett, Nguyen, Pedersen, Randall, Saldaña, Stanford, Valdez, and C. Wilson

AN ACT Relating to protecting access to reproductive health care services and gender-affirming treatment in Washington state; amending RCW 5.51.020, 5.56.010, 9.73.040, 9.73.260, 10.55.020, 10.88.250, 10.88.320, 10.88.330, 10.96.020, 10.96.040, and 40.24.030; adding a new chapter to Title 7 RCW; prescribing penalties; and declaring an emergency.

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

NEW SECTION. **Sec.**  This chapter may be known and cited as the shield law.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Aggrieved party" means a person against whom an underlying action is commenced based on the aggrieved party's provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services.

(2) "Gender-affirming treatment" means health services or products that support and affirm an individual's gender identity, including social, psychological, behavioral, and medical or surgical interventions. Gender-affirming care services include, but are not limited to, evaluation and treatments for gender dysphoria, gender-affirming hormone therapy, and gender-affirming surgical procedures.

(3) "Protected health care services" means gender-affirming treatment and reproductive health care services that are lawful in the state of Washington.

(4) "Reproductive health care services" means all services, care, or products of a medical, surgical, psychiatric, therapeutic, mental health, behavioral health, diagnostic, preventative, rehabilitative, supportive, counseling, referral, prescribing, or dispensing nature relating to the human reproductive system including, but not limited to, all services, care, and products relating to pregnancy, assisted reproduction, contraception, miscarriage management, or the termination of a pregnancy, including self-managed terminations.

(5) "Underlying action" means a civil, criminal, or administrative proceeding, or any proceeding preliminary thereto.

**PART I**

**CIVIL PROCEDURE**

**Sec.**  RCW 5.51.020 and 2012 c 95 s 3 are each amended to read as follows:

(1)(a) To request issuance of a subpoena under this section, a party must submit a foreign subpoena to a clerk of court in the county in which discovery is sought to be conducted in this state. A request for the issuance of a subpoena under this chapter does not constitute an appearance in the courts of Washington state.

(b) A request for issuance of any subpoena pursuant to this section must include an attestation, made under penalty of perjury, stating whether the subpoena seeks documents, information, or testimony related to the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington. Any false attestation submitted under this section is subject to a statutory penalty of $10,000 per violation. Submission of such attestation subjects the attester to the jurisdiction of the courts of Washington state for any suit, penalty, or damages arising out of a false attestation under this section.

(2) ((~~When~~)) Except as provided in subsection (4) of this section, when a party submits a foreign subpoena to a clerk of court in this state, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

(3) A subpoena under subsection (2) of this section must:

(a) Incorporate the terms used in the foreign subpoena; and

(b) Contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

(4) If a party submits a foreign subpoena to a clerk of court in this state that seeks documents, information, or testimony that relate to protected health care services, as defined in section 2 of this act, the clerk shall not issue a subpoena for service and shall present the request to the court for action. The court shall review the foreign subpoena and shall not issue a subpoena for service and shall quash any existing subpoena issued by the court if the subpoena is for documents, information, or testimony that relates to protected health care services as defined in section 2 of this act, unless the subpoena seeks documents, information, or testimony related to:

(a) An out-of-state action that is founded in tort, contract, or statute, for which a similar claim would exist under the laws of this state, that is brought by a person or the person's authorized legal representative, for damages suffered by the person or damages derived from an individual's loss of consortium of the person; or

(b) An out-of-state action that is founded in contract, and for which a similar claim would exist under the laws of this state, that is brought or sought to be enforced by a party with a contractual relationship with the person that is the subject of the subpoena.

**Sec.**  RCW 5.56.010 and 2011 c 336 s 141 are each amended to read as follows:

((~~Any~~)) Except as provided in section 13 of this act, any person may be compelled to attend as a witness before any court of record, judge, commissioner, or referee, in any civil action or proceeding in this state. No such person shall be compelled to attend as a witness in any civil action or proceeding unless the fees ((~~be~~)) are paid or tendered ((~~him or her~~)) to such person which are allowed by law for one day's attendance as a witness and for traveling to and returning from the place where he or she is required to attend, together with any allowance for meals and lodging theretofore fixed as specified herein: PROVIDED, That such fees be demanded by any witness residing within the same county where such court of record, judge, commissioner, or referee is located, or within twenty miles of the place where such court is located, at the time of service of the subpoena: PROVIDED FURTHER, That a party desiring the attendance of a witness residing outside of the county in which such action or proceeding is pending, or more than twenty miles of the place where such court is located, shall apply ex parte to such court, or to the judge, commissioner, referee, or clerk thereof, who, if such application be granted and a subpoena issued, shall fix without notice an allowance for meals and lodging, if any to be allowed, together with necessary travel expenses, and the amounts so fixed shall be endorsed upon the subpoena and tendered to such witness at the time of the service of the subpoena: PROVIDED FURTHER, That the court shall fix and allow at or after trial such additional amounts for meals, lodging, and travel as it may deem reasonable for the attendance of such witness.

**PART II**

**CRIMINAL PROCEDURE**

**Sec.**  RCW 9.73.040 and 1967 ex.s. c 93 s 2 are each amended to read as follows:

(1) An ex parte order for the interception of any communication or conversation listed in RCW 9.73.030 may be issued by any superior court judge in the state upon verified application of either the state attorney general or any county prosecuting attorney setting forth fully facts and circumstances upon which the application is based and stating ((~~that~~)):

(a) ((~~There~~)) That there are reasonable grounds to believe that national security is endangered, that a human life is in danger, that arson is about to be committed, or that a riot is about to be committed((~~, and~~));

(b) ((~~There~~)) That there are reasonable grounds to believe that evidence will be obtained essential to the protection of national security, the preservation of human life, or the prevention of arson or a riot((~~, and~~));

(c) ((~~There~~)) If the application seeks communications or conversations related to an investigation that alleges criminal liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington, that such communications or conversations are being sought; and

(d) That there are no other means readily available for obtaining such information.

(2) Where statements are solely upon the information and belief of the applicant, the grounds for the belief must be given.

(3) The applicant must state whether any prior application has been made to obtain such communications on the same instrument or for the same person and if such prior application exists the applicant shall disclose the current status thereof.

(4) The application and any order issued under RCW 9.73.030 through 9.73.080 shall identify as fully as possible the particular equipment, lines or location from which the information is to be obtained and the purpose thereof.

(5) The court may examine upon oath or affirmation the applicant and any witness the applicant desires to produce or the court requires to be produced.

(6) Orders issued under this section shall be effective for fifteen days, after which period the court which issued the order may upon application of the officer who secured the original order renew or continue the order for an additional period not to exceed fifteen days.

(7) No order issued under this section shall authorize or purport to authorize any activity which would violate any laws of the United States.

(8) The court shall not issue an order for the interception of any communication or conversation for the purpose of investigating or recovering evidence that relates to an investigation that alleges criminal liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

**Sec.**  RCW 9.73.260 and 2015 c 222 s 2 are each amended to read as follows:

(1) As used in this section:

(a) "Wire communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception, including the use of such connection in a switching station, furnished or operated by any person engaged in providing or operating such facilities for the transmission of intrastate, interstate, or foreign communications, and such term includes any electronic storage of such communication.

(b) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system, but does not include:

(i) Any wire or oral communication;

(ii) Any communication made through a tone-only paging device; or

(iii) Any communication from a tracking device, but solely to the extent the tracking device is owned by the applicable law enforcement agency.

(c) "Electronic communication service" means any service that provides to users thereof the ability to send or receive wire or electronic communications.

(d) "Pen register" means a device that records or decodes electronic or other impulses that identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached, but such term does not include any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business.

(e) "Trap and trace device" means a device that captures the incoming electronic or other impulses that identify the originating number of an instrument or device from which a wire or electronic communication was transmitted.

(f) "Cell site simulator device" means a device that transmits or receives radio waves for the purpose of conducting one or more of the following operations: (i) Identifying, locating, or tracking the movements of a communications device; (ii) intercepting, obtaining, accessing, or forwarding the communications, stored data, or metadata of a communications device; (iii) affecting the hardware or software operations or functions of a communications device; (iv) forcing transmissions from or connections to a communications device; (v) denying a communications device access to other communications devices, communications protocols, or services; or (vi) spoofing or simulating a communications device, cell tower, cell site, or service((~~,~~)) including, but not limited to, an international mobile subscriber identity catcher or other invasive cell phone or telephone surveillance or eavesdropping device that mimics a cell phone tower and sends out signals to cause cell phones in the area to transmit their locations, identifying information, and communications content, or a passive interception device or digital analyzer that does not send signals to a communications device under surveillance. A cell site simulator device does not include any device used or installed by an electric utility, as defined in RCW 19.280.020, solely to the extent such device is used by that utility to measure electrical usage, to provide services to customers, or to operate the electric grid.

(2) No person may install or use a pen register, trap and trace device, or cell site simulator device without a prior court order issued under this section except as provided under subsection (6) of this section or RCW 9.73.070.

(3) A law enforcement officer may apply for and the superior court may issue orders and extensions of orders authorizing the installation and use of pen registers, trap and trace devices, and cell site simulator devices as provided in this section. The application shall be under oath and shall include the identity of the officer making the application and the identity of the law enforcement agency conducting the investigation. The applicant must certify that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by that agency.

(4) If the court finds that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation and finds that there is probable cause to believe that the pen register, trap and trace device, or cell site simulator device will lead to obtaining evidence of a crime, contraband, fruits of crime, things criminally possessed, weapons, or other things by means of which a crime has been committed or reasonably appears about to be committed, or will lead to learning the location of a person who is unlawfully restrained or reasonably believed to be a witness in a criminal investigation or for whose arrest there is probable cause, the court shall enter an ex parte order authorizing the installation and use of a pen register, trap and trace device, or cell site simulator device. The order shall specify:

(a)(i) In the case of a pen register or trap and trace device, the identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached; or

(ii) In the case of a cell site simulator device, the identity, if known, of (A) the person to whom is subscribed or in whose name is subscribed the electronic communications service utilized by the device to which the cell site simulator device is to be used and (B) the person who possesses the device to which the cell site simulator device is to be used;

(b) The identity, if known, of the person who is the subject of the criminal investigation;

(c)(i) In the case of a pen register or trap and trace device, the number and, if known, physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order; or

(ii) In the case of a cell site simulator device: (A) The telephone number or other unique subscriber account number identifying the wire or electronic communications service account used by the device to which the cell site simulator device is to be attached or used; (B) if known, the physical location of the device to which the cell site simulator device is to be attached or used; (C) the type of device, and the communications protocols being used by the device, to which the cell site simulator device is to be attached or used; (D) the geographic area that will be covered by the cell site simulator device; (E) all categories of metadata, data, or information to be collected by the cell site simulator device from the targeted device including, but not limited to, call records and geolocation information; (F) whether or not the cell site simulator device will incidentally collect metadata, data, or information from any parties or devices not specified in the court order, and if so, what categories of information or metadata will be collected; and (G) any disruptions to access or use of a communications or internet access network that may be created by use of the device; and

(d) A statement of the offense to which the information likely to be obtained by the pen register, trap and trace device, or cell site simulator device relates.

The order shall direct, if the applicant has requested, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register, trap and trace device, or cell site simulator device. An order issued under this section shall authorize the installation and use of a: (i) Pen register or a trap and trace device for a period not to exceed sixty days; and (ii) ((~~a~~)) cell site simulator device for sixty days. An extension of the original order may only be granted upon: A new application for an order under subsection (3) of this section; and a showing that there is a probability that the information or items sought under this subsection are more likely to be obtained under the extension than under the original order. No extension beyond the first extension shall be granted unless: There is a showing that there is a high probability that the information or items sought under this subsection are much more likely to be obtained under the second or subsequent extension than under the original order; and there are extraordinary circumstances such as a direct and immediate danger of death or serious bodily injury to a law enforcement officer. The period of extension shall be for a period not to exceed sixty days.

An order authorizing or approving the installation and use of a pen register, trap and trace device, or cell site simulator device shall direct that the order be sealed until otherwise ordered by the court and that the person owning or leasing the line to which the pen register, trap and trace device, and cell site simulator device((~~s~~)) is attached or used, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register, trap and trace device, or cell site simulator device or the existence of the investigation to the listed subscriber or to any other person, unless or until otherwise ordered by the court.

(5) Upon the presentation of an order, entered under subsection (4) of this section, by an officer of a law enforcement agency authorized to install and use a pen register under this chapter, a provider of wire or electronic communication service, landlord, custodian, or other person shall furnish such law enforcement officer forthwith all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such assistance is directed by a court order as provided in subsection (4) of this section.

Upon the request of an officer of a law enforcement agency authorized to receive the results of a trap and trace device under this chapter, a provider of a wire or electronic communication service, landlord, custodian, or other person shall install such device forthwith on the appropriate line and shall furnish such law enforcement officer all additional information, facilities, and technical assistance including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such installation and assistance is directed by a court order as provided in subsection (4) of this section. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the officer of a law enforcement agency, designated in the court order, at reasonable intervals during regular business hours for the duration of the order.

A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this subsection shall be reasonably compensated by the law enforcement agency that requests the facilities or assistance for such reasonable expenses incurred in providing such facilities and assistance.

No cause of action shall lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order under this section. A good faith reliance on a court order under this section, a request pursuant to this section, a legislative authorization, or a statutory authorization is a complete defense against any civil or criminal action brought under this chapter or any other law.

(6)(a) Notwithstanding any other provision of this chapter, a law enforcement officer and a prosecuting attorney or deputy prosecuting attorney who jointly and reasonably determine that there is probable cause to believe that an emergency situation exists that involves immediate danger of death or serious bodily injury to any person that requires the installation and use of a pen register, trap and trace device, or cell site simulator device before an order authorizing such installation and use can, with due diligence, be obtained, and there are grounds upon which an order could be entered under this chapter to authorize such installation and use, may have installed and use a pen register, trap and trace device, or cell site simulator device if, within forty-eight hours after the installation has occurred, or begins to occur, an order approving the installation or use is issued in accordance with subsection (4) of this section. In the absence of an authorizing order, such use shall immediately terminate when the information sought is obtained, when the application for the order is denied or when forty-eight hours have lapsed since the installation of the pen register, trap and trace device, or cell site simulator device, whichever is earlier. If an order approving the installation or use is not obtained within forty-eight hours, any information obtained is not admissible as evidence in any legal proceeding. The knowing installation or use by any law enforcement officer of a pen register, trap and trace device, or cell site simulator device pursuant to this subsection without application for the authorizing order within forty-eight hours of the installation shall constitute a violation of this chapter and be punishable as a gross misdemeanor. A provider of a wire or electronic service, landlord, custodian, or other person who furnished facilities or technical assistance pursuant to this subsection shall be reasonably compensated by the law enforcement agency that requests the facilities or assistance for such reasonable expenses incurred in providing such facilities and assistance.

(b) A law enforcement agency that authorizes the installation of a pen register, trap and trace device, or cell site simulator device under this subsection (6) shall file a monthly report with the administrator for the courts. The report shall indicate the number of authorizations made, the date and time of each authorization, whether a court authorization was sought within forty-eight hours, and whether a subsequent court authorization was granted.

(c) A law enforcement agency authorized to use a cell site simulator device in accordance with this section must: (i) Take all steps necessary to limit the collection of any information or metadata to the target specified in the applicable court order; (ii) take all steps necessary to permanently delete any information or metadata collected from any party not specified in the applicable court order immediately following such collection and must not transmit, use, or retain such information or metadata for any purpose whatsoever; and (iii) ((~~must~~)) delete any information or metadata collected from the target specified in the court order within thirty days if there is no longer probable cause to support the belief that such information or metadata is evidence of a crime.

(7)(a) If an application for the installation and use of a pen register, trap and trace device, or cell site simulator device is for the purpose of investigating or recovering evidence that relates to an investigation that alleges criminal liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington, the applicant shall include an attestation, made under penalty of perjury, stating that the application seeks information related to the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

(b) The court shall not issue an order for the installation and use of pen registers, trap and trace devices, and cell site simulator devices for the purpose of investigating or recovering evidence that relates to an investigation that alleges criminal liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

**Sec.**  RCW 10.55.020 and 2010 c 8 s 1050 are each amended to read as follows:

(1) If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in this state certified under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within this state is a material witness in such prosecution, or grand jury investigation, and that ((~~his or her~~)) such person's presence will be required for a specified number of days, upon presentation of such certificate, accompanied by an attestation made under penalty of perjury stating that such prosecution or grand jury investigation does not seek documents, information, or testimony related to the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington, to any judge of a court of record in the county in which such person is, such judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing. Any false attestation submitted under this section is subject to a statutory penalty of $10,000 per violation. Submission of such attestation subjects the attester to the jurisdiction of the courts of Washington state for any suit, penalty, or damages arising out of a false attestation under this section.

(2) If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence, will give to ((~~him or her~~)) such witness protection from arrest and the service of civil and criminal process, he or she shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence and of any other state through which the witness may be required to travel by ordinary course of travel, at a time and place specified in the certificate. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein.

(3) If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure ((~~his or her~~)) such person's attendance in the requesting state, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before ((~~him or her~~)) such judge for said hearing; and the judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability may, in lieu of issuing subpoena or summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting state.

(4) If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the sum of ten cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and five dollars for each day, that ((~~he or she~~)) such person is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, ((~~he or she~~)) such person shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

(5) The summons of a witness to testify in the prosecution or a grand jury investigation in another state is prohibited if such prosecution or grand jury investigation is based on the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

**Sec.**  RCW 10.88.250 and 1971 ex.s. c 46 s 6 are each amended to read as follows:

((~~The~~)) (1) Except as provided in subsection (2) of this section, the governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in RCW 10.88.220 with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this chapter not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

(2) The governor of this state shall not surrender any person described in subsection (1) of this section where the charge against the person is based on the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

**Sec.**  RCW 10.88.320 and 2010 c 8 s 1075 are each amended to read as follows:

(1) Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state and, except in cases arising under RCW 10.88.250, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of ((~~his or her~~)) such person's bail, probation, or parole, or whenever complaint shall have been made before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under RCW 10.88.250, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of ((~~his or her~~)) such person's bail, probation, or parole and is believed to be in this state, if the person making such charge or complaint and affidavit includes an attestation made under penalty of perjury stating that the charge for the commission of the crime in another state is not related to criminal liability that is based on the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington, the judge or magistrate shall issue a warrant directed to any peace officer commanding ((~~him or her~~)) such officer to apprehend the person named therein, wherever ((~~he or she~~)) such person may be found in this state, and to bring ((~~him or her~~)) such person before the same or any other judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant. Any false attestation submitted under this section is subject to a statutory penalty of $10,000 per violation. Submission of such attestation subjects the attester to the jurisdiction of the courts of Washington state for any suit, penalty, or damages arising out of a false attestation under this section.

(2) Except in cases arising under RCW 10.88.220, the issuance of a warrant is prohibited for a charge or complaint that is related to criminal liability that is based on the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

**Sec.**  RCW 10.88.330 and 2010 c 8 s 1076 are each amended to read as follows:

(1) The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him or her under oath setting forth the ground for the arrest as in RCW 10.88.320; and thereafter his or her answer shall be heard as if he or she had been arrested on a warrant.

(2) An officer of the United States customs service or the immigration and naturalization service may, without a warrant, arrest a person if:

(a) The officer is on duty;

(b) One or more of the following situations exists:

(i) The person commits an assault or other crime involving physical harm, defined and punishable under chapter 9A.36 RCW, against the officer or against any other person in the presence of the officer;

(ii) The person commits an assault or related crime while armed, defined and punishable under chapter 9.41 RCW, against the officer or against any other person in the presence of the officer;

(iii) The officer has reasonable cause to believe that a crime as defined in (b)(i) or (ii) of this subsection has been committed and reasonable cause to believe that the person to be arrested has committed it;

(iv) The officer has reasonable cause to believe that a felony has been committed and reasonable cause to believe that the person to be arrested has committed it; or

(v) The officer has received positive information by written, telegraphic, teletypic, telephonic, radio, or other authoritative source that a peace officer holds a warrant for the person's arrest; and

(c) The regional commissioner of customs certifies to the state of Washington that the customs officer has received proper training within the agency to enable that officer to enforce or administer this subsection.

(3) The arrest of a person is prohibited if the arrest is related to criminal liability that is based on the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

**Sec.**  RCW 10.96.020 and 2008 c 21 s 3 are each amended to read as follows:

This section shall apply to any criminal process allowing for search of or commanding production of records that are in the actual or constructive possession of a recipient who receives service outside Washington, regardless of whether the recipient or the records are physically located within the state.

(1) When properly served with criminal process issued under this section, the recipient shall provide the applicant all records sought pursuant to the criminal process. The records shall be produced within twenty business days of receipt of the criminal process, unless the process requires earlier production. An applicant may consent to a recipient's request for additional time to comply with the criminal process.

(2) Criminal process issued under this section must contain the following language in bold type on the first page of the document: "This [warrant, subpoena, order] is issued pursuant to RCW [insert citation to this statute]. A response is due within twenty business days of receipt, unless a shorter time is stated herein, or the applicant consents to a recipient's request for additional time to comply."

(3) If the judge finds reason to suspect that failure to produce records within twenty business days would cause an adverse result, the criminal process may require production of records within less than twenty business days. A court may reasonably extend the time required for production of the records upon finding that the recipient has shown good cause for that extension and that an extension of time would not cause an adverse result.

(4) When properly served with criminal process issued under this section, a recipient who seeks to quash the criminal process must seek relief from the court where the criminal process was issued, within the time originally required for production of records. The court shall hear and decide the motion no later than five court days after the motion is filed. An applicant's consent, under subsection (1) of this section, to a recipient's request for additional time to comply with the criminal process does not extend the date by which a recipient must seek the relief designated in this section.

(5) The issuance of criminal process is prohibited if such process is related to criminal liability that is based on the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

**Sec.**  RCW 10.96.040 and 2008 c 21 s 5 are each amended to read as follows:

(1) A Washington recipient, when served with process that was issued by or in another state that on its face purports to be valid criminal process, shall comply with that process as if that process had been issued by a Washington court if the criminal process includes an attestation, made under penalty of perjury, stating that such process does not relate to criminal liability that is based on the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington. Any false attestation submitted under this section is subject to a statutory penalty of $10,000 per violation. Submission of such attestation subjects the attester to the jurisdiction of the courts of Washington state for any suit, penalty, or damages arising out of a false attestation under this section.

(2) A Washington recipient shall not be required to comply with a criminal process issued by or in another state that is related to criminal liability that is based on the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

**PART III**

**ENFORCEMENT AND REMEDIES**

NEW SECTION. **Sec.**  (1) It is the public policy of Washington to protect the provision of protected health care services that are lawful in the state of Washington by a person duly licensed under the laws of the state of Washington and the provision of insurance coverage for such services regardless of the location of the person receiving the services.

(2) A law of another state that authorizes the imposition of civil or criminal penalties or liability related to the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington is against the public policy of this state. Accordingly:

(a) A state court, judicial officer, court employee or clerk, or public employee or official shall not issue or effectuate a warrant for the arrest of any person in connection with the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington and a state or local law enforcement agency or officer shall not effectuate such a warrant or knowingly arrest, or knowingly participate in the arrest of, any person for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of such protected health care services.

(b) A state or local agency or department, or any employee thereof, acting in their official capacity, shall not cooperate with or provide information to any individual, agency, or department from another state or, to the extent permitted by federal law, to a federal law enforcement agency, for the purpose of enforcing another state's law that asserts criminal or civil liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington.

(c) A state court, judicial officer, court employee or clerk, or attorney shall not issue a subpoena, warrant, court order, or other civil or criminal legal process pursuant to any state law in connection with a proceeding in another state related to the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington.

(d)(i) A business entity that is incorporated, or has its principal place of business, in Washington that provides electronic communication services as defined in RCW 9.73.260 may not:

(A) Knowingly provide records, information, facilities, or assistance in response to a subpoena, warrant, court order, or other civil or criminal legal process that relates to an investigation into, or the enforcement of, another state's law that asserts criminal or civil liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington; or

(B) Comply with a subpoena, warrant, court order, or other civil or criminal legal process for records, information, facilities, or assistance related to protected health care services that are lawful in the state of Washington unless the subpoena, warrant, court order, or other civil or criminal legal process includes, or is accompanied by, an attestation, made under penalty of perjury, stating that the subpoena, warrant, court order, or other civil or criminal legal process does not seek documents, information, or testimony relating to an investigation into, or the enforcement of, another state's law that asserts criminal or civil liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington. Any false attestation submitted under this section is subject to a statutory penalty of $10,000 per violation. Submission of such attestation subjects the attester to the jurisdiction of the courts of Washington state for any suit, penalty, or damages arising out of a false attestation under this section.

(ii) Any business entity described in (d)(i) of this subsection that is served with a subpoena, warrant, court order, or other civil or criminal legal process described in (d)(i) of this subsection is entitled to rely on the representations made in an attestation described in (d)(i) of this subsection in determining whether the subpoena, warrant, court order, or other civil or criminal legal process relates to an investigation into, or the enforcement of, another state's law that asserts criminal or civil liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington.

(3) Nothing in this section prohibits the investigation of any criminal activity in this state that may involve the alleged provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services occurring in the state of Washington. Any information relating to any protected health care services provided to a specific individual shall not be shared with an agency, department, or individual from another state for the purpose of investigating or enforcing another state's law that asserts criminal or civil liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington.

(4) A state court, judicial officer, court employee or clerk, or public employee or official shall not apply to a case or controversy heard in state court any law that is contrary to this state's public policy as described in this section.

NEW SECTION. **Sec.**  (1)(a) A claim for interference with protected health care services arises when:

(i) Any underlying action is commenced against an aggrieved party in any court, state or federal, in the United States or any of its territories, where liability in the underlying action is based in whole or in part on:

(A) The aggrieved party's provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington;

(B) Conduct occurring in this state; and

(C) A cause of action or criminal liability that is not available under Washington law or the law of another state that is substantially similar to Washington law; or

(ii)(A) Any person in the state of Washington receives a subpoena from any court, state or federal, in the United States or any of its territories, where the information sought concerns the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington; and

(B) Where liability in the underlying action is based in whole or in part on a cause of action or criminal liability that is not available under Washington law or the law of another state that is substantially similar to Washington law.

(b) An underlying action is based on conduct occurring in this state if any part of the acts or omissions that form the basis of liability in the underlying action occur in Washington state, whether or not such acts or omissions are alleged in the action.

(2) A person may maintain a claim for interference with protected health care services under this section if the underlying action is objectively baseless and brought for an improper purpose.

(a) An underlying action is objectively baseless under this section if:

(i) The court in the underlying action lacked jurisdiction over the aggrieved party;

(ii) The underlying action impedes the right to travel; or

(iii) Other factors exist that the court determines demonstrate the objective baselessness of the underlying action.

(b) An underlying action is brought for an improper purpose under this section if:

(i) A purpose of the underlying action is to deter acts or omissions in Washington state that are permitted under the laws of the state of Washington; or

(ii) Other factors exist that the court determines demonstrate the underlying action was brought for an improper purpose.

(3) If a court finds for the aggrieved party in an action asserting a claim for interference with protected health care services authorized by this section, the aggrieved party may recover damages from any party that brought the underlying action. Recoverable damages include:

(a) Actual damages including, but not limited to, costs and reasonable attorneys' fees spent in defending the underlying action;

(b) Costs and reasonable attorneys' fees incurred in bringing an action under this section as may be allowed by the court; and

(c) Statutory damages up to $10,000.

(4) The provisions of this section do not apply to a judgment entered in another state that is based on an action:

(a) Founded in tort, contract, or statute, and for which a similar claim would exist under the laws of this state, brought by the person who received the protected health care services upon which the original lawsuit was based or the person's authorized legal representative, for damages suffered by the person or damages derived from an individual's loss of consortium of the person;

(b) Founded in contract, and for which a similar claim would exist under the laws of this state, brought or sought to be enforced by a party with a contractual relationship with the person that is the subject of the judgment entered in another state; or

(c) Where no part of the acts that formed the basis for liability occurred in this state.

NEW SECTION. **Sec.**  The attorney general may bring an action to enjoin any person from violating any provision of this chapter. Upon proper showing, the superior court may grant a permanent or temporary injunction, restraining order, writ of mandamus, or any additional orders or judgments necessary to enjoin such persons from violating this chapter. For any action in which the attorney general prevails, the attorney general may recover the costs of the action, including a reasonable attorney's fee.

**Sec.**  RCW 40.24.030 and 2022 c 231 s 5 are each amended to read as follows:

(1)(a) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, as defined in RCW 11.88.010, (b) any election official as described in RCW 9A.90.120 who is a target for threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv), and any family members residing with ((~~him or her, and~~)) such person (c) any criminal justice participant as defined in RCW 9A.46.020 who is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv) and any criminal justice participant as defined in RCW 9A.90.120 who is a target for threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv), and any family members residing with ((~~him or her~~)) such person, and (d) any protected health care services provider, employee, or an affiliate of such provider, who provides, attempts to provide, assists in the provision, or attempts to assist in the provision of protected health care services as defined in section 2 of this act, and any family members residing with such person, may apply to the secretary of state to have an address designated by the secretary of state serve as the person's address or the address of the minor or incapacitated person. The secretary of state shall approve an application if it is filed in the manner and on the form prescribed by the secretary of state and if it contains:

(i) A sworn statement, under penalty of perjury, by the applicant that the applicant has good reason to believe (A) that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, trafficking, or stalking and that the applicant fears for ((~~his or her~~)) the applicant's safety or ((~~his or her~~)) the applicant's children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made; (B) that the applicant, as an election official as described in RCW 9A.90.120, is a target for threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv); ((~~or~~)) (C) that the applicant, as a criminal justice participant as defined in RCW 9A.46.020, is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv), or that the applicant, as a criminal justice participant as defined in RCW 9A.90.120 is a target for threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv); or (D) that the applicant, as a protected health care services provider, employee, or an affiliate of such provider, who provides, attempts to provide, assists in the provision, or attempts to assist in the provision of protected health care services as defined in section 2 of this act, is a target for threats or harassment prohibited under RCW 9A.90.120 or 9A.46.020;

(ii) If applicable, a sworn statement, under penalty of perjury, by the applicant, that the applicant has reason to believe they are a victim of (A) domestic violence, sexual assault, or stalking perpetrated by an employee of a law enforcement agency, ((~~or;~~)) (B) threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv) or 9A.46.020(2)(b) (iii) or (iv), or (C) threats or harassment as described in (a)(i)(D) of this subsection;

(iii) A designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail;

(iv) The residential address and any telephone number where the applicant can be contacted by the secretary of state, which shall not be disclosed because disclosure will increase the risk of (A) domestic violence, sexual assault, trafficking, or stalking, ((~~or~~)) (B) threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv) or 9A.46.020(2)(b) (iii) or (iv), or (C) threats or harassment as described in (a)(i)(D) of this subsection;

(v) The signature of the applicant and of any individual or representative of any office designated in writing under RCW 40.24.080 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(2) Applications shall be filed with the office of the secretary of state.

(3) Upon filing a properly completed application, the secretary of state shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The secretary of state shall by rule establish a renewal procedure.

(4)(a) During the application process, the secretary of state shall provide each applicant a form to direct the department of licensing to change the address of registration for vehicles or vessels solely or jointly registered to the applicant and the address associated with the applicant's driver's license or identicard to the applicant's address as designated by the secretary of state upon certification in the program. The directive to the department of licensing is only valid if signed by the applicant. The directive may only include information required by the department of licensing to verify the applicant's identity and ownership information for vehicles and vessels. This information is limited to the:

(i) Applicant's full legal name;

(ii) Applicant's Washington driver's license or identicard number;

(iii) Applicant's date of birth;

(iv) Vehicle identification number and license plate number for each vehicle solely or jointly registered to the applicant; and

(v) Hull identification number or vessel document number and vessel decal number for each vessel solely or jointly registered to the applicant.

(b) Upon certification of the applicants, the secretary of state shall transmit completed and signed directives to the department of licensing.

(c) Within 30 days of receiving a completed and signed directive, the department of licensing shall update the applicant's address on registration and licensing records.

(d) Applicants are not required to sign the directive to the department of licensing to be certified as a program participant.

(5) A person who knowingly provides false or incorrect information upon making an application or falsely attests in an application that disclosure of the applicant's address would endanger (a) the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, (b) the safety of any election official as described in RCW 9A.90.120 who is a target for threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv), ((~~or~~)) (c) the safety of any criminal justice participant as defined in RCW 9A.46.020 who is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv) or of any criminal justice participant as defined in RCW 9A.90.120 who is a target for threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv), or (d) the safety of any person as described in subsection (1)(a)(i)(D) of this section who is a target for threats or harassment, or any family members residing with ((~~him or her~~)) such person, shall be punished under RCW 40.16.030 or other applicable statutes.

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.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec.**  Sections 1, 2, and 13 through 15 of this act constitute a new chapter in Title 7 RCW.

**--- END ---**