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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

Read first time 01/12/23. Referred to Committee on Law & Justice.

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

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

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

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

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

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

20 (c) Assaults a school bus driver, the immediate supervisor of a  
21 driver, a mechanic, or a security officer, employed by a school

1 district transportation service or a private company under contract  
2 for transportation services with a school district, while the person  
3 is performing his or her official duties at the time of the assault;  
4 or

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

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

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

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

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

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

23 ((+i)) (j) Assaults a nurse, physician, or health care provider  
24 who was performing his or her nursing or health care duties at the  
25 time of the assault. For purposes of this subsection: "Nurse" means a  
26 person licensed under chapter 18.79 RCW; "physician" means a person  
27 licensed under chapter 18.57 or 18.71 RCW; and "health care provider"  
28 means a person certified under chapter 18.71 or 18.73 RCW who  
29 performs emergency medical services or a person regulated under Title  
30 18 RCW and employed by, or contracting with, a hospital licensed  
31 under chapter 70.41 RCW; or

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

1       (~~(k)~~) (1) Assaults a person located in a courtroom, jury room,  
2 judge's chamber, or any waiting area or corridor immediately adjacent  
3 to a courtroom, jury room, or judge's chamber. This section shall  
4 apply only: (i) During the times when a courtroom, jury room, or  
5 judge's chamber is being used for judicial purposes during court  
6 proceedings; and (ii) if signage was posted in compliance with RCW  
7 2.28.200 at the time of the assault.

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

9       NEW SECTION. **Sec. 2.** A new section is added to chapter 9.61 RCW  
10 to read as follows:

11       (1) A person is guilty of doxing if:

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

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

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

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

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

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

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

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

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

36       (5) Nothing in this section shall be construed to: Conflict with  
37 47 U.S.C. Sec. 230 of the communications decency act; conflict with  
38 42 U.S.C. Sec. 1983 of the civil rights act; or prohibit any activity

1 protected under the Constitution of the United States or the state  
2 Constitution.

3 (6) For the purposes of this section:

4 (a) "Bodily injury" has the same meaning as provided in RCW  
5 9A.04.110.

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

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

19 (d) "Personally identifiable information" means:

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

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

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

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

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

36 (f) "Substantial life disruption" means that a person  
37 significantly modifies that person's actions or routines either to  
38 avoid the person who posted the information or as a result of the  
39 posting, such as changing a phone number, changing an electronic mail  
40 address, deleting personal electronic accounts or significantly

1 decreasing use of the internet, moving from an established residence,  
2 changing daily routines, changing routes to and from work, changing  
3 employment or work schedule, or losing time from work or a job.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 4.24 RCW  
5 to read as follows:

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

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

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

21 **Sec. 4.** RCW 9.94A.831 and 2009 c 141 s 1 are each amended to  
22 read as follows:

23 In a criminal case where:

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

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

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

35 **Sec. 5.** RCW 10.118.030 and 2021 c 326 s 4 are each amended to  
36 read as follows:

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

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

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

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

9 (d) A law enforcement officer:

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

11 (ii) Pointed a firearm at a person;

12 (iii) Used a chokehold or vascular neck restraint;

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

15 (v) Used oleoresin capsicum spray against a person;

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

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

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

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

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

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

30 (a) The date and time of the incident;

31 (b) The location of the incident;

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

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

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

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

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

- 1 (h) Whether the person against whom force was used was believed  
2 to be armed;
- 3 (i) The type of weapon the person against whom force was used was  
4 armed with, if any;
- 5 (j) The age, gender, race, and ethnicity of the person against  
6 whom force was used, if known;
- 7 (k) The tribal affiliation of the person against whom force was  
8 used, if applicable and known;
- 9 (l) Whether the person against whom force was used exhibited any  
10 signs associated with a potential mental health condition or use of a  
11 controlled substance or alcohol based on the observation of the law  
12 enforcement officer;
- 13 (m) The name, age, gender, race, and ethnicity of the law  
14 enforcement officer, if known;
- 15 (n) The law enforcement officer's years of service;
- 16 (o) The reason for the initial contact between the person against  
17 whom force was used and the law enforcement officer;
- 18 (p) Whether any minors were present at the scene of the incident,  
19 if known;
- 20 (q) The entity conducting the independent investigation of the  
21 incident, if applicable;
- 22 (r) Whether dashboard or body worn camera footage was recorded  
23 for an incident;
- 24 (s) The number of officers who were present when force was used;  
25 and
- 26 (t) The number of suspects who were present when force was used.
- 27 (3) Each law enforcement agency must also report any additional  
28 incidents and data required by the statewide use of force data  
29 program developed in section 3, chapter 326, Laws of 2021.
- 30 (4) Each law enforcement agency in the state must also report  
31 each incident where a law enforcement officer employed by the agency  
32 is physically harmed by a citizen while performing duties within the  
33 scope of their employment including:
- 34 (a) Details regarding the physical harm committed and the means  
35 of committing the physical harm;
- 36 (b) Whether or not subsequent charges were filed against the  
37 citizen;
- 38 (c) If charges were filed, the ultimate disposition of the case;  
39 and
- 40 (d) Reasoning if charges were not filed.

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

8       ~~((5))~~ (6) A law enforcement agency has satisfied its reporting  
9 obligations pursuant to chapter 326, Laws of 2021 by submitting the  
10 reports and data required under this section. The contractor shall  
11 provide technical assistance to any law enforcement agency in  
12 gathering, compiling, and submitting the required reports and data  
13 for each incident.

14       NEW SECTION.   **Sec. 6.** If any provision of this act or its  
15 application to any person or circumstance is held invalid, the  
16 remainder of the act or the application of the provision to other  
17 persons or circumstances is not affected.

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