

2 **SHB 1338 - H AMD 000194 ADOPTED 03-16-93**

3 By Representatives Thibaudeau, Appelwick and Miller

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5 Strike everything after the enacting clause and insert the
6 following:

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

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

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

17 (2) "Health care provider" has the same meaning as defined in RCW
18 7.70.020 (1) and (2), and also means an officer, director, employee, or
19 agent of a health care facility who sues or testifies regarding matters
20 within the scope of his or her employment.

21 (3) "Aggrieved" means:

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

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

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

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

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

1 (a) Impeding a person's entry to or departure from the facility or
2 from the common areas of the real property upon which the facility is
3 located;

4 (b) Making noise that unreasonably disturbs the peace within the
5 facility;

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

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

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

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

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

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

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

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

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

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

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

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

33 A police officer having probable cause to believe that a person has
34 committed or is committing a felony shall have the authority to arrest
35 the person without a warrant. A police officer may arrest a person
36 without a warrant for committing a misdemeanor or gross misdemeanor
37 only when the offense is committed in the presence of the officer,

1 except as provided in subsections (1) through (~~(8)~~) (9) of this
2 section.

3 (1) Any police officer having probable cause to believe that a
4 person has committed or is committing a misdemeanor or gross
5 misdemeanor, involving physical harm or threats of harm to any person
6 or property or the unlawful taking of property or involving the use or
7 possession of cannabis, or involving the acquisition, possession, or
8 consumption of alcohol by a person under the age of twenty-one years
9 under RCW 66.44.270 shall have the authority to arrest the person.

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

13 (a) An order has been issued of which the person has knowledge
14 under RCW 10.99.040(2), 10.99.050, 26.09.060, 26.44.063, chapter 26.26
15 RCW, or chapter 26.50 RCW restraining the person and the person has
16 violated the terms of the order restraining the person from acts or
17 threats of violence or excluding the person from a residence or, in the
18 case of an order issued under RCW 26.44.063, imposing any other
19 restrictions or conditions upon the person; or

20 (b) The person is eighteen years or older and within the preceding
21 four hours has assaulted that person's spouse, former spouse, or a
22 person eighteen years or older with whom the person resides or has
23 formerly resided and the officer believes: (i) A felonious assault
24 has occurred; (ii) an assault has occurred which has resulted in bodily
25 injury to the victim, whether the injury is observable by the
26 responding officer or not; or (iii) that any physical action has
27 occurred which was intended to cause another person reasonably to fear
28 imminent serious bodily injury or death. Bodily injury means physical
29 pain, illness, or an impairment of physical condition. When the
30 officer has probable cause to believe that spouses, former spouses, or
31 other persons who reside together or formerly resided together have
32 assaulted each other, the officer is not required to arrest both
33 persons. The officer shall arrest the person whom the officer believes
34 to be the primary physical aggressor. In making this determination,
35 the officer shall make every reasonable effort to consider: (i) The
36 intent to protect victims of domestic violence under RCW 10.99.010;
37 (ii) the comparative extent of injuries inflicted or serious threats
38 creating fear of physical injury; and (iii) the history of domestic
39 violence between the persons involved.

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

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

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

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

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

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

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

16 (4) A law enforcement officer investigating at the scene of a motor
17 vehicle accident may arrest the driver of a motor vehicle involved in
18 the accident if the officer has probable cause to believe that the
19 driver has committed in connection with the accident a violation of any
20 traffic law or regulation.

21 (5) Any police officer having probable cause to believe that a
22 person has committed or is committing a violation of RCW 88.02.095
23 shall have the authority to arrest the person.

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

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

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

38 (9) Any police officer having probable cause to believe that a
39 person has, within twenty-four hours of the alleged violation,

1 committed a violation of section 3 or 4 of this act may arrest such
2 person.

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

6 ~~((10))~~ (11) No police officer may be held criminally or civilly
7 liable for making an arrest pursuant to RCW 10.31.100(2) or (8) if the
8 police officer acts in good faith and without malice.

9 NEW SECTION. **Sec. 6.** (1) A person or health care facility
10 aggrieved by the actions prohibited by section 3 or 4 of this act may
11 seek civil damages from those who committed the prohibited acts and
12 those acting in concert with them. A plaintiff in an action brought
13 under this chapter shall not recover more than his or her actual
14 damages and additional sums authorized in section 7 of this act. Once
15 a plaintiff recovers his or her actual damages and any additional sums
16 authorized under this chapter, additional damages shall not be
17 recovered. A person does not have to be criminally convicted of
18 violating section 3 or 4 of this act to be held civilly liable under
19 this section. It is not necessary to prove actual damages to recover
20 the additional sums authorized under section 7 of this act, costs, and
21 attorneys' fees. The prevailing party is entitled to recover costs and
22 attorneys' fees.

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

26 In appropriate circumstances, any superior court having personal
27 jurisdiction over one or more defendants may issue injunctive relief
28 that shall have binding effect on the original defendants and persons
29 acting in concert with the original defendants, in any county in the
30 state.

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

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

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

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

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

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

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

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

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

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

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

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

1 the victim in obtaining civil redress. Such disclosure may be made
2 without regard to whether the suspected offender is an adult or a
3 juvenile, whether charges have or have not been filed, or a prosecuting
4 authority has declined to file a charge or a charge has been dismissed.

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

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

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

20 NEW SECTION. Sec. 13. If any section or subsection of this act or
21 its application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the section or subsection to
23 other persons or circumstances is not affected.

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

26 NEW SECTION. Sec. 15. This act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of the
28 state government and its existing public institutions, and shall take
29 effect immediately."

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