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HOUSE BILL 2781

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State of Washington

62nd Legislature

2012 Regular Session

By Representatives Liias, Orwall, Cody, Fitzgibbon, Darneille, Dickerson, Pedersen, Appleton, Kagi, Lytton, Jenkins, Billig, Clibborn, Ladenburg, Sells, Moscoso, Maxwell, Hudgins, Van De Wege, Kenney, Goodman, Reykdal, and Hansen

Read first time 02/10/12. Referred to Committee on Judiciary.

1 AN ACT Relating to protecting access to health care facilities; and  
2 amending RCW 9A.50.040 and 9A.50.020.

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

4 **Sec. 1.** RCW 9A.50.040 and 1993 c 128 s 6 are each amended to read  
5 as follows:

6 (1) A person or health care facility aggrieved by the actions  
7 prohibited by RCW 9A.50.020 may seek civil damages from those who  
8 committed the prohibited acts and those acting in concert with them.  
9 A plaintiff in an action brought under this chapter shall not recover  
10 more than his or her actual damages and additional sums authorized in  
11 RCW 9A.50.050. Once a plaintiff recovers his or her actual damages and  
12 any additional sums authorized under this chapter, additional damages  
13 shall not be recovered.

14 (2)(a) The attorney general may file suit to enjoin a violation of  
15 RCW 9A.50.020, for compensatory damages to persons or facilities  
16 aggrieved by the actions prohibited by RCW 9A.50.020, and for the  
17 assessment of a civil penalty against the respondent. The civil  
18 penalty may not exceed fifteen thousand dollars for a first violation  
19 and twenty-five thousand dollars for subsequent violations. In

1 determining the amount of the civil penalty, the court shall include  
2 prior violations of the federal freedom of access to clinic entrances  
3 act of 1994, 18 U.S.C. Sec. 248, and prior violations of the laws of  
4 another state that are equivalent to a violation of this chapter.

5 (b) In any case where the attorney general decides not to pursue an  
6 action, the county or city may file suit under this subsection (2) for  
7 injunctive relief, damages, and penalties for violations of RCW  
8 9A.50.020.

9 (3) A person does not have to be criminally convicted of violating  
10 RCW 9A.50.020 to be held civilly liable under this section. It is not  
11 necessary to prove actual damages to recover the additional sums  
12 authorized under RCW 9A.50.050, costs, and reasonable attorneys' fees.  
13 The prevailing party is entitled to recover costs and reasonable  
14 attorneys' fees.

15 ((+2)) (4) The superior courts of this state shall have authority  
16 to grant temporary, preliminary, and permanent injunctive relief to  
17 enjoin violations of this chapter.

18 In appropriate circumstances, any superior court having personal  
19 jurisdiction over one or more defendants may issue injunctive relief  
20 that shall have binding effect on the original defendants and persons  
21 acting in concert with the original defendants, in any county in the  
22 state.

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

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

29 **Sec. 2.** RCW 9A.50.020 and 1993 c 128 s 3 are each amended to read  
30 as follows:

31 It is unlawful for a person except as otherwise protected by state  
32 or federal law, alone or in concert with others, to willfully or  
33 recklessly interfere with access to or from a health care facility or  
34 willfully or recklessly disrupt the normal functioning of such facility  
35 by:

36 (1) Physically obstructing or impeding the free passage of a person

1 seeking to enter or depart from the facility or from the common areas  
2 of the real property upon which the facility is located;

3 (2) Making noise that unreasonably disturbs the peace within the  
4 facility;

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

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

10 (5) Threatening to inflict injury on the owners, agents, patients,  
11 employees, or property of the facility or knowingly permitting any  
12 telephone under his or her control to be used for such purpose; or

13 (6) Intentionally damaging the property of the facility because the  
14 facility is a health care facility.

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