
HOUSE BILL 2200

State of Washington 64th Legislature 2015 Regular Session

By Representatives Shea, Taylor, Condotta, Scott, and McCaslin

Read first time 03/20/15. Referred to Committee on Public Safety.

1 AN ACT Relating to acts of official oppression by public
2 servants; adding new sections to chapter 42.20 RCW; creating a new
3 section; prescribing penalties; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** (1) A public servant acting under color of
6 his or her office or employment commits an offense of official
7 oppression if he or she:

8 (a) Intentionally subjects another person to mistreatment or to
9 arrest, detention, search, seizure, dispossession, assessment, or
10 lien that he or she knows is unlawful;

11 (b) Intentionally denies or impedes another person in the
12 exercise or enjoyment of any right, privilege, power, or immunity
13 that he or she knows is unlawful;

14 (c) Intentionally subjects another person to harassment, as
15 defined in RCW 9A.46.020, or sexual harassment; or

16 (d) As part of a determination of whether to grant another person
17 access to a public accessible venue or form of transportation,
18 intentionally and without probable cause:

19 (i) Touches the breast, buttock, anus, or sexual organ of the
20 other person, including touching through clothing;

1 (ii) Removes a child younger than eighteen years of age from the
2 physical custody or control of a parent or guardian of the child, or
3 of a person who has been given authority or permission by a parent or
4 guardian of the child to have physical custody or control of the
5 child;

6 (iii) Intentionally causes physical contact with another when he
7 or she knows or should reasonably believe that the other will regard
8 the contact as offensive or provocative; or

9 (iv) Harasses, delays, coerces, threatens, intimidates, or
10 effectively denies or conditions access to the other person because
11 of the other person's refusal to consent to (a), (b), or (c) of this
12 subsection.

13 (2) For purposes of this section:

14 (a) "Public servant" includes:

15 (i) An officer, official, employee, or agent of:

16 (A) The United States or a branch, department, or agency of the
17 United States; or

18 (B) A person acting under contract with a branch, department, or
19 agency of the United States to manage, supervise, administer, or
20 otherwise provide or participate in the provision of a safety,
21 security, or law enforcement service activity; and

22 (ii) Any other person acting under color of federal law.

23 (b) "Sexual harassment" means unwelcome sexual advances, requests
24 for sexual favors, or other verbal or physical conduct of a sexual
25 nature, submission to which is made a term or condition of a person's
26 exercise or enjoyment of any right, privilege, power, or immunity,
27 either explicitly or implicitly.

28 (3) A person who commits the offense of official oppression by a
29 public servant is guilty of a class C felony.

30 NEW SECTION. **Sec. 2.** (1) This section applies only to a
31 prosecution of an offense under section 1(1)(d)(iv) of this act in
32 which the defendant was, at the time of the alleged offense, a public
33 servant as defined in section 1(2)(a) of this act.

34 (2) If the United States, the defendant, or the defendant's
35 employer challenges the validity of section 1(1)(d)(iv) of this act
36 on grounds of unconstitutionality, preemption, or sovereign immunity,
37 the attorney general of this state, with the consent of the
38 appropriate prosecuting attorney, shall take any actions necessary on
39 behalf of the state to defend the validity. The attorney general may

1 make any legal arguments the attorney general considers in good faith
2 and after due diligence, to be appropriate to defend the validity of
3 this act, including that this act constitutes a valid exercise of:

4 (a) The state's police powers;

5 (b) The liberty interests of the people secured by the United
6 States Constitution;

7 (c) The rights and powers reserved to the states by the ninth and
8 tenth amendments to the United States Constitution; or

9 (d) The liberty interests of the people secured by the Washington
10 state Constitution.

11 NEW SECTION. **Sec. 3.** This act shall be construed, as a matter
12 of state law, to be enforceable up to but no further than the maximum
13 possible extent consistent with federal constitutional requirements,
14 even if that construction is not readily apparent, as such
15 constructions are authorized only to the extent necessary to save the
16 statute from judicial invalidation.

17 NEW SECTION. **Sec. 4.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 5.** Sections 1 and 2 of this act are each
22 added to chapter 42.20 RCW.

23 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of
25 the state government and its existing public institutions, and takes
26 effect immediately.

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