

SENATE BILL REPORT

SB 5436

As of February 1, 2025

Title: An act relating to interfering with access to a place of religious worship.

Brief Description: Interfering with access to a place of religious worship.

Sponsors: Senators Salomon, Valdez, Wellman, Braun, Chapman, Cortes, Dhingra, Hasegawa, Orwall, Saldaña and Schoesler.

Brief History:

Committee Activity: Law & Justice: 2/04/25.

Brief Summary of Bill

- Creates crimes related to interference with places of worship.
- Provides civil remedies for persons aggrieved by acts which interfere with places of worship.

SENATE COMMITTEE ON LAW & JUSTICE

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Background: Both the First Amendment to the United States Constitution and Article 1, Section 11 of the Washington State Constitution protect religious freedoms. While the First Amendment prohibits Congress from making laws respecting an establishment of religion or prohibiting the free exercise of religion, Article 1, Section 11 guarantees absolute freedom of conscience in all matters of religious sentiment belief and worship.

To protect the ability of the people to practice their respective religions, the Freedom of Access to Clinic Entrances (FACE) Act makes it a crime for anyone, by force or threat of force or by physical obstruction or intentional injury, from intimidating or interfering with, or attempting to injure, intimidate, or interfere with any person seeking reproductive health

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services or lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship. The FACE Act also prohibits intentionally damaging or destroying a facility that provides reproductive health services or the property of a place of worship.

Beyond the criminal sanctions, the FACE Act also provides civil remedies for individuals aggrieved by the conduct prohibited by the criminal sections of the act. Such an aggrieved person may commence a civil action seeking temporary, preliminary, or permanent injunctive relief and compensatory and punitive damages as well as costs and attorney's fees.

While Washington has no state analogue to the FACE Act as it relates to places of worship, state law does prohibit interference with health care facilities or providers. It is unlawful for a person, alone or in concert with others, to willfully or recklessly interfere with access to or from a health care facility or willfully or recklessly disrupt the normal functioning of such facility by:

- physically obstructing or impeding the free passage of a person seeking to enter or depart from the facility or from the common area of the real property upon which the facility is located;
- making noise that unreasonably disturbs the peace within the facility;
- trespassing on the facility or the common areas of the real property upon which the facility is located;
- telephoning the facility repeatedly, or knowingly permitting any telephone under the person's control to be used for such purpose; or
- threatening to inflict injury on the owners, agents, patients, employees, or property of the facility or knowingly permitting any telephone under the person's control to be used for such purpose.

A violation of the state law is classified as a gross misdemeanor which carries with it mandatory minimum sentences as follows:

- for a first offense, a \$250 fine and one day in jail;
- for a second offense, a \$500 fine and seven consecutive days in jail; and
- for a third or subsequent offense, \$1,000 fine and 30 consecutive days in jail.

A person aggrieved by these criminal actions may bring a civil suit seeking actual damages, and up to \$500 for each day that the actions occurred, or up to \$5,000 for each day if the aggrieved plaintiff is a health care facility. The state law also permits the superior court to grant temporary, preliminary, and permanent injunctive relief. In appropriate circumstances, any superior court having personal jurisdiction over one or more defendants may issue injunctive relief that has binding effect on the original defendants and persons acting in concert with the original defendants, in any county in the state.

Summary of Bill: Two new crimes of disorderly conduct are created. First, a person is guilty of disorderly conduct if, while within a radius of 50 feet from the premises of a place

of worship, the person approaches within eight feet of another person with the intent to harass, threaten, or intimidate that person because of the perpetrator's belief or perception regarding the race, color, religion, ethnicity, ancestry, national origin, sex, gender, sexual orientation, gender expression or identity, or mental physical, or sensory disability of any person or group.

Second, a person is guilty of disorderly conduct if the person does any of the following:

- intentionally physically obstructs or blocks another person from physically entering or exiting a place of worship;
- by force, threat of force, or by physically obstructing or blocking, intentionally interferes with, or attempts or threatens to interfere with, another person's freedom of movement in order to discourage such person or any other person or persons from entering or exiting the premises of a place of worship; or
- intentionally damages or destroys the premises of a place of worship.

Both newly created crimes are classified as gross misdemeanor crimes with mandatory minimum sentences as follows:

- for a first offense, a fine of \$250 and 24 hours in jail;
- for a second offense, a fine of \$500, and seven consecutive days in jail; and
- for a third or subsequent offense, a fine of \$1000, and 30 consecutive days in jail.

As used in this act "place of worship" means a location wherein persons regularly assemble for religious worship and which is maintained or controlled by a religious organization, and "aggrieved person" means any of the following:

- a person, physically present at the premises of a place of worship when the prohibited actions occur, whose access to the premises is or is about to be obstructed or impeded;
- a person, physically present at the premises of a place of worship when the prohibited actions occur, whose exercise of their freedom of religion is or is about to be disrupted;
- the religious organization or its employees or agents who control or maintain the place of worship where the prohibited actions occur; or
- the owner of the premises of the place of worship where the prohibited actions occur.

"Prohibited actions" means any conduct described in the newly created crimes under this act.

An aggrieved person may seek civil damages from those who commit prohibited actions as well as from those who act in concert with them. A person does not have to be convicted of violating the newly created crimes under this act to be held civilly liable. In addition to actual damages, an aggrieved person may recover costs, attorneys' fees, and up to \$500 per each day the prohibited actions occurred. When appropriate, a superior court that has personal jurisdiction over one or more defendants may enjoin the original defendants and persons acting in concert with them.

Both criminal and civil courts must take all steps reasonably necessary to safeguard the individual privacy and prevent harassment of the agents or employees of a religious organization who is a part or witness in the civil or criminal action.

Appropriation: None.

Fiscal Note: Requested on January 29, 2025.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.