
HOUSE BILL 1454

State of Washington 63rd Legislature 2013 Regular Session

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

Read first time 01/28/13. Referred to Committee on Public Safety.

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

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

5 NEW SECTION. **Sec. 1.** This act may be known and cited as the
6 Washington state freedom of travel act.

7 NEW SECTION. **Sec. 2.** (1) A public servant acting under color of
8 his or her office or employment commits an offense of official
9 oppression if he or she:

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

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

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

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

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

6 (ii) Removes a child younger than eighteen years of age from the
7 physical custody or control of a parent or guardian of the child, or of
8 a person who has been given authority or permission by a parent or
9 guardian of the child to have physical custody or control of the child;

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

13 (iv) Harasses, delays, coerces, threatens, intimidates, or
14 effectively denies or conditions access to the other person because of
15 the other person's refusal to consent to (a), (b), or (c) of this
16 subsection.

17 (2) For purposes of this section:

18 (a) "Public servant" includes:

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

20 (A) The United States or a branch, department, or agency of the
21 United States; or

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

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

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

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

34 NEW SECTION. **Sec. 3.** (1) This section applies only to a
35 prosecution of an offense under section 2(1)(d)(iv) of this act in
36 which the defendant was, at the time of the alleged offense, a public
37 servant as defined in section 2(2)(a) of this act.

1 (2) If the United States, the defendant, or the defendant's
2 employer challenges the validity of section 2(1)(d)(iv) of this act on
3 grounds of unconstitutionality, preemption, or sovereign immunity, the
4 attorney general of this state, with the consent of the appropriate
5 prosecuting attorney, shall take any actions necessary on behalf of the
6 state to defend the validity. The attorney general may make any legal
7 arguments the attorney general considers in good faith and after due
8 diligence, to be appropriate to defend the validity of this act,
9 including that this act constitutes a valid exercise of:

10 (a) The state's police powers;

11 (b) The liberty interests of the people secured by the United
12 States Constitution;

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

15 (d) The liberty interests of the people secured by the Washington
16 state Constitution.

17 NEW SECTION. **Sec. 4.** This act shall be construed, as a matter of
18 state law, to be enforceable up to but no further than the maximum
19 possible extent consistent with federal constitutional requirements,
20 even if that construction is not readily apparent, as such
21 constructions are authorized only to the extent necessary to save the
22 statute from judicial invalidation.

23 NEW SECTION. **Sec. 5.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

27 NEW SECTION. **Sec. 6.** Sections 2 and 3 of this act are each added
28 to chapter 42.20 RCW.

29 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and takes effect
32 immediately.

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