
A BILL FOR AN ACT

RELATING TO HEALTH CARE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that safe access to
2 health care services is vital for the health and safety of all
3 residents of the State. Individuals seeking or providing health
4 care should be able to access health care facilities without
5 fear, intimidation, or any form of harassment. The legislature
6 therefore declares that interference with health care facilities
7 should be prohibited and subject to civil and criminal
8 penalties.

9 The purpose of this Act is to protect safe and unobstructed
10 access to health care for patients and their providers by
11 prohibiting persons from interfering with another person's
12 access to a health care facility and establishing civil and
13 criminal penalties for violations.

14 SECTION 2. The Hawaii Revised Statutes is amended by
15 adding a new part to chapter 323 to be appropriately designated
16 and to read as follows:

17 **"PART . INTERFERENCE WITH HEALTH CARE FACILITIES**



1 **§323- Definitions.** As used in this part:

2 "Aggrieved party" means:

3 (1) A person who is physically present at a health care
4 facility whose access is or is about to be obstructed
5 or impeded by another person's intentional, knowing,
6 or reckless interference;

7 (2) A person who is physically present at a health care
8 facility whose care is or is about to be disrupted by
9 another person's intentional, knowing, or reckless
10 interference;

11 (3) A health care facility and its employees or agents;
12 and

13 (4) The owner of a health care facility or the building or
14 property upon which the health care facility is
15 located.

16 "Health care facility" or "facility" has the same meaning
17 as the term "health care facility" as defined in section 323D-2,
18 and includes any buildings or structures in which the facility
19 is located and any associated driveway.

20 "Health care facility employee" means an officer, director,
21 employee, or agent of a health care facility.



1 "Health care provider" has the same meaning as defined in
2 section 671-1.

3 **§323- Interference with health care facilities**
4 **prohibited; exception.** Except as otherwise provided under
5 federal or state law, it shall be unlawful for any person, alone
6 or in concert, to intentionally, knowingly, or recklessly
7 interfere with another person's access to or from a health care
8 facility or intentionally, knowingly, or recklessly disrupt the
9 normal functioning of a health care facility by:

- 10 (1) Physically obstructing or impeding the free passage of
11 another person seeking to enter or depart from the
12 facility or from the common areas of the real property
13 on which the facility is located;
- 14 (2) Making or causing a noise that unreasonably disturbs
15 the peace within the facility or that constitutes a
16 violation of section 342F-30;
- 17 (3) Trespassing on the facility or the common areas of the
18 real property upon which the facility is located;
- 19 (4) Making or causing repeated telephone calls to a
20 person, including a health care facility employee or
21 health care provider, or a health care facility with



1 the intent to impede access to the person's or health
2 care facility's telephone lines or otherwise disrupt
3 the person's or health care facility's activities; or
4 (5) Threatening to inflict injury on the owners, agents,
5 patients, employees, or property of the health care
6 facility.

7 **§323- Criminal penalties.** (a) In addition to any
8 other penalties, any person who intentionally, knowingly, or
9 recklessly violates this part, whether alone or in concert,
10 shall be guilty of a petty misdemeanor and shall be punished as
11 follows:

12 (1) For a first offense, a fine of not less than \$250 and
13 a term of imprisonment of at least twenty-four
14 consecutive hours;

15 (2) For a second offense, a fine of not less than \$750 and
16 a term of imprisonment of at least seven consecutive
17 days; and

18 (3) For a third or subsequent offense, a fine of not less
19 than \$1,000 and a term of imprisonment of not more
20 than thirty consecutive days.



1 (b) A court having jurisdiction in a criminal proceeding
2 under this chapter, upon motion by an interested party, shall
3 take all reasonably necessary steps to safeguard the individual
4 privacy of an aggrieved party and prevent harassment of a
5 patient, health care provider, or health care facility employee
6 who is a party or witness to a proceeding.

7 (c) For the purposes of this section, "person" means a
8 person eighteen years of age or older.

9 **§323- Civil remedies.** (a) Any aggrieved party may
10 bring a civil suit against a person or persons who
11 intentionally, knowingly, or recklessly violated this chapter in
12 the district court of the district in which the violation took
13 place to enjoin further violations and recover actual damages
14 sustained. The aggrieved party shall not be required to allege
15 or prove actual damages to prevail.

16 (b) The court may, in its discretion, increase the award
17 of damages to an amount not to exceed \$500, or \$5,000 if the
18 aggrieved party is a health care facility, for each day of
19 continued violation. The court may, in its discretion and
20 subject to all applicable federal and state laws, regulations,
21 and rules, issue injunctive relief without bond.



1 (c) In any action brought under this section, the
2 prevailing party shall be entitled to the recovery of costs of
3 the suit, including court costs and fees and reasonable
4 attorney's fees.

5 (d) A court having jurisdiction in a civil proceeding
6 under this chapter, upon motion by an interested party, shall
7 take all reasonably necessary steps to safeguard the individual
8 privacy of an aggrieved party and prevent harassment of a
9 patient, health care provider, or health care facility employee
10 who is a party or witness to a proceeding.

11 (e) The attorney general may bring an action in a court of
12 competent jurisdiction for appropriate injunctive or other
13 equitable relief against any person who is reasonably believed
14 to violate or who is in the course of violating this part.

15 **§323- Enforcement.** Enforcement of this part shall be
16 under the concurrent jurisdiction of the attorney general,
17 prosecuting attorneys or deputy prosecuting attorneys of the
18 various counties, and police departments of the various
19 counties.

20 **§323- Remedies and penalties not exclusive.** The
21 penalties and remedies provided in this part with respect to any



1 violation of this part shall not be deemed exclusive of each
2 other or of any other civil or criminal rights, remedies, or
3 penalties provided or allowed by law with respect to any
4 violation."

5 SECTION 3. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun before its effective date.

8 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Health Care Facilities; Interference; Disruption; Petty
Misdemeanor; Private Right of Action; Civil Remedies; Criminal
Penalties; Attorney General

Description:

Prohibits persons from interfering with another person's access to or from a health care facility or disrupting the normal functioning of a health care facility. Makes violations a petty misdemeanor. Establishes a private right of action for individuals and health care facilities harmed as a result of interference with a health care facility. Authorizes the Attorney General to bring an action for injunctive or other equitable relief. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

