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# 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. This Act is not intended to  
14 affect any rights under federal or state law on peaceful  
15 expressive conduct, including labor demonstrations or exercising  
16 the right to strike.



1 SECTION 2. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to title 19 to be appropriately designated  
3 and to read as follows:

4 "CHAPTER

5 INTERFERENCE WITH HEALTH CARE FACILITIES

6 § -1 Definitions. For the purposes of this chapter:

7 "Aggrieved party" means any of the following persons or  
8 entities, when aggrieved by conduct in violation of this  
9 chapter:

- 10 (1) A person who is physically present at a health care  
11 facility whose access to or from the facility is  
12 interfered with;
- 13 (2) A person whose care is disrupted by another person's  
14 interference with a health care facility;
- 15 (3) A health care facility and health care facility  
16 employees; and
- 17 (4) The owner of a health care facility or the building or  
18 property upon which the health care facility is  
19 located.

20 "Health care facility" or "facility" has the same meaning  
21 as in section 323D-2 and includes:



- 1 (1) Any buildings or structures in which the facility is  
2 located and any associated driveway; and  
3 (2) Common areas of the real property on which the  
4 facility is located.

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

7 "Health care provider" has the same meaning as in section  
8 671-1.

9 § -2 **Interference with health care facilities**

10 **prohibited; exception.** Except as otherwise provided under  
11 federal or state law, it shall be unlawful for any person, alone  
12 or in concert, to intentionally, knowingly, or recklessly  
13 interfere with another person's access to or from a health care  
14 facility or intentionally, knowingly, or recklessly disrupt the  
15 normal functioning of a health care facility by:

- 16 (1) Physically obstructing or impeding the free passage of  
17 another person seeking to enter or depart from the  
18 facility;  
19 (2) 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 (3) Threatening to inflict injury on the owners, agents,  
5 patients, employees, or property of the health care  
6 facility.

7 § -3 **Criminal penalties.** (a) In addition to any other  
8 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 no less than \$250 and a  
13 term of imprisonment of at least twenty-four  
14 consecutive hours;
- 15 (2) For a second offense, a fine of no 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 no less  
19 than \$1,000 and a term of imprisonment of no more than  
20 thirty consecutive days.



1 (b) A court having jurisdiction in a criminal proceeding  
2 under this chapter shall, upon motion by an interested party,  
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 § -4 **Civil remedies.** (a) Any aggrieved party may bring  
10 a civil suit against a person or persons who intentionally,  
11 knowingly, or recklessly violated this chapter in the district  
12 court of the district or the circuit court of the circuit in  
13 which the violation took place to enjoin further violations and  
14 recover actual damages sustained. The aggrieved party shall not  
15 be required to allege 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 shall, upon motion by an interested party,  
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 chapter.

15 § -5 **Enforcement.** Enforcement of this chapter shall be  
16 under the concurrent jurisdiction of the attorney general, the  
17 prosecuting attorneys or deputy prosecuting attorneys of the  
18 various counties, and the police departments of the various  
19 counties.

20 § -6 **Remedies and penalties not exclusive.** The  
21 penalties and remedies provided in this chapter with respect to



1 any violation of this chapter shall not be deemed exclusive of  
2 each other or of any other civil or criminal rights, remedies,  
3 or 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 on July 1, 3000.



**Report Title:**

Health Care Facilities; Interference; Disruption; Criminal Penalties; Civil Remedies; 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. Authorizes the Attorney General to bring an action for injunctive or other equitable relief. Effective 7/1/3000. (HD2)

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

