

2014 -- H 7837

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LC003880
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO HEALTH AND SAFETY - FREEDOM OF ACCESS TO CLINIC
ENTRANCES AND PLACES OF RELIGIOUS WORSHIP

Introduced By: Representatives Handy, Blazejewski, Valencia, Craven, and Almeida

Date Introduced: March 04, 2014

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 93

4 FREEDOM OF ACCESS TO CLINIC ENTRANCES AND PLACES OF RELIGIOUS

5 WORSHIP

6 **23-93-1. Prohibited activities.** – Any person who:

7 (1) By force or threat of force or by physical obstruction, intentionally injures,
8 intimidates or interferes with or attempts to injure, intimidate or interfere with any person because
9 that person is or has been, or in order to intimidate such person or any other person or any class of
10 persons from, obtaining or providing reproductive health services;

11 (2) By force or threat of force or by physical obstruction, intentionally injures,
12 intimidates or interferes with or attempts to injure, intimidate or interfere with any person
13 lawfully exercising or seeking to exercise their United States Constitution First Amendment right
14 of religious freedom at a place of religious worship; or

15 (3) Intentionally damages or destroys the property of a facility, or attempts to do so,
16 because such facility provides reproductive health services, or intentionally damages or destroys
17 the property of a place of religious worship, shall be subject to the criminal penalties provided in
18 § 23-93-3, and the civil remedies provided in § 23-93-4.

1 **23-93-2. Definitions.** – As used in this chapter, the following words and terms shall have
2 the following meanings:

3 (1) “Facility” means a hospital, clinic, physician’s office, or other facility that provides
4 reproductive health services, and includes the building or structure in which the facility is located.

5 (2) “Interfere with” means to restrict a person’s freedom of movement.

6 (3) “Intimidate” means to place a person in reasonable apprehension of bodily harm to
7 himself or herself, or to another.

8 (4) “Physical obstruction” means rendering impassible ingress to or egress from a facility
9 that provides reproductive health services, or to or from a place of religious worship, or rendering
10 passage to or from such facility or place of religious worship unreasonably difficult or hazardous.

11 (5) “Reproductive health services” means reproductive health services provided in a
12 hospital, clinic, physician’s office, or other facility, and includes medical, surgical, counseling or
13 referral services relating to the human reproductive system, including services relating to
14 pregnancy or the termination of a pregnancy.

15 **23-93-3. Criminal penalties.** – Whoever violates this chapter shall:

16 (1) In the case of a first offense, upon conviction be sentenced to pay a fine in accordance
17 with this chapter or be imprisoned for not more than one year, or both; and

18 (2) In the case of a second or subsequent offense after a prior conviction under this
19 chapter, be sentenced to pay a fine in accordance with this chapter, or imprisoned not more than
20 three (3) years, or both; except that for an offense involving exclusively a nonviolent physical
21 obstruction, the fine shall not be more than ten thousand dollars (\$10,000), and the length of
22 imprisonment shall not be more than six (6) months, or both, for the first offense; and the fine
23 shall be not more than twenty five thousand dollars (\$25,000), and the length of imprisonment
24 shall be not more than eighteen (18) months, or both, for a subsequent offense; and except that if
25 bodily injury results, the length of imprisonment shall be not more than ten (10) years, and if
26 death results, it shall be for any term of years or for life.

27 **23-93-4. Civil remedies.** – (a) Right of action.

28 (1) In general. – Any person aggrieved by reason of the conduct prohibited by § 23-93-1
29 may commence a civil action for the relief set forth in § 23-93-4 (b), except that such an action
30 may be brought under § 23-93-1, only by a person involved in providing or seeking to provide, or
31 obtaining or seeking to obtain, services in a facility that provides reproductive health services,
32 and such an action may be brought under § 23-93-1 only by a person lawfully exercising or
33 seeking to exercise their First Amendment right of religious freedom at a place of religious
34 worship or by the entity that owns or operates such place of religious worship.

1 (2) Relief. – In any action under § 23-93-4 (a) the court, may award appropriate relief,
2 including temporary, preliminary or permanent injunctive relief and compensatory and punitive
3 damages, as well as the costs of suit and reasonable fees for attorneys and expert witnesses. With
4 respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of
5 final judgment, to recover, in lieu of action damages, an award of statutory damages in the
6 amount of five thousand dollars (\$5,000) per violation, except that a parent or legal guardian of a
7 minor shall not be subject to any penalties or civil remedies under this chapter for such activities
8 insofar as they are directed exclusively at that minor.

9 (i) In an amount not exceeding ten thousand dollars (\$10,000) for a nonviolent physical
10 obstruction and fifteen thousand dollars (\$15,000) for nonviolent first violations; and

11 (ii) In an amount not exceeding fifteen thousand dollars (\$15,000) for a nonviolent
12 physical obstruction and twenty-five thousand dollars (\$25,000) for any other subsequent
13 nonviolent violation.

14 (b) Actions by attorney general.

15 (1) In general. – If the attorney general has reasonable cause to believe that any person or
16 group or persons is being, has been, or may be injured by conduct constituting a violation of this
17 chapter, the attorney general may commence a civil action in the name of the state, as parens
18 patriae on behalf of natural persons residing in the state, in the superior court.

19 (2) Relief. – In any action under § 23-93-4 (b)(1), the court may award appropriate relief,
20 including temporary, preliminary or permanent injunctive relief, compensatory damages, and
21 civil penalties.

22 **23-93-5. Rules of construction.** – Nothing in this section shall be construed to:

23 (1) To prohibit any expressive conduct, including peaceful picketing or other peaceful
24 demonstration protected from legal prohibition by the United States Constitution First
25 Amendment;

26 (2) To create new remedies for interference with activities protected by the free speech or
27 free exercise clauses of the United States Constitution First Amendment, occurring outside a
28 facility, regardless of the point of view expressed, or to limit any existing legal remedies for such
29 interference;

30 (3) To provide exclusive criminal penalties or civil remedies with respect to the conduct
31 prohibited by this section, or to preempt state or local laws that may provide such penalties or
32 remedies; or

33 (4) To interfere with the enforcement of state or local laws regulating the performance of
34 abortions or other reproductive health services.

1 **23-93-6. Severability.** – If any provision of this chapter or the application thereof to any
2 person or circumstances is held invalid, such invalidity shall not affect other provisions or
3 applications of the chapter, which can be given effect without the invalid provisions or
4 application, and to this end the provisions of this chapter are declared to be severable.

5 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO HEALTH AND SAFETY - FREEDOM OF ACCESS TO CLINIC
ENTRANCES AND PLACES OF RELIGIOUS WORSHIP

- 1 This act would provide for freedom of access without interference to entrances of clinics
- 2 as well as places of religious worship.
- 3 This act would take effect upon passage.

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