

# AN ACT

To provide comprehensive and coordinated protection for reproductive health services facilities, patients, providers, and assistants.

*Be it enacted by the People of the State of [STATE] as follows:*

§ xxxx.xx

## [STATE] Freedom of Access to Clinic Entrances Act of \_\_\_\_\_

**Title 100. Establishment; Purpose.** This title shall be known and may be cited as the [State] Freedom of Access to Clinic Entrances Act, or the [State] FACE Act.<sup>1</sup>

**Sec. 100.1. Definitions.** The following definitions apply for the purposes of this title:

- a) “Crime of violence” means an offense that has as an element the use, attempted use, or threat of force, physical or otherwise, against the person or property of another.
- b) “Interfere with”<sup>2</sup> means to restrict a person’s freedom of movement.
- c) “Intimidate” means to place a person in reasonable apprehension of bodily harm to themselves or to another.
- d) “Nonviolent conduct” means conduct that would not constitute a crime of violence.
- e) “Physical obstruction” means rendering ingress to or egress from a reproductive health services facility impassable to another person or rendering passage to or from a reproductive health services facility unreasonably difficult or hazardous to another person.
- f) “Reproductive health services” means reproductive health services provided in or by a hospital, clinic, physician’s office, pharmacy, or other facility or entity and includes medical, pharmaceutical, surgical, counseling, referral, or other support services,<sup>3</sup> either virtually or

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<sup>1</sup> The language in this model legislation derives from the CA FACE Act. Where it differs and the language is based on a different state statute, the relevant state statute is noted in parentheses and italics next to the relevant subsection. Language that is highlighted yellow represents state-specific insertions that should be added. Language highlighted in grey indicates additions to existing state statutory language (CA FACE Act or otherwise).

<sup>2</sup> North Carolina’s statute offers a different definition of “interference,” stating that no person shall “obstruct or block another person’s access to or egress from a health care facility or from the common areas of the real property upon which the facility is located in a manner that deprives or delays the person from obtaining or providing health care services in the facility.” [N.C. Gen. Stat. § 14-277.4\(a\)](#). On its face, North Carolina’s definition more expansively covers the types of physical obstruction that delay or deprive reproductive health services. However, the Fourth Circuit interpreted the definition as “prohibit[ing] only conduct that imposes physical impediments to entering or exiting a health care facility.” *See, e.g., Hoffman v. Hunt*, 126 F.3d 575, 581-82 (4th Cir. 1997).

<sup>3</sup> “Other support services” is intended to include a wide range of secondary support services, including logistical support for travel and lodging, childcare, translation services, and funds or other financial support.

in person, relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.

- g) “Reproductive health services facility” includes any hospital, clinic, physician’s office, pharmacy, or other facility or entity that provides or seeks to provide reproductive health services and includes the building or structure in which the facility is located.
- h) “Reproductive health services patient, provider, or assistant”<sup>4</sup> means a person or entity, including, but not limited to employees, staff, volunteers, and third-party vendors,<sup>5</sup> that is or was involved in obtaining, seeking to obtain, providing, seeking to provide, or assisting or seeking to assist another person, at that other person’s request, to obtain or provide services in or through<sup>6</sup> a reproductive health services facility, or a person or entity that is or was involved in owning or operating or seeking to own or operate, a reproductive health services facility.<sup>7</sup>
- i) “Social media” means an electronic service or account, or electronic content, including, but not limited to, videos or still photographs, blogs, video blogs, podcasts, instant and text messages, email, online services or accounts, or internet website profiles or locations.<sup>8</sup>

**Sec. 100.2. Prohibited Acts.**<sup>9</sup> Every person<sup>10</sup> who commits any of the following acts shall be subject to the penalties and remedies specified in Sections 100.3, 100.4, and 100.5.

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<sup>4</sup> “Reproductive health services patient, provider, or assistant” could be expanded to “Reproductive patient, provider, assistant, **or invitee**” to capture the broad range of individuals that could be harassed by anti-abortion activists (i.e., vendors, independent contractors, other staff, volunteers, friends and family members of patients and providers). As defined in the Restatement (Second) of Torts, an “invitee” means a person who is invited to enter or remain on land for a purpose directly or indirectly connected with business dealings with the possessor of the land. If revised here, corresponding edits will be needed in the provisions below.

<sup>5</sup> If there is legislative support, “donors” could be included in the list to more explicitly protect individual fundraising activities that support access to reproductive health services.

<sup>6</sup> The addition of “or through” is meant to capture telehealth providers, for example, that may provide services affiliated with a reproductive health care facility but may not be present in the actual physical location.

<sup>7</sup> The definition of “reproductive health services patient, provider, or assistant” as it currently reads may not cover individuals who provide ancillary services to reproductive health services facility (e.g., an electrician).

<sup>8</sup> This definition of “Social Media” comes from the “Photography, Filming, & Internet” section of the CA FACE Act § 423.2(h).

<sup>9</sup> Other states use different introductory language to the Prohibited Acts section. For example, Washington’s FACE Act includes language to specify the intent requirement for committing prohibited acts and to clarify that prohibited acts can be undertaken individually or in concert with others, embedding a conspiracy element into the prohibited acts section. [Wash. Rev. Code § 9A.50.020](#) (“It is unlawful for any person, alone or in concert with others, to willfully or recklessly interfere with access to reproductive health services, including willfully or recklessly disrupting the normal functioning of a reproductive health services facility.”).

<sup>10</sup> The CA FACE Act includes additional language that reads “Any person, except a parent or guardian acting towards their minor child or ward, commits...”

- a) Violent Acts. By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services patient, provider, or assistant or in order to intimidate a person or entity, or a class of persons or entities, or from becoming or remaining a reproductive health services patient, provider, or assistant.
- b) Nonviolent Acts. By nonviolent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services patient, provider, assistant, or in order to intimidate or interfere with any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services patient, provider, or assistant.
- c) Destruction of Property. Intentionally damages or destroys the property of a person, entity, or facility, or attempts to do so, because the person, entity, or facility is a patient, provider, assistant, or invitee of a reproductive health services facility or the facility is a reproductive health services facility.
- d) Photography, Filming, and the Internet.
  - i) Within [XX] feet<sup>11</sup> of the entrance to, or within, a reproductive health services facility, intentionally videotapes, films, photographs, or records by electronic means, a reproductive health services patient, provider, or assistant without that person's consent with specific intent to intimidate the person from becoming or remaining a reproductive health services patient, provider, or assistant and thereby causes the person to be intimidated.
  - ii) In any manner or forum, including, but not limited to, internet websites and social media, intentionally discloses or distributes a videotape, film, photograph, or recording knowing it was obtained in violation of subdivision d).

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<sup>11</sup> The CA FACE Act prohibits recording within 100 feet of the entrance to a reproductive healthcare facility.

## OPTIONAL: ADDITIONAL PROHIBITED ACTS

- e) Criminal Trespass.<sup>12</sup> Engages in criminal trespass, where “criminal trespass” means entering or remaining upon or in any public or private land or structure in a manner that interferes with access to or from a reproductive health services facility by a person who knows such person is not authorized or privileged to do so and such person enters or remains thereon or therein in defiance of an order not to enter or to leave such land or structure personally communicated to such person by the owner or lessor<sup>13</sup> of the reproductive health services facility or other authorized person.
- f) Intentional Noise.<sup>14</sup> During the posted hours of operation after having been ordered by a law enforcement officer to cease such noise, at any time after the order, intentionally makes noise that can be heard within a reproductive health services facility and with the further intent either to (1) jeopardize the health of the persons receiving reproductive health services, or (2) interfere with the delivery of reproductive health services within the facility.
- g) Harassing Telephone Calls.<sup>15</sup> Telephones a reproductive health services facility to harass or threaten, or knowingly permits any telephone under his or her control to be used for such purpose.
- h) Noxious Odors.<sup>16</sup> Activates a device or exposing substance that releases noxious and offensive odors within a reproductive health services facility (1) to jeopardize the health of

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<sup>12</sup> Modeled after [Kan. Gen. Stat § 21-5808\(2\)](#). Laws prohibiting the criminal trespass of health care facilities are codified in at least two states—Kansas and Wisconsin. *See* Kan. Stat. § 21-5808(a)(2); Wis. Stat. § 943.145. The laws are not specific to reproductive health facilities and have been enforced in a variety of circumstances. The definition of criminal trespass is taken from the Kansas statute, with a modification to apply to “reproductive” health services facilities (in accordance with the terms in the underlying CA FACE Act).

<sup>13</sup> Including lessors here will allow warnings by both owners and operators of reproductive health facilities to fall within the provision’s scope.

<sup>14</sup> This provision is taken from Maine’s Civil Rights Act ([Me. Rev. Stat. Ann. Tit. 5 § 4684-B](#)) and has been upheld by federal courts on several occasions. *See, e.g., March v. Frey*, 485 F. Supp. 3d 16 (D. Maine, Apr. 28, 2020) (finding that Maine’s noise statute was not content or viewpoint discrimination, did not constitute prior restraint, did not violate equal protection, and was not unconstitutionally vague); *March v. Mills*, 876 F.3d 46 (1st Cir. 2017) (finding that Maine’s noise statute is “a facially content-neutral measure that targets noise for reasons that have nothing to do with the content of any topic discussed, idea propounded, or message conveyed.”). Maine’s statute applies generally to all healthcare facilities, not just reproductive health services facilities. The language has been modified to apply to “reproductive” health services (in accordance with the terms in the underlying CA FACE Act).

<sup>15</sup> Modeled after [Me. Rev. Stat. Ann. Tit. 5 § 4684-B](#). Laws prohibiting harassing and threatening phone calls are codified in at least two states—Maine and Washington. *See* Me. Rev. Stat. Ann. Tit. 5 § 4684-B; Wash. Rev. Code § 9A.50.020. Neither law’s provisions on banning harassing telephone calls appears to have been challenged or struck. The Maine provision has been cited favorably in dicta by the First Circuit. *See, e.g., United States v. Tobin*, 552 F.3d 29, 34 (1st Cir. 2009); *United States v. Tobin*, 480 F.3d 53, 57 n.5 (1st Cir. 2007). The language has been modified to apply to “reproductive” health “services” facilities (in accordance with the terms in the underlying CA FACE Act).

<sup>16</sup> This provision is taken from Maine’s Civil Rights Act ([Me. Rev. Stat. Ann. Tit. 5 § 4684-B](#)). It does not appear to have been challenged or struck. The language has been modified to apply to “reproductive” health services (in accordance with the terms in the underlying CA FACE Act).

persons receiving reproductive health services within the facility, or (2) to interfere with the delivery of reproductive health services within the facility.

- i) Stalking.<sup>17</sup> Engages in intentional, willful, or reckless verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, follows, or punishes a reproductive health services patient, provider, or assistant within [XX] feet of the premises of a reproductive health services facility or such person’s residence, business, or place of work, or by sending or making, or causing others to send or make, emails, phone calls, text messages, or posts on social media, in a manner that: (1) Is likely to cause reasonable fear of harm to such persons, their family, or their acquaintances; (2) Causes harm to such person’s mental or emotional state or that of their family or acquaintances; or (3) Causes a reasonable fear that such person’s employment or business may be harmed. For purposes of this title, “residence” means any single family or multifamily dwelling unit that is not being used as a targeted occupant’s sole place of business or as a place of public meeting.
- j) Obstruction of Vehicles.<sup>18</sup> Knowingly impedes or interferes with the operation of a motor vehicle that attempts to enter, exit or park at or nearby a reproductive health services facility.
- k) Swatting.<sup>19</sup>
  - i) Reports, or causes any report to be made, to any city, county, city and county, or state department, district, agency, division, commission, or board, that an “emergency” exists, knowing that the report is false. Such prohibited act is subject to the criminal penalties listed in Section 100.3(a).
  - ii) Reports, or causes any report to be made, to any city, county, city and county, or state department, district, agency, division, commission, or board, that an “emergency” exists, who knows that the report is false, and who knows or should know that the that the response to the report is likely to cause death or great bodily injury, and great bodily injury or death is sustained by any person as a result of the false report. Such prohibited act is subject to the criminal penalties listed in Section 100.3(b).
  - iii) Any individual convicted of violating this section, based upon a report that resulted in an emergency response, is liable to a public agency for the reasonable costs of the emergency response by that public agency.
  - iv) “Emergency” means any condition that results in, or could result in, the response of a public official in an authorized emergency vehicle, aircraft, or vessel, any condition that jeopardizes or could jeopardize public safety and results in, or could result in, the

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<sup>17</sup> This provision is taken from Washington law ([Wa. Stat. § 7.105.010\(2\)\(b\)](#)), which was enforced in *In re Vulnerable Adult Prot. Ord. for Humrich*, No. 39337-2-III, 2024 Wash. App. LEXIS 1428, at \*6-7 (Wash. Ct. App. July 16, 2024). The provision has been modified to also include “follows,” which draws from NYC Admin. Code § 10-1003(a)(3), and to refer to “reproductive health services facility” and “reproductive health services patient, provider, or assistant” (in accordance with the terms in the underlying CA FACE Act).

<sup>18</sup> Modeled after [Penn. HB 670](#) (2025).

<sup>19</sup> Modeled after [Cal. Penal Code § 148.3](#).

evacuation of any area, building, structure, vehicle, or of any other place that any individual may enter, or any situation that results in or could result in activation of the [State emergency alert system]. An activation or possible activation of the [State emergency alert system] shall not constitute an “emergency” for purposes of this section if it occurs as the result of a report made or caused to be made by a parent, guardian, or lawful custodian of a child that is based on a good faith belief that the child is missing.

- l) Buffer/Bubble Zone.<sup>20</sup> Knowingly approaches another person within eight feet of such person, unless such other person consents, for the purpose of passing a leaflet or handbill to, displaying a sign to, or engaging in oral protest, education, or counseling with such other person in the public way or sidewalk area within a radius of 100 feet from any entrance door to a reproductive health services facility.
- m) Fake Bombs.<sup>21</sup> Maliciously gives, mails, sends, or causes to be sent any false or facsimile bomb to another person, or places, causes to be placed, or maliciously possesses any false or facsimile bomb, with the intent to cause another to fear for his or her personal safety or the safety of others.
- n) Conspiracy.<sup>22</sup> Engages in a conspiracy to violate subdivisions a) and b), where a “conspiracy” means two or more persons join together with the specific intent to form an agreement to violate the law, and any one person commits an overt act in pursuance of such a conspiracy.

### **Sec. 100.3. Criminal Penalties.**<sup>23</sup>

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<sup>20</sup> This language is nearly identical to that in the Colorado statute ([Colo. Rev. Stat. § 18-9-122\(3\)](#)) that was upheld in the *Hill v. Colorado* U.S. Supreme Court case. 530 U.S. 703. The language has been modified to refer to “reproductive health services facility” (in accordance with the terms in the underlying CA FACE Act). The Supreme Court recently declined to grant cert on a case where the question on appeal was whether to overturn *Hill v. Colorado*. Please note that in *McCullen v. Coakley*, the Court struck a Massachusetts law that made it a crime to stand on a public road or sidewalk within 35 feet of any abortion clinic after finding it was a time, place, manner restriction for all speech at an abortion clinic. 573 U.S. 464 (2014). The conservative Justices argued that this was a content-based restriction based on speech on abortion. *See also Coalition Life v. City of Carbondale, Ill.*, 145 S. Ct. 537 (2025) (denying cert on the question of whether *Hill v. Colorado* should be overturned).

<sup>21</sup> This language comes from the California Penal Code. There does not appear to have been any instances where the provision was applied to a fake bomb directed at a reproductive health services facility, although the constitutionality of the provision itself has been upheld by the California Supreme Court. *See, e.g., People v. Turnage*, 55 Cal. 4th 62 (Cal. 2012).

<sup>22</sup> This language comes from Connecticut law ([Conn. Gen. Stat. § 53a-48](#)). There does not appear to have been any instances of enforcement of this provision in the context of abortion providers/clinics. In other contexts, there is a high bar to establishing a conspiracy charge. Under Conn. Gen. Stat. § 53a-48(a), criminal conspiracy is a specific intent crime that requires the state to prove three elements: 1) the accused intended that conduct constituting a crime would be performed, 2) the accused formed an agreement with one or more persons to engage in such conduct, and 3) any one of the coconspirators performed some overt act in furtherance of the conspiracy.

<sup>23</sup> While this section is primarily based on the CA FACE Act statute, subsections a) and b) have been reorganized for clarity.

- a) A first violation of Section 100.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year, or a fine not to exceed ten thousand dollars (\$10,000), or both that fine and imprisonment, except that:
  - i) A first violation of subdivision a) of Section 100.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year, or a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that fine and imprisonment.
  - ii) A first violation of subdivision c) of Section 100.2 is a felony, punishable by imprisonment in a county jail pursuant to Section [State penalty statute], or a fine not to exceed twenty-five thousand dollars (\$25,000), or both that fine and imprisonment.
- b) A second or subsequent violation of Section 100.2, or a first violation of paragraph ii) of Section 100.2(k), is a felony punishable by imprisonment in a county jail for a period of not more than 18 months,<sup>24</sup> or a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that fine and imprisonment, except that:
  - i) A second or subsequent violation of subdivision a) of Section 100.2 is a felony, punishable by imprisonment pursuant to Section [State penalty statute], or a fine not to exceed fifty thousand dollars (\$50,000), or by both that fine and imprisonment.
- c) In imposing fines pursuant to this section, the court shall consider applicable factors in aggravation and mitigation set out in [State rules re: mitigation and aggravation ], and shall consider a prior violation of the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248), or a prior violation of a statute of another jurisdiction that would constitute a violation of Section 100.2 or of the federal Freedom of Access to Clinic Entrances Act of 1994, to be a prior violation of Section 100.2.
- d) This title establishes concurrent state jurisdiction over conduct that is also prohibited by the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248), which provides for misdemeanor penalties for first violations and felony-misdemeanor penalties for second and subsequent violations. When appropriate, state law enforcement agencies and prosecutors shall cooperate with federal authorities in the prevention, apprehension, and prosecution of these crimes and seek federal prosecutions.

#### **Sec. 100.4. Civil Remedies.**

- a) A person or reproductive health services facility<sup>25</sup> aggrieved by a violation of Section 100.2 may bring a civil action to enjoin the violation, for compensatory and punitive damages, and for the costs of suit and reasonable fees for attorneys and expert witnesses. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of a final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of five thousand dollars (\$5,000), for each violation committed.

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<sup>24</sup> The ACLU Model Legislation makes a second/subsequent violation **a felony** and increases the term of imprisonment to up to **18 months** which is stricter than the CA FACE Act punishments because the fine is the only thing that increases with subsequent violations under the CA law.

<sup>25</sup> Enabling both individuals and reproductive health services facilities to litigate civil claims provides multiple avenues to enforce the statute.

- b) The Attorney General, a district attorney, a city attorney, or an attorney for a local unit of government<sup>26</sup> may bring a civil action to enjoin a violation of Section 100.2, for compensatory damages to persons aggrieved as described in subdivision a) and for the assessment of a civil penalty against each respondent. The civil penalty shall not exceed two thousand dollars (\$2,000) for an exclusively nonviolent first violation, and fifteen thousand dollars (\$15,000) for any other first violation, and shall not exceed five thousand dollars (\$5,000) for an exclusively nonviolent subsequent violation, and twenty-five thousand dollars (\$25,000) for any other subsequent violation. In imposing civil penalties pursuant to this subdivision, the court shall consider a prior violation of the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248), or a prior violation of a statute of another jurisdiction that would constitute a violation of Section 100.2 or the federal Freedom of Access to Clinic Entrances Act of 1994, to be a prior violation of Section 100.2.

**Sec. 100.5. Injunctive Relief Action by Court.**

- a) The court in which a criminal or civil proceeding is filed for a violation of Section 100.2 shall take all action reasonably required, including granting restraining orders, to safeguard the health, safety, or privacy of either of the following:
- i) A reproductive health services patient, provider, or assistant of a reproductive health services facility who is a party or witness in the proceeding.
  - ii) A person who is a victim of, or at risk of becoming a victim of, conduct prohibited by Section 100.2.
- b) Restraining orders issued pursuant to subdivision a) may include provisions prohibiting or restricting the photographing of persons described in paragraphs i) and ii) of subdivision a) when reasonably required to safeguard the health, safety, or privacy of those persons. Restraining orders issued pursuant to subdivision a) may include provisions prohibiting or restricting the photographing of persons described in paragraphs i) and ii) of subdivision a) when reasonably required to safeguard the health, safety, or privacy of those persons.
- c) In actions brought under this section, if a court issues a temporary restraining order or a preliminary or permanent injunction ordering a defendant to refrain from certain conduct or activities, the order issued shall contain the following statement: VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.
- d) A court may, in its discretion, permit an individual described in paragraph i) or ii) of subdivision a) to use a pseudonym in a civil proceeding described in subdivision a) when reasonably required to safeguard the health, safety, or privacy of those persons.

**Sec. 100.6. Exceptions.** This title shall not be construed for any of the following purposes:<sup>27</sup>

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<sup>26</sup> This addition is to provide attorneys for other local units of government (i.e., county counsels) the ability to enforce the statute.

<sup>27</sup> The CA FACE Act includes an additional exception “b) To apply to a parent or guardian acting towards their minor child or ward.” This section has been removed to mirror the text removed from the introduction to Section 100.2.

- a) To impair any constitutionally protected activity, or any activity protected by the laws of [State] or of the United States of America.
- b) To provide exclusive civil or criminal remedies or to preempt or to preclude any county, city, or city and county from passing any law to provide a remedy for the commission of any of the acts prohibited by this title or to make any of those acts a crime.
- c) To interfere with the enforcement of any federal, state, or local laws regulating the performance of abortions or the provision of other reproductive health services.
- d) [If applicable] To negate, supersede, or otherwise interfere with the operation of any provision of [State Labor Code provisions].
- e) To create additional civil or criminal remedies or to limit any existing civil or criminal remedies to redress an activity that interferes with the exercise of any other rights protected by the First Amendment to the United States Constitution or of Article [X] of the [State] Constitution.
- f) To preclude prosecution under both this title and any other provision of law, except as provided in subdivision f) of Section 100.3.

**Sec. 100.7. Severability.**<sup>28</sup>

- a) If any item, clause, sentence, subparagraph, subdivision, paragraph, section or other part of this act, or the application thereof to any person or circumstances shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of this act, or the application of such section or part of a section held invalid, to any other person or circumstances, but shall be confined in its operation to the item, clause, sentence, subparagraph, subdivision, paragraph, section or other part of this act directly involved in such holding, or to the person and circumstances therein involved.

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<sup>28</sup> Modeled after [N.Y. Stat. Ann. Ch. 20, Art. 7-A\(89-Q\)](#).

**Title 200. Establishment; Purpose.** This title shall be known and may be cited as the [State] Residential Picketing Act.

**Sec. 200.1. Definitions.**<sup>29</sup>

The following definitions apply for the purposes of this title:

- a) “Residence” means any single-family or multifamily dwelling unit that is not being used as a targeted occupant's sole place of business or as a place of public meeting.
- b) “Targeted picketing” means picketing, with or without signs, that is specifically directed toward a residence, or one or more occupants of the residence, and that takes place on that portion of a sidewalk or street in front of the residence, in front of an adjoining residence, or on either side of the residence.

**Sec. 200.2. Residential Picketing.**<sup>30</sup>

It shall be unlawful for a person to engage in targeted picketing when the person knows or should know that the manner in which they are picketing would cause in a reasonable person any of the following:

- i) Fear for the person's safety or the safety of the person's immediate family or close personal associates.
- ii) Substantial emotional distress, as defined in [State definition of substantial emotional distress].
- b) Any person who commits the offense defined in this section is guilty of a Class 2 misdemeanor.
- c) Any person aggrieved under this section may seek injunctive relief in a court of competent jurisdiction to prevent threatened or further violations of this section. Any violation of an injunction obtained pursuant to this section constitutes criminal contempt and shall be punishable by a term of imprisonment of not less than 30 days and no more than 12 months.
- d) Nothing in this section shall be construed to prohibit general picketing that proceeds through residential neighborhoods or that proceeds past residences.

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<sup>29</sup> Modeled after [N.C. Gen. Stat. § 14-277.4A](#).

<sup>30</sup> This language was modeled after [N.C. Gen. Stat. § 14-277.4A](#). While the North Carolina statute has not been challenged in court, residential picketing statutes have been upheld where the restrictions are facially content-neutral, narrowly tailored, and do not outlaw all protected First Amendment activity (i.e., marching, door-to-door proselytizing). *See Bell v. City of Winter Park, Fla.*, 745 F.3d 1318, 1323 (11th Cir. 2014) (upholding a residential picketing ban within 50 feet of the property line of a dwelling); *Frisby v. Schultz*, 487 U.S. 474, 484 (1988) (noting that the State has an established interest in protecting the well-being, tranquility, and privacy of the home); *McCullen v. Coakley*, 573 U.S. 464, 480 (2014) (noting that a facially neutral law should not become content-based simply because it may disproportionately affect speech on certain topics).

**Title 300. Establishment; Purpose.** This title shall be known and may be cited as the [State] Workplace Violence Prevention Act.

**Sec. 300.1.** Workplace Violence Prevention Restraining Order.<sup>31</sup>

- a) Any employer or collective bargaining representative of an employee who has suffered unlawful violence or a credible threat of violence from any individual, that can reasonably be construed to be carried out or to have been carried out at the workplace, may seek a temporary restraining order and an order after hearing on behalf of the employee and, at the discretion of the court, any number of other employees at the workplace, and, if appropriate, other employees at other workplaces of the employer. For purposes of this section only, a person may bring a petition for a temporary restraining order and an order after hearing on behalf of an employee as their collective bargaining representative only if the person serves as a collective bargaining representative for that employee in employment or labor matters at the employee's workplace.
- b) For purposes of this section:
  - i) "Course of conduct" is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an employee to or from the place of work; entering the workplace; following an employee during hours of employment; making telephone calls to an employee; or sending correspondence to an employee by any means, including, but not limited to, the use of the public or private mails, interoffice mail, facsimile, or computer email.
  - ii) "Credible threat of violence" is a knowing and willful statement or course of conduct that would place a reasonable person in fear for their safety, or the safety of their immediate family, and that serves no legitimate purpose.
  - iii) "Employer" and "employee" mean persons defined in [State labor code]. "Employer" also includes a federal agency, the state, a state agency, a city, county, or district, and a private, public, or quasi-public corporation, or any public agency thereof or therein. "Employee" also includes the members of boards of directors of private, public, and quasi-public corporations and elected and appointed public officers. For purposes of this section only, "employee" also includes a volunteer or independent contractor who performs services for the employer at the employer's worksite.
  - iv) "Petitioner" means the employer or collective bargaining representative that petitions under subdivision a) for a temporary restraining order and order after hearing.
  - v) "Respondent" means the person against whom the temporary restraining order and order after hearing are sought and, if the petition is granted, the restrained person.

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<sup>31</sup> This language was modeled after Cal. Civ. Code § 527.8. Other states have similar laws on the books, including [Connecticut](#), [Illinois](#), [Louisiana](#), [Maine](#), [Minnesota](#), [New Jersey](#), [New York](#), [Oregon](#), [Rhode Island](#), [Texas](#), and [Washington](#). In addition, other states are considering workplace violence prevention bills, including Massachusetts, which has several legislative proposals addressing workplace safety: [Bill HD.1856](#), [Bill HD.2502/Bill SD.1639](#), and [Bill HD.2124/Bill SD.1307](#); these bills aim to protect human service employers, healthcare facilities, and home healthcare workers.

- vi) “Temporary restraining order” and “order after hearing” mean orders that include any of the following restraining orders, whether issued ex parte or after notice and hearing:
- I) An order enjoining a party from harassing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, abusing, telephoning, including, but not limited to, making annoying telephone calls as described in [State criminal code], destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of, the employee.
  - II) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (I).
- vii) “Unlawful violence” is any assault or battery, or stalking as prohibited in [State criminal code], but shall not include lawful acts of self-defense or defense of others.
- c) This section does not permit a court to issue a temporary restraining order or order after hearing prohibiting speech or other activities that are constitutionally protected, protected by the National Labor Relations Act (29 U.S.C. Sec. 151 et seq.), protected by Chapter 11.5 (commencing with Section 3555) of Division 4 of Title 1 of the Government Code, or otherwise protected by [State collective bargaining statute] or any other provision of law.
  - d) In the discretion of the court, on a showing of good cause, a temporary restraining order or order after hearing issued under this section may include other named family or household members, or other persons employed at the employee’s workplace or workplaces.
  - e) Before filing a petition under this section, an employer or collective bargaining representative of an employee shall provide the employee who has suffered unlawful violence or a credible threat of violence from any individual an opportunity to decline to be named in the temporary restraining order. An employee’s request to not be named in the temporary restraining order shall not prohibit an employer or collective bargaining representative from seeking a temporary restraining order on behalf of other employees at the workplace, and, if appropriate, other employees at other workplaces of the employer.
  - f) Upon filing a petition under this section, the petitioner may obtain a temporary restraining order in accordance with subdivision a), if the petitioner also files a declaration that, to the satisfaction of the court, shows reasonable proof that an employee has suffered unlawful violence or a credible threat of violence by the respondent, and that great or irreparable harm would result to an employee. The temporary restraining order may include any of the protective orders described in paragraph (vi) of subdivision b).
  - g) A request for the issuance of a temporary restraining order without notice under this section shall be granted or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in which case the order shall be granted or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.
  - h) A temporary restraining order granted under this section shall remain in effect, at the court’s discretion, for a period not to exceed 21 days, or if the court extends the time for hearing under subdivision i), not to exceed 25 days, unless otherwise modified or terminated by the court.

- i) Within 21 days, or if good cause appears to the court, 25 days from the date that a petition for a temporary order is granted or denied, a hearing shall be held on the petition. If no request for temporary orders is made, the hearing shall be held within 21 days, or, if good cause appears to the court, 25 days, from the date that the petition is filed.
- j) The respondent may file a response that explains, excuses, justifies, or denies the alleged unlawful violence or credible threats of violence.
- k) At the hearing, the judge shall receive any testimony that is relevant and may make an independent inquiry. Moreover, if the respondent is currently employed by the employer of the employee, as described in subdivision a), the judge shall receive evidence concerning the employer's decision to retain, terminate, or otherwise discipline the respondent. If the judge finds by clear and convincing evidence that the respondent engaged in unlawful violence or made a credible threat of violence, an order shall issue prohibiting further unlawful violence or threats of violence.
- l)
  - i) In the discretion of the court, an order issued after notice and hearing under this section may have a duration of not more than three years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed, upon the request of a party, for a duration of not more than three years, without a showing of any further violence or threats of violence since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The request for renewal may be brought at any time within the three months before the expiration of the order.
  - ii) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.
  - iii) If an action is filed for the purpose of terminating or modifying a protective order prior to the expiration date specified in the order by a party other than the protected party, the party who is protected by the order shall be given notice, pursuant to [State service statute], of the proceeding by personal service or, if the protected party has satisfied the requirements of [State service statute], by service on the Secretary of State. If the party who is protected by the order cannot be notified prior to the hearing for modification or termination of the protective order, the court shall deny the motion to modify or terminate the order without prejudice or continue the hearing until the party who is protected can be properly noticed and may, upon a showing of good cause, specify another method for service of process that is reasonably designed to afford actual notice to the protected party. The protected party may waive their right to notice if they are physically present in court and does not challenge the sufficiency of the notice.
- m) This section does not preclude any party from representation by private counsel or from appearing on the party's own behalf.
- n) Upon filing of a petition under this section, the respondent shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be made at least five days before the hearing. The court may, for good

cause, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

- o) A notice of hearing under this section shall notify the respondent that, if they do not attend the hearing, the court may make orders against them that could last up to three years.
- p) The respondent shall be entitled, as a matter of course, to one continuance, for a reasonable period, to respond to the petition.
- q)
  - i) Any party may request a continuance of the hearing, which the court shall grant on a showing of good cause. The request may be made in writing before or at the hearing or orally at the hearing. The court may also grant a continuance on its own motion.
  - ii) If the court grants a continuance, any temporary restraining order that has been granted shall remain in effect until the end of the continued hearing, unless otherwise ordered by the court. In granting a continuance, the court may modify or terminate a temporary restraining order.
- r)
  - i) If a respondent, named in a restraining order issued under this section after a hearing, has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.
  - ii) If the respondent named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order, but the person does not appear at the hearing, either personally or by an attorney, and the terms and conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining order, except for the duration of the order, then the restraining order or protective order issued at the hearing may be served on the person by first-class mail sent to that person at the most current address for the person available to the court.
  - iii) The [State court system] form for temporary orders issued pursuant to this subdivision shall contain a statement in substantially the following form:

“If you have been personally served with this temporary restraining order and notice of hearing, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this restraining order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the following address: \_\_\_\_\_.

If that address is not correct or you wish to verify that the temporary restraining order was converted to a restraining order at the hearing without substantive change and to find out the duration of that order, contact the clerk of the court.”
- s)
  - i) The court or its designee shall transmit, within one business day, to law enforcement personnel all information required under subdivision [State family law code] regarding

any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by transmitting a physical copy of the order or proof of service to a local law enforcement agency to enter orders into the [State law enforcement database].

- ii) Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported unlawful violence or a credible threat of violence.
  - iii) At the request of the petitioner, an order issued under this section shall be served on the respondent, regardless of whether the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported unlawful violence or a credible threat of violence involving the parties to the proceedings. The petitioner shall provide the officer with an endorsed copy of the order and proof of service that the officer shall complete and send to the issuing court.
  - iv) Upon receiving information at the scene of an incident of unlawful violence or a credible threat of violence that a protective order has been issued under this section, or that a person who has been taken into custody is the subject of an order, if the petitioner or the protected person cannot produce an endorsed copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.
  - v) If the law enforcement officer determines that a protective order has been issued but not served, the officer shall immediately notify the respondent of the terms of the order and obtain the respondent's address. The law enforcement officer shall at that time also enforce the order, but may not arrest or take the respondent into custody for acts in violation of the order that were committed prior to the verbal notice of the terms and conditions of the order. The law enforcement officer's verbal notice of the terms of the order shall constitute service of the order and constitutes sufficient notice for the purposes of this section and for the purposes of [State criminal law code]. The petitioner shall mail an endorsed copy of the order to the respondent's mailing address provided to the law enforcement officer within one business day of the reported incident of unlawful violence or a credible threat of violence at which a verbal notice of the terms of the order was provided by a law enforcement officer.
- t)
- i) A person subject to a protective order issued under this section shall not own, possess, purchase, receive, or attempt to purchase or receive a firearm or ammunition while the protective order is in effect.
  - ii) The court shall order a person subject to a protective order issued under this section to relinquish any firearms they own or possess pursuant to [State criminal law code].
  - iii) Every person who owns, possesses, purchases or receives, or attempts to purchase or receive a firearm or ammunition while the protective order is in effect is punishable pursuant to [State criminal law code].
- u) Any intentional disobedience of any temporary restraining order or order after hearing granted under this section is punishable pursuant to [State criminal law code].

v) This section shall not be construed as expanding, diminishing, altering, or modifying the duty, if any, of an employer to provide a safe workplace for employees and other persons.

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i) The [State court system] shall develop forms, instructions, and rules for relating to matters governed by this section. The forms for the petition and response shall be simple and concise, and their use by parties in actions brought pursuant to this section shall be mandatory.

ii) A temporary restraining order or order after hearing relating to unlawful violence or a credible threat of violence issued by a court pursuant to this section shall be issued on forms adopted by the [State court system] and that have been approved by the [State family law code]. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the [State court system] shall not, in and of itself, make the order unenforceable.

x) There is no filing fee for a petition that alleges that a person has inflicted or threatened violence against an employee employed or represented by the petitioner, or stalked the employee, or acted or spoken in any other manner that has placed the employee in reasonable fear of violence, and that seeks a protective or restraining order restraining stalking or future violence or threats of violence, in any action brought pursuant to this section. A fee shall not be paid for a subpoena filed in connection with a petition alleging these acts. A fee shall not be paid for filing a response to a petition alleging these acts.

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i) Subject to [State service of process statute], there shall be no fee for the service of process by a sheriff or marshal of a temporary restraining order or order after hearing to be issued pursuant to this section if either of the following conditions applies:

I) The temporary restraining order or order after hearing issued pursuant to this section is based upon stalking, as prohibited by [State criminal law code].

II) The temporary restraining order or order after hearing issued pursuant to this section is based on unlawful violence or a credible threat of violence.

ii) The [State court system] shall prepare and develop forms for persons who wish to avail themselves of the services described in this subdivision.