

1 **ACCESS TO HEALTH CARE FACILITIES**
2 **AND PLACES OF WORSHIP**

3 2005 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Douglas C. Aagard**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Criminal Code to provide penalties for persons that block or
10 hinder access to health care facilities or places of worship.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ provides that knowingly preventing or impeding passage to a health care facility or
14 place of worship is a class B misdemeanor;
- 15 ▶ provides that knowingly approaching within eight feet of a person for the purpose of
16 passing out literature, displaying an object, or engaging in protest or counseling
17 without the other person's consent is a class B misdemeanor if the person is within
18 100 feet of an entrance door to a health care facility or place of worship;
- 19 ▶ permits recovery of civil damages and injunctive relief against a person who
20 violates the above provisions or who incites another person to violate the above
21 provisions;
- 22 ▶ permits local political subdivisions to adopt different ordinances or regulations
23 provided that they are at least as restrictive as the above provisions; and
- 24 ▶ provides that an action for recovery of civil damages or injunctive relief is not
25 dependent upon a person's conviction of the above provisions.

26 **Monies Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 ENACTS:

32 **76-9-108**, Utah Code Annotated 1953



34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **76-9-108** is enacted to read:

36 **76-9-108. Preventing or interfering with passage to and from a health care facility**
37 **or place of worship -- Civil penalties and injunctive relief.**

38 (1) As used in this section:

39 (a) "Health care facility" means general acute hospitals, specialty hospitals, home
40 health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing
41 centers, ambulatory surgical facilities, small health care facilities, abortion clinics, facilities
42 owned or operated by health maintenance organizations, end state renal disease facilities, and
43 any other health facility that the Health Facility Committee created in Section 26-1-7
44 designates by rule.

45 (b) "Place of worship" means a church, temple, synagogue, mosque, or other building
46 set apart primarily for the purpose of worship in which religious services are held.

47 (2) (a) A person is guilty of preventing or impeding passage to a health care facility or
48 place of worship if the person knowingly obstructs, detains, hinders, impedes, or blocks
49 another person's entry to or exit from the health care facility or place of worship.

50 (b) A person who violates Subsection (2)(a) is guilty of a class B misdemeanor.

51 (3) (a) A person is guilty of unlawfully interfering with passage to a health care facility
52 or place of worship if, within a radius of 100 feet from any entrance door to a health care
53 facility or place of worship, the person knowingly approaches within eight feet of another
54 person for the purpose of:

55 (i) passing a leaflet or handbill;

56 (ii) displaying a sign or object; or

57 (iii) engaging in oral protest, education, or counseling with the other person.

58 (b) Subsection (3)(a) does not apply if the other person consents to the approach.

- 59 (c) A person who violates Subsection (3)(a) is guilty of a class B misdemeanor.
60 (4) Nothing in this section may be construed to prohibit a local political subdivision
61 from adopting a law, regulation, or ordinance that is at least as restrictive as the provisions of
62 this section.
63 (5) In addition to the penalties set forth in Subsections (2)(b) and (3)(c), any person
64 who violates the provisions of this section or incites another person to violate this section shall
65 be subject to:
66 (a) injunctive relief; and
67 (b) a civil action for the recovery of:
68 (i) actual damages;
69 (ii) costs and attorney fees; and
70 (iii) if the court determines that the circumstances are appropriate, punitive damages.
71 (6) A conviction for criminal violation of a provision of this section is not a condition
72 precedent to maintaining a civil action or a request for injunctive relief under Subsection (5).

Legislative Review Note
as of 1-31-05 3:02 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

Provisions of this bill could increase both the number of cases prosecuted and the number of persons convicted of Class B misdemeanors. It is estimated that any additional workload created by this bill could be absorbed within existing budgets.

Individual and Business Impact

Under the provisions of this bill, a person could receive fines of up to \$1,000 or spend time incarcerated. Time incarcerated may reduce a person's ability to generate personal income.

Office of the Legislative Fiscal Analyst