



Legal Remedies to Address Clinic Violence and Harassment

A Handbook for NAF Members



naf

NATIONAL
ABORTION
FEDERATION

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The National Abortion Federation (NAF) is the professional association of abortion providers in North America. Our mission is to ensure safe, legal, and accessible abortion care, which promotes health and justice for women. Our members include clinics, doctors' offices, and hospitals, who together care for more than half the women who choose abortion each year in the United States, Canada, and Mexico City.

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Please note: The materials contained in this document are for informational purposes and do not constitute legal advice or representation. Readers should seek the advice of an appropriate attorney or other professional regarding individual questions or concerns of a legal or professional nature.

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Introduction

Since *Roe v. Wade*¹ was decided in 1973, abortion providers have been the target of escalating violence and harassment by anti-abortion extremists who sometimes choose to take the law into their own hands. Anti-abortion violence and harassment ranges from picketing and protesting to arson, acid attacks, and even murder. When faced with violence, there are a variety of legal remedies that abortion providers can and have pursued to ensure the safety of facility staff and patients. This handbook is an introduction to the ordinances, injunctions, and other legal remedies that providers and advocates have attempted across the United States and Canada.

The beginning of this handbook briefly explains the various legal avenues that have been used to address violence against abortion providers. We first consider the U.S. Freedom of Access to Clinic Entrances (FACE) Act, the federal law that makes it a crime to intimidate, injure, or interfere with anyone seeking to obtain or provide reproductive health care services, or to damage or destroy facilities providing such care. Next, the handbook addresses injunctions and ordinances, the differences between them, and the reasons you may choose to pursue one over the other. The majority of the handbook lists the injunctions, ordinances (both facility ordinances and residential picketing ordinances), and relevant statutes that exist in each state and province, including those ordinances that have been ruled unconstitutional for your reference. The lists are organized alphabetically by state with a Canadian section at the end for your convenience.

At the end of this handbook, there are appendices, which contain the full text of the federal FACE law and several state FACE laws, as well as examples of successful facility and residential picketing ordinances. We offer these as suggestions that may help you in drafting an ordinance or seeking an injunction to fit the needs of a specific state, province, town, or facility. Ordinances that were struck down by courts are also included to help in the drafting of solutions that are most likely to succeed in addressing violence and harassment.

FACE Act: Freedom of Access to Clinic Entrances

During the 1980s and early 1990s, clinic protests and blockades were on the rise. Violence against abortion providers escalated, culminating in the murder of NAF member Dr. David Gunn in Florida in March 1993. These high-profile incidents created a sense of urgency in Congress to pass federal legislation to address the violence committed against reproductive health care facilities, providers, and patients.

The Freedom of Access to Clinic Entrances (FACE) Act, passed by the United States Congress and signed into law by President Bill Clinton in May 1994, makes it a crime to intentionally use force, the threat of force, or physical obstruction to injure, intimidate, interfere with, or attempt to injure, intimidate, or interfere with someone obtaining or providing reproductive health care

¹ 410 U.S. 113 (1973).

services. FACE also includes penalties for anyone who intentionally damages or destroys a facility that provides reproductive health care services. Many states have enacted their own versions of FACE or similar statutes, allowing prosecutors to bring criminal or civil charges under state law, and giving providers broader opportunities for enforcement of the law.

Injunctions Protecting Reproductive Health Care Facilities, Staff, and Patients

An injunction is a court order requiring a party to either begin or cease engaging in an action. To obtain an injunction, a person or party injured by a legal violation of FACE or a similar state statute can bring a civil suit against the offender. The suit allows the plaintiff to obtain temporary or permanent injunctive relief from a court if their argument is successful. The injunction is usually argued by both sides in a court hearing as opposed to a trial. In order to receive injunctive relief, the plaintiff must show the court good reason for issuing the injunction, often requiring written or video documentation of the harassment or violence.

Injunctions are useful because they do not require action by a state legislature or city council. They can prohibit a wide range of anti-abortion activity based on the past actions of a particular group or individual. Injunctions are very flexible, and can be applied to a single person, a group of people, an organization, or anyone who acts with or on behalf of the named target of the injunction. An injunction can be granted in a matter of days or weeks, allowing for a quick response to anti-abortion activity, and does not necessarily require a long-term political strategy. Furthermore, if perpetrators fail to comply with the injunction they can be held in contempt of court. Injunctions can be used to supplement existing laws protecting facility staff and patients and usually are best used together with legislation that can provide more durable protection against extremists.

Injunctions do have drawbacks. Because an injunction is based on *past* behavior, it is a reactive—not a proactive—response. Preemptive injunctions are granted very rarely and only when there has been extreme behavior by the same actors at another facility in the past. Injunctions are only effective against the people named in the actual suit, which may allow new groups of people to begin the same activity without violating the injunction. Injunctions must be narrowly written to ensure a court will hold that the defendant is not overly burdened by the conditions and that their freedom of speech is protected. Injunctions can also be expensive, since going to court may require hiring a lawyer and paying court fees.

Ordinances Protecting Reproductive Health Care Facilities, Staff, and Patients

An ordinance is a law passed by a local authority, whether it is at the state, provincial, county, or city level. Ordinances that protect facilities generally take the form of a *buffer zone* or *bubble zone* law. Buffer zone laws limit how close demonstrators are allowed to be to a facility by requiring that protests occur at a specific distance from the facility. Bubble zone laws create floating areas around particular people (usually clinic staff and patients) or vehicles—and prohibit protesters

from coming within a certain distance of the specified person or vehicle. Bubble zones are sometimes referred to as *floating buffer zones*.

The Supreme Court decision in *Hill v. Colorado*² in 2000 established the Constitutional standard for these types of ordinances. The *Hill* decision upheld a Colorado ordinance that created an eight-foot no-approach bubble zone around any person within a buffer zone stretching 100 feet from a health care facility, and made it a misdemeanor to obstruct entry to or exit from a health care facility. This has successfully served as a model for similar ordinances across the country. Several of the ordinances listed in this guide were struck down as unconstitutional prior to *Hill*; however if similar ordinances were introduced today they would likely survive a constitutional challenge.

The major advantage of ordinances is that they apply to all protesters equally and indefinitely. Attempts to pass ordinances also present an opportunity to build a pro-choice network of supporters who can help lobby for the ordinance, educate the greater community about women's health, and bring disruptive and violent anti-abortion activity to the public eye. Ordinances have disadvantages as well. It may take quite a while and a significant amount of advocacy to pass an ordinance, especially if the legislature, state officials, or city council are not pro-choice. Ordinances can also be challenged in court, which can be an expensive and time consuming process.

Residential Picketing Ordinances

Many cities and towns have enacted residential picketing ordinances. Anti-abortion extremists often picket facility staff, especially doctors, at their homes. This residential picketing is disruptive and can frighten and intimidate the families and neighbors of facility staff and doctors. If residential picketing is a problem for a community, an ordinance may be the right solution, as courts have ruled in favor of ordinances that either entirely prohibit or severely limit residential pickets.

The Supreme Court decision in *Frisby v. Schultz*³ in 1988 created the standard for laws limiting picketing at people's homes. The laws must be designed to protect homeowners' privacy, keep streets clear, and provide alternative methods of communication for the protesters, who still have the right to free speech. This means that often ordinances may stop protests focused on a single residence, but cannot prohibit residential picketing in general. Residential picketing ordinances that specifically target or exempt a certain point of view or do not define restricted activities may be struck down, while those that prohibit demonstration regardless of point of view and define the restricted activities are more likely to be upheld.

² 530 U.S. 703 (2000).

³ 487 U.S. 474 (1988).

List of Injunctions and Ordinances by State

The following pages outline many of the injunctions and ordinances that exist in each state. These listings are intended to provide an overview of the different strategies that reproductive health care facilities, providers, and patients have pursued over the course of many years to help ensure their safety from anti-abortion harassment and violence. This list is not exhaustive and is up to date as of December 1, 2010.

ALABAMA

INJUNCTION:

Lucero v. Trosch, 121 F.3d 591 (11th Cir. 1997).

Anti-Abortion Activity: Anti-abortion extremists shouted and made noise loud enough to be heard inside the clinic. The extremists blocked or delayed cars attempting to enter the clinic driveway and forced literature on people approaching the clinic. Anti-abortion extremists demonstrated outside the doctor's house, threatened the doctor and his wife, attempted to block his car as he left the clinic, and followed clinic staff home.

Relevant Provisions (granted under the federal FACE Act):

- 25-foot fixed buffer around the clinic.
- No blockading staff members' home driveways or streets.

RESIDENTIAL PICKETING ORDINANCE:

Mountain Brook, AL – MOUNTAIN BROOK, ALA. MUN. CODE §§ 18-32, 18-37, 18-46 (2002).

Relevant Provisions: Prohibits public assemblies in areas zoned residential by the city code. "Public assemblies" defined as a "parade, march, formation, procession, group of pickets, picket line, public demonstration, movement, assemblage, gathering, or display of persons."

ARIZONA

FACILITY ORDINANCE:

Phoenix, AZ – PHOENIX, ARIZ., CODE § 23-10.1 (2010).

Relevant Provisions: Creates an eight-foot cease-and-desist bubble zone within a 100-foot buffer zone around any health care facility. The ordinance makes it unlawful for a demonstrator to fail to withdraw, upon a clear request, beyond eight feet from any person in the buffer zone.

Relevant Cases: *Sabelko v. City of Phoenix*, 68 F.3d 1169 (9th Cir. 1995), *reversing* 846 F. Supp. 810 (D. Ariz. 1994), *vacated and remanded*, 519 U.S. 1144 (1997), *aff'd* 120 F.3d 161 (9th Cir. 1997) (ordinance ruled unconstitutional because it was not narrowly tailored); *but see Hill v. Colorado*, 530 U.S. 703 (2000) (finding constitutional an eight-foot cease-and-desist bubble zone within a 100-foot buffer zone outside of health clinics).

RESIDENTIAL PICKETING ORDINANCE:

Arizona – ARIZ. REV. STAT. § 13-2909 (2001).

Relevant Provision: Prohibits residential picketing, defined as “demonstrating before or about the residence or dwelling place of an individual...with intent to harass, annoy, or alarm another person.”

Relevant Cases: *State v. Baldwin*, 908 P.2d 483 (Ariz. Ct. App. 1995) (ordinance ruled constitutional).

ARKANSAS

RESIDENTIAL PICKETING ORDINANCES:

Arkansas – ARK. CODE ANN. § 5-71-225 (2001).

Relevant Provision: Prohibits “demonstrations of any type or picketing before or about any residence or dwelling place of any individual.”

Fayetteville, AR – FAYETTEVILLE, ARK., MUN. CODE § 13-15 (2010).

Relevant Provision: Prohibits engaging “in demonstrations of any type or to picket before or about the residence or dwelling place of any individual,” regardless of whether the home was in a residential or busy commercial area.

Relevant Cases: *Pursley v. City of Fayetteville*, 820 F.2d 951 (8th Cir. 1987) (ordinance ruled unconstitutional because it was not narrowly tailored to serve the government interest of protecting domestic tranquility).

CALIFORNIA

INJUNCTIONS:

***Chico Feminist Women’s Health Ctr. v. Scully*, 208 Cal. App. 3d 230 (Cal. Ct. App. 1989).**

Anti-Abortion Activity: Anti-abortion extremists rushed patients’ cars as they arrived, attempted to stop patients on the sidewalk, thrust pamphlets at patients, photographed them, and recorded their license plate numbers.

Relevant Provisions:

- 10-foot buffer zone around doorways; 10-foot distance between all picketers within a 25-foot zone of the center; no more than seven picketers on the street in front of the clinic.
- No photographing or recording license plates of patients or staff.
- No blocking entrances or exits into the center; no blocking path or right of way of patients or staff.
- No shouting or voice amplification to harass or demonstrate; no using tape recording devices or other recording devices in front of the center.
- No following patients and/or being within 15 feet of patients in their cars without having been invited.
- No contact with people connected with the clinic who have declined contact previously.

- No identifying or disclosing the identity of anyone entering, leaving, or approaching the clinic or harassing any person in such a fashion.

***Planned Parenthood Ass'n of San Mateo County v. Operation Rescue*, 50 Cal. App. 4th 290 (Cal. Ct. App. 1996).**

Anti-Abortion Activity: Anti-abortion extremists harassed a doctor by blockading his driveway, banging on his car, deflating his tires, following him while he was driving, and demonstrating in front of his house. Extremists also blockaded the clinic, forcing its temporary closure. They prevented drivers from entering the clinic parking lot, displayed signs, harassed patients, made excessive noise that was audible inside the clinic waiting room, and invaded the clinic.

Relevant Provisions:

- Buffer zone banning protesters from coming within 15 feet of an abortion clinic.
- Defendants may not obstruct clinic access.
- No shouting, screaming, or other loud noises that can be heard in the clinic.
- No touching or threatening to touch people entering or leaving.
- Must remain 30 feet away from a specific doctor and his family.
- Defendants may not threaten, follow, telephone, block, or photograph that specific doctor.

***United States v. White*, 893 F. Supp. 1423 (C.D. Cal. 1995).**

Anti-Abortion Activity: Anti-abortion extremists harassed the doctor and his wife by blockading their driveway, picketing on the public road that their driveway attaches to, following him in their cars, and obstructing the visibility of his car as he was about to pull onto the public road. Extremists shoved and pushed the doctor, yelled and jeered at him, and pantomimed shooting him.

Relevant Provisions (granted under the federal FACE Act):

- No force or threats against the doctor or his wife; no telephoning the doctor or his wife; no trespassing on the doctor's property.
- 15-foot buffer zone around the doctor and his wife.
- While driving, no following or preceding the doctor or his wife by less than three car-lengths.
- No placing placards within five feet of either of their cars or physically touching their vehicles.
- No demonstrating within 45 feet of the intersection of the doctor's driveway and the public road.

FACILITY ORDINANCES:

Los Angeles, CA – LOS ANGELES, CAL., MUN. CODE ch. v, art. 6.1 (2010).

Relevant Provisions: Makes it a misdemeanor to intentionally act in any manner that threatens or disturbs the peace or security of a medical facility. The police may also order demonstrators to stay 50 feet away from a facility and its parking lot for up to four hours at a time. The law also prohibits activities that interfere with a patient or worker at a medical facility.

Oakland, CA – OAKLAND, CAL. MUN. CODE tit. 8, ch. 8.52 (2010).

Relevant Provisions: Creates a 100-foot buffer zone around “reproductive health care facilities,” with eight-foot no-approach bubble zones around anyone approaching a facility in the buffer zone. Violation of the ordinance is a misdemeanor.

Relevant Cases: *Hoye v. City of Oakland*, 642 F. Supp. 2d 1029 (N.D. Cal. 2009), *appeal docketed*, No. 09-16753 (9th Cir. Oct. 8, 2010) (ordinance ruled constitutional, case on appeal).

**Sacramento, CA - SACRAMENTO, CAL., COUNTY CODE § 9.110.030 (2010);
SACRAMENTO, CAL., CITY CODE § 12.96.020 (2010).**

In July 2003, the Sacramento County Supervisors passed a buffer zone ordinance. The City of Sacramento then passed an ordinance, modeled after the county ordinance, which was challenged in court. In October 2004, in light of *Hill v. Colorado*, the City passed a remodeled ordinance.

Relevant Provisions: The County ordinance created a buffer zone with a 20-foot radius around clinic walkways and driveways, making it a misdemeanor to “harass” anyone entering or leaving the facility. “Harass” is defined as “intentionally approaching another person [without consent] 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 a buffer zone.” The remodeled City ordinance replaced the 20-foot buffer zone around all clinic entrances in favor of an eight-foot cease-and-desist bubble zone around all persons entering or exiting the clinic.

Relevant Cases: *Feminist Women’s Health Center v. Sanctity of Human Life*, No. 05AS02303 (May 2005); *see Hill v. Colorado*, 530 U.S. 703 (2000).

San Diego, CA – SAN DIEGO, CAL., MUN. CODE §§ 52.1001-52.1002 (2010).

Relevant Provisions: Creates an eight-foot cease-and-desist bubble zone within a 100-foot buffer zone around health care facilities, places of worship, or schools. The ordinance also provides for a private right of action.

San Francisco, CA – SAN FRANCISCO, CAL., POLICE CODE art. 43, § 4303 (2010).

Relevant Provisions: Creates an eight-foot cease-and-desist bubble zone around any person entering, exiting, or seeking care within a health care facility, when that person is within a 100-foot buffer zone around a health care facility. Ordinance prohibits harassment of individuals seeking access to health care facilities within 100 feet of an exterior wall of a health care facility. “Harassment” refers to situations where a person knowingly approaches another person within eight feet of such person, unless the person consents, for the purpose of passing a leaflet to, displaying a sign to, or engaging in oral protest, education, or counseling with such a person.

San Jose, CA – SAN JOSE, CAL., MUN. CODE §§ 10.08.030-10.08.040 (2010).

Relevant Provisions: Creates an eight-foot cease-and-desist bubble zone around individuals within a 100-foot buffer zone around health care facilities, protecting access to and from the facility. The ordinance also provides for a private right of action.

Santa Barbara, CA – SANTA BARBARA, CAL., MUN. CODE § 9.99 (2010).

Relevant Provisions: Creates an eight-foot cease-and-desist bubble zone around any individual within a 100-foot buffer zone around health care facilities and places of worship. The ordinance also creates an eight-foot buffer zone around the driveway of a health care facility or place of worship, within which demonstration activity is prohibited.

Relevant Cases: *Czekaj v. California* (Cal. Super. Ct. Jan. 6, 1995), *cert. denied*, 516 U.S. 808 (1995); *Edwards v. City of Santa Barbara*, 883 F. Supp. 1379 (C.D. Cal. 1995), *vacated and remanded*, 70 F.3d 1277 (9th Cir. 1995), *on remand and appeal*, 150 F.3d 1213 (9th Cir. 1998) (upheld eight-foot buffer zone around driveways and entrances, but held unconstitutional the 100-foot buffer with eight-foot bubble zone), *cert. denied*, 526 U.S. 1004 (1999); *but see Hill v. Colorado*, 530 U.S. 703 (2000).

RESIDENTIAL PICKETING ORDINANCES**Davis, CA – DAVIS, CAL., MUN. CODE § 35.06 (2010).**

Relevant Provision: Prohibits picketing “before or about” a residence or dwelling.

Glendale, CA – GLENDALE, CAL., MUN. CODE § 9.20.080 (2010).

Relevant Provision: Prohibits picketing “solely in front of, or at, the residence or dwelling of any individual without permission from the owner or occupant of said residence.”

Huntington Beach, CA – HUNTINGTON BEACH, CAL., MUN. CODE § 9.20.030 (2010).

Relevant Provision: Prohibits targeted picketing within 300 feet of residence or dwelling of any individual.

Irvine, CA – IRVINE, CAL., MUN. CODE §§ 4-14.104, 4-14.107 (2010).

Relevant Provisions: Prohibits picketing, parading, or a procession for the purpose of inducing an employee to quit her employment by means of compulsion, coercion, intimidation, threat, or act of violence or fear.

Los Angeles, CA – LOS ANGELES, CAL., MUN. CODE, ch. 5, art. 6.1, § 56.45 (e) (2010).

Relevant Provisions: Prohibits picketing, parades, or patrols that: 1) focus on a private residence, and 2) take place within 100 feet of the private residence.

Riverside, CA – RIVERSIDE, CAL., MUN. CODE §§ 8.54.010, 9.54.030 – 9.54.050 (2010).

Relevant Provision: Prohibits targeted picketing within 300 feet of a residential dwelling

San Jose, CA – SAN JOSE, CAL., MUN. CODE § 10.09.010 (2010).

Relevant Provisions: Prohibits picketing activity that is “targeted at and is within 300 feet of a residential dwelling.” “Residential dwelling” means any “permanent building being used by its occupants solely for non-transient residential uses.” “Targeted” means any “picketing activity that is targeted at a particular residential dwelling and proceeds on a definite course or route in front of or around that particular residential dwelling.” Enforcement is limited to where picketing

proceeds “on a definite course or route in front of a residential dwelling and is directed at that residential dwelling.”

Relevant Cases: *City of San Jose v. Thompson*, 32 Cal. App. 4th 330 (Cal. Ct. App. 1995) (ordinance ruled constitutional), *cert. denied*, 516 U.S. 932 (1995).

Santa Ana, CA – SANTA ANA, CAL., MUN. CODE § 10-110 (2010).

Relevant Provision: Prohibits picketing “before or about” the residence where “such picketing is focused on that particular residence.”

Solana Beach, CA – SOLANA BEACH, CAL. MUN. CODE §§ 7.38.010-7.38.020 (2010).

Relevant Provision: Makes targeted residential picketing a misdemeanor. Section should be construed and applied in accordance with *Frisby v. Shultz*, 487 U.S. 474 (1988).

Tustin, CA – TUSTIN, CAL., MUN. Code §§ 6510 – 6520 (2010).

Relevant Provisions: Prohibits “picketing activity that is targeted at and is within 300 feet of a residential property.” The 300-foot zone is measured from nearest property line of the targeted property to the picketing activity.

OTHER RELEVANT STATE STATUTES:

- California Freedom of Access to Clinic and Church Entrances Act: CAL. PENAL CODE § 423 (2009).
- Commercial blockade, protection of individual privacy, and prevention of harassment: CAL. CIV. CODE §§ AA 3427-3427.4 (2009).
- Insurance issues related to hate crimes or anti-reproductive-rights crimes: CAL. INS. CODE § A 676.10 (2009).
- Preventing individual from entering or exiting health care facility, place of worship, or school: CAL. PENAL CODE § 602.11 (2009).
- Protection of residential address: CAL. GOV'T CODE §§ AA 6215 – 6217 (2010).
- Reproductive Rights Law Enforcement Act: CAL. PENAL CODE §§ AA 13775-13779 (2009).
- Terrorizing by arson or use of explosive device at specified places: CAL. PENAL CODE § 11413 (2010).
- Use of butyric acid or other similar substance: CAL. PENAL CODE § 594.4 (2010).

COLORADO

FACILITY ORDINANCES:

Colorado – COLO. REV. STAT. § 18-9-122 (2010).

Relevant Provisions: Creates an eight-foot no-approach bubble zone around any person within a buffer zone that stretches 100 feet from the entrance to a health care facility and makes it a misdemeanor to obstruct entry to or exit from a health care facility. Section 13-21-106.7 provides for civil remedies in addition to any criminal sanctions available under § 18-9-122.

Relevant Cases: *Hill v. City of Lakewood*, 911 P.2d 670 (Colo. Ct. App. 1995), *cert. granted, judgment vacated*, *Hill v. Colorado*, 519 U.S. 1145 (1997), *on remand*, *Hill v. City of Lakewood*, 949 P.2d 107 (Colo. Ct. App. 1997), *aff'd by Hill v. Thomas*, 973 P.2d 1246 (1999), *aff'd by Hill v. Colorado*, 530 U.S. 703 (2000) (statute was a narrowly tailored content-neutral time, place, and manner regulation; not overbroad or vague; did not impose unconstitutional prior restraint on speech).

Boulder, CO – BOULDER, COLO., REV. CODE § 5-3-10 (2010).

Relevant Provision: Creates an eight-foot cease-and-desist bubble zone within a 100-foot buffer zone around health care facilities.

Relevant Cases: *Buchanan v. Jorgensen*, No. Civ. 87-2-213 (D. Colo. Mar. 6, 1987); *see Hill v. Colorado*, 530 U.S. 703 (2000).

Denver, CO – DENVER, COLO., Ordinance 728 (Nov. 19, 1990).

Relevant Provision: Creates an eight-foot cease-and-desist bubble zone within a 100-foot buffer zone around entrances to health care facilities.

RESIDENTIAL PICKETING ORDINANCES:

Colorado – COLO. REV. STAT. § 18-9-108.5 (2010).

Relevant Provisions: Prohibits targeted picketing in a residential area except when picketer is marching, without stopping, over a route that extends at least beyond three adjacent structures, or 300 feet on either side of the targeted residence. Prohibits picketers from carrying more than one sign, which must be no larger than six square feet. Picketers violating the ordinance may be found guilty of a misdemeanor and fined no more than \$5,000.

Arapahoe County, CO – ARAPAHOE COUNTY, COLO., Ordinance 2000-1 (2001).

Relevant Provisions: Prohibits targeted picketing in a residential area except when picketer is marching, without stopping in front of any residence, over a route along the entire one-way length of at least one block (660 feet) of a street. Prohibits residential picketers from carrying or displaying signs that are greater than two feet and/or larger in total size than three square feet. Each picketer is limited to one sign.

OTHER RELEVANT STATE STATUTE:

- Civil damages for preventing passage to and from a health care facility and engaging in prohibited activity near facility: COLO. REV. STAT. § 13-21-106.7 (2010).

CONNECTICUT

INJUNCTION:

United States v. Scott, 187 F.3d 282 (2d Cir. 1999).

Anti-Abortion Activity: Anti-abortion extremist used a large sign to attack clinic escorts, block patients, block clinic doors, and prevent patients from leaving their cars. Anti-abortion extremist also ran at patients and yelled at them, followed them to and from their automobiles, and ignored their requests to be left alone; pushed and threatened clinic personnel; and threatened to shoot a clinic security guard.

Relevant Provisions (granted under federal FACE Act):

- 28-foot buffer zone around the clinic door.
- Eight-foot floating bubble zone around people and cars.
- Withdrawal from the bubble zones is required if the person being approached wishes to avoid contact.

OTHER RELEVANT STATE STATUTE:

- Action for deprivation of equal rights and privileges: CONN. GEN. STAT. §§ 52-571a, 53-37b (2010).

DISTRICT OF COLUMBIA

INJUNCTIONS:

Nat'l Org. of Women v. Operation Rescue, 747 F. Supp. 760 (D.D.C. 1990).

Anti-Abortion Activity: Anti-abortion extremists attempted blockades of abortion clinics.

Relevant Provisions (granted under federal FACE Act):

- No trespassing, blockading, or obstructing access to clinics.
- Includes large fines for individual and group violations.

United States v. Alaw, 327 F.3d 1217 (D.C. Cir. 2003).

Anti-Abortion Activity: Anti-abortion extremists attempted to blockade the clinic.

Relevant Provisions (granted under federal FACE Act):

- No intentionally standing, sitting, lying, or kneeling in front of clinic entrances, or otherwise physically blockading or obstructing access to such facilities.
- No intentionally attempting, inducing, directing, aiding, or abetting in any manner, others to take the above actions.
- No intentionally coming within a 20-foot radius of any facility where abortions are provided.

FACILITY ORDINANCE:

District of Columbia

In November 1989, D.C. passed an emergency act that included a buffer zone provision.

Relevant Provision: Prohibits “patrol[ing] or picket[ing] within 100 feet of a health care facility...to intimidate, harass, or disrupt the staff or a patient of the health care facility.”

Relevant Cases: *Mahoney v. District of Columbia*, Civ. No 89-3136-OG, 1990 U.S. Dist. LEXIS 69, at *2 (D.D.C. Jan. 8, 1990) (act ruled unconstitutional as vague and overbroad).

RESIDENTIAL PICKETING ORDINANCE:

District of Columbia – WASHINGTON, D.C., CODE § 22-1314.02 (2010).

Relevant Provision: Prohibits acting alone or with others “with the intent to prevent a health professional or his or her family from entering or leaving the health professional’s home.”

OTHER RELEVANT STATE STATUTE:

- Interference with access to a medical facility: D.C. CODE §§ 22-1314.01-22-1314.02 (2010).

FLORIDA

INJUNCTIONS:

Madsen v. Women’s Health Center, 512 U.S. 753 (U.S. 1994).

Anti-Abortion Activity: Anti-abortion extremists blocked the street in front of clinic; obstructed driveways; accosted drivers, patients, and passersby with anti-abortion literature; and created excessive noise with bullhorns, loudspeakers, singing, and chanting. The anti-abortion extremists also picketed outside clinic employees’ homes; shouted at passersby; identified the employees as “baby-killers” to their neighbors; and confronted employees’ children who were home alone.

Relevant Provisions (granted under federal FACE Act):

- 36-foot buffer zone around the clinic extending to public property but not private property.
- No “singing, chanting, whistling, shouting, yelling, use of bullhorns, auto horns, sound amplification equipment, or other sounds...within earshot of the patients inside the clinic” between 7:30 AM and 12:00 PM, Monday through Saturday.

Raney v. Aware Woman Center for Choice, 224 F.3d 1266 (11th Cir. 2000).

Anti-Abortion Activity: An anti-abortion extremist violated the 36-foot buffer zone injunction established by *Madsen v. Women’s Health Center*. He attempted to argue that police enforcement of the injunction constituted a violation of the FACE Act, because he was trying to provide “counseling” to men and women entering and leaving the clinic.

Relevant Provisions (granted under federal FACE Act):

- Reaffirms the injunction from *Madsen*.
- Held that anti-abortion extremists cannot be protected by FACE. FACE protects only people providing or seeking to provide services *in a facility* that provides reproductive health services. Since the plaintiff was on the sidewalk outside the facility, he was not protected by FACE.

FACILITY ORDINANCES:

Pensacola, FL – PENSACOLA, FLA., CODE § 8-1-19 (2010).

Relevant Provisions: Creates “Law Enforcement Areas” that include all public property within eight feet of abortion clinics’ property except paved and public sidewalks. No one, except law enforcement officials, is permitted to enter the areas. At one facility where it is necessary for access, employees and patients may cross the area via the driveway when they enter or leave the clinic.

Relevant Cases: *Conrow v. City of Pensacola*, No. 95-257-CA-01 (Fla. Cir. Ct. Apr. 11, 1995) (ordinance upheld).

West Palm Beach, FL – FLA. ADMIN. CODE ANN. r. §§78-425 (2005).

Relevant Provisions: Creates a 20-foot buffer zone around the clinic driveways and prohibits protesting, picketing, pamphlet distribution, education, or counseling activities within the buffer zone.

Relevant Cases: *Halfpap v. City of West Palm Beach Florida*, No. 05-80900 (S.D.Fla. 2006) (ordinance ruled unconstitutional because the size of the zone was too large, the ordinance was not narrowly tailored to serve the city’s interest of public safety, and it restricted protected speech).

RESIDENTIAL PICKETING ORDINANCE:

Melbourne Beach, FL – MELBOURNE BEACH, FLA., CODE § 66-2 (2010).

Relevant Provision: Prohibits targeted residential picketing.

GEORGIA

INJUNCTION:

***Hirsch v. City of Atlanta*, 401 S.E.2d 530 (Ga. 1991).**

Anti-Abortion Activity: Anti-abortion extremists organized clinic blockades throughout Atlanta, linked to the Democratic National Convention taking place in the city.

Relevant Provisions:

- 50-foot buffer for the property line in which protests are allowed, subject to the following restrictions: five-foot floating bubble; must withdraw if requested to do so; and no more than 20 protesters allowed, and they must be spaced in such a way as to allow access to the clinic.

RESIDENTIAL PICKETING ORDINANCE:

Atlanta, GA – ATLANTA, GA., MUN. CODE § 106-89 (2002).

Relevant Provisions: Prohibits picketing before or about private residences. Picketing defined as: patrolling or stationing at a residence with a sign or insignia designed to persuade or protest or to obstruct passage to or from a residence or to promote a strike or boycott at a residence.

HAWAII

RESIDENTIAL PICKETING ORDINANCE:

Hawaii – HAW. REV. STAT. ANN. § 379A-1 (2010)

Relevant Provisions: Prohibits picketing “before or about” the residence or dwelling place of any individual. Does not prohibit picketing during a labor dispute.

ILLINOIS

FACILITY ORDINANCE:

Chicago, IL – CHICAGO, ILL., MUN. CODE § 8-4-010 (2010).

Relevant Provisions: Creates a buffer zone of 50 feet around any entrance to a “hospital, medical clinic, or healthcare facility” that prevents people from demonstrating or picketing with no-approach bubble zones eight feet around anyone approaching a facility in the buffer zone. Violation of the ordinance carries up to a \$500 fine.

RESIDENTIAL PICKETING ORDINANCES:

Illinois – 720 ILL. COMP. STAT. ANN. 38/21.1-2 (2010).

Relevant Provision: Prohibits picketing “before or about” residences or dwellings, except “the peaceful picketing of a place of employment involved in a labor dispute.”

Relevant Cases: *Carey v. Brown*, 447 U.S. 455 (1980) (ordinance ruled unconstitutional because it discriminates between legal and illegal conduct based on the subject matter of the demonstration).

Danville, IL – DANVILLE, ILL., CODE OF ORDINANCES § 133.02 (2010).

Relevant Provisions: Prohibits picketing “before or about” a residence, except when residence is used as a place of business. Section does not apply to: 1) a person peacefully picketing his own residence; 2) a person peacefully picketing a place of employment involved in a labor dispute; or 3) a place where holding a meeting or assembly on premises is used to discuss public interest topics.

Palos Heights, IL – PALOS HEIGHTS, ILL., CODE OF ORDINANCES § 133.02 (2010).

Relevant Provision: Prohibits picketing “before or about” a residence, except when targeted residence is used as a place of business.

INDIANA

INJUNCTION:

Fort Wayne Women's Health Org. v. Brane, 895 F. Supp. 1080 (N.D. Ind. 1990).

Anti-Abortion Activity: Anti-abortion extremists in groups as large as 20 pushed and shoved escorts walking patients to the clinic, shouted at patients, and tried to pass anti-abortion literature to patients. Extremists also followed patients when they left the clinic to the parking lot, their places of employment, and restaurants.

Relevant Provisions (granted under federal FACE Act):

- No trespassing, blockading, or obstructing access to the clinic.
- Picketing limited to opposite side of the street or 25 feet away.
- One-on-one "sidewalk counseling," at low volume, is permitted, but only with the patient's consent.
- No obstructing traffic.
- No noise at a volume that substantially interferes with the provision of medical services.

IOWA

RESIDENTIAL PICKETING ORDINANCE:

Clive, IA – CLIVE, IOWA, CODE OF ORDINANCES § 5-4A-7 (2010).

Relevant Provision: Ordinance prohibits "any person to engage in picketing before, about, or immediately adjacent to, the residence or dwelling of any individual in the City."

Relevant Cases: *Douglas v. Brownwell*, 88 F.3d 1511 (8th Cir. 1996) (ordinance ruled constitutional as three-house zone was narrowly tailored to serve a state interest).

KANSAS

INJUNCTION:

United States v. Burke, 15 F. Supp. 2d 1090 (D. Kan. 1998).

Anti-Abortion Activity: An anti-abortion extremist blockaded clinic; invaded the clinic; destroyed a television; attacked three clinic employees, breaking one's jaw; sent a death threat to the clinic through the mail; and threatened patients as they approached the clinic.

Relevant Provisions (granted under federal FACE Act):

- No obstructing or interfering with clinic access.
- No entering onto the clinic's property.
- Prohibits violence, harassment, intimidation, or force directed towards anyone associated with the clinic.

RESIDENTIAL PICKETING ORDINANCES:

Lenexa, KS – LENEXA, KAN., MUN. CODE § 3-9-E-8 (2006).

Relevant Provision: Prohibits targeted residential picketing unless the targeted residence is used as a place of business or public assembly.

Prairie Village, KS – PRAIRIE VILLAGE, KAN. ORDINANCE chap. XI, art. 9.16 (2004).

Relevant Provisions: Prohibits picketing before or about the residence or dwelling of any individual in the city, or before or about any church in the city.

Relevant Cases: *City of Prairie Village v. Hogan*, 855 P.2d 949 (Kan. 1993) (ordinance ruled constitutional).

Topeka, KS – TOPEKA, KAN., MUN. CODE § 9.45.050 (2010).

Relevant Provisions: Prohibits picketing that is “directed, focused, or targeted at a residence and that takes place before or about that residence.” Defines residential picketing as when a person “with or without a sign, is posted at, before, or about a particular residence.”

OTHER RELEVANT STATE STATUTE:

- Criminal trespass: KAN. STAT. ANN. § 21-3721(a)(2) (2009).

MAINE

FACILITY ORDINANCE:

Portland, ME – PORTLAND CODE OF ORDINANCES art. VII., §§ 17-108--17-112 (2013).

Relevant Provision: Ordinance creates 39-foot buffer zone around reproductive health care clinic entrances and driveways, with exception for employees and agents of the facility acting for the purpose of providing escort services only.

RESIDENTIAL PICKETING ORDINANCE:

Bangor, ME – Bangor, Me., Municipal Ordinance Prohibiting Targeted Residential Picketing (1996).

Relevant Provision: Bans all targeted residential picketing within a 300-foot radius outside of a fixed location with materials displaying information about the fixed location or activities or persons therein.

Relevant Cases: *City of Bangor v. Stauble*, No. AP-97-14 & 15, 1997 Me. Super. LEXIS 352 (Me. Super Ct. 1997) (ordinance ruled unconstitutional as content-based regulation and not narrowly tailored).

OTHER RELEVANT STATE STATUTE:

- Interference with health care services: ME. REV. STAT. ANN. tit. 5, §§ 4684-4684-B (2010).

MARYLAND

RESIDENTIAL PICKETING ORDINANCE:

Montgomery County, MD – MONTGOMERY COUNTY, MD., CODE § 32-23 (2010).

Relevant Provisions: Prohibits picketing “in front of or adjacent to any private residence.”

Section does not prohibit: 1) picketers from marching in residential area without stopping at any particular residence; 2) picketing in front of a residence used as the occupant’s sole place of business; and 3) picketing a private residence during a public meeting. Picketing means “to post a person or persons at a particular place to convey a message.”

OTHER RELEVANT STATE STATUTE:

- Interference with access to or egress from a medical facility: MD. CODE ANN., CRIM. LAW § 10-204 (2010).

MASSACHUSETTS

INJUNCTIONS:

Planned Parenthood League of Massachusetts v. Bell, 677 N.E.2d 204 (Mass. 1997).

Anti-Abortion Activity: An anti-abortion extremist disguised herself as a clinic escort by wearing a “pinney” similar to those worn by legitimate clinic escorts, harassed and intimidated patients trying to enter the clinic by crowding and blocking them, and screamed so loudly that she could be heard by those inside the building.

Relevant Provisions:

- 50-foot buffer between the defendant and the clinic.
- No obstruction of access to the clinic.
- May not make sound audible within the clinic.
- May not dress similar to clinic escorts.

Planned Parenthood League of Massachusetts v. Blake, 631 N.E.2d 985 (Mass. 1994).

Anti-Abortion Activity: Anti-abortion extremists blockaded clinics across the state. The extremists also invaded clinics, using their bodies or U-shaped bicycle locks or both, to prevent others from entering, leaving, or using the clinic facilities.

Relevant Provisions:

- Prohibits obstruction of clinic access.
- Prohibits the use of force against anyone entering, leaving, or working at the clinic.

FACILITY ORDINANCE:

Massachusetts – MASS. GEN. LAWS ANN. ch. 266, § 120E ½ (2010).

Relevant Provision: Original ordinance that created bubble zones within an 18-foot buffer zone was amended to create a 35-foot buffer zone around clinic entrances, exits, and driveways.

Relevant Cases: *McCullen v. Coakley*, 571 F.3d 167 (1st Cir. 2009), *cert. denied*, 130 S. Ct. 1881 (2010) (ordinance ruled constitutional).

OTHER RELEVANT STATE STATUTE:

- Obstruction of access to medical facilities: MASS. GEN. LAWS ANN. ch. 266, § 120E (2010).

MICHIGAN

FACILITY ORDINANCE:

Ann Arbor, MI – Ann Arbor, Mich., City Council Resolution (Jan. 22, 1991).

Relevant Provisions: The resolution “vacated in its entirety the public right of way in and around the cul-de-sac, reserving only an easement for public utility purposes.” This allows the city to enforce trespass laws against protesters in the cul-de-sac.

Relevant Cases: *Thomas v. Jernigan*, 770 F. Supp. 1195 (E.D. Mich. 1991) (ordinance ruled unconstitutional as content-based and not narrowly tailored).

RESIDENTIAL PICKETING ORDINANCES:

Michigan – MICH. COMP. LAWS SERV. § 423.9f (2010).

Relevant Provision: Prohibits “picketing a private residence by any means or methods...”

Relevant Cases: *Ellsworth v. City of Lansing*, 205 F.3d 1340 (6th Cir. 2000).

Sterling Heights, MI – STERLING HEIGHTS, MICH., CODE OF ORDINANCES § 35-16A

Relevant Provisions: Prohibits targeted picketing “before, about, or immediately adjacent to a targeted residence...Before, about, or immediately adjacent to means in front of or within one residence on either side of a targeted residence and on the same side of the street as the targeted residence.”

OTHER RELEVANT STATE STATUTE:

- Prohibited conduct in a health facility: MICH. COMP. LAWS SERV. § 333.20198 (2010).

MINNESOTA

FACILITY ORDINANCES:

St. Paul, MN – MINN. STAT. § 609.7495 (2010).

Relevant Provisions: The City of St. Paul, preparing for a large scale anti-abortion action, relied upon a state statute prohibiting the obstruction of access to a health facility and temporarily erected a fence that created a buffer zone encompassing a clinic’s property and the sidewalk in

front of the clinic. Only invitees of the clinic were permitted to cross the sidewalk to enter the clinic.

Relevant Cases: *Fischer v. City of St. Paul*, 894 F. Supp. 1318 (D. Minn. 1995) (ordinance ruled constitutional).

White Bear Township, MN – White Bear, Minn., Ordinance 63 (May 21, 1990).

Relevant Provision: Prohibits targeted residential picketing, defined as activity focused on a single residential dwelling without the consent of the dwelling’s occupant.

Relevant Cases: *State v. Castellano*, 506 N.W.2d 641 (Minn. Ct. App. 1993) (ordinance ruled constitutional).

MISSISSIPPI

INJUNCTION:

United States v. McMillan, 946 F. Supp. 1254 (S.D. Miss. 1995).

Anti-Abortion Activity: An anti-abortion extremist threatened to shoot clinic employees, attempted to hire someone to burn down the clinic, and made threatening statements on multiple occasions.

Relevant Provisions (granted under federal FACE Act):

- Defendant may not violate FACE anywhere in the United States.
- 25-foot buffer zone around clinic entrance and the physician’s residence.
- Prohibits intentionally damaging or attempting to damage the clinic.
- Prohibits using force or threats of force to interfere with or intimidate employees or patients.

MISSOURI

INJUNCTION:

United States v. Dinwiddie, 76 F.3d 913 (8th Cir. 1996).

Anti-Abortion Activity: An anti-abortion extremist yelled threatening remarks at a doctor and staff members through an electric bullhorn; blocked patients from entering the clinic; and used the bullhorn to physically assault a clinic employee.

Relevant Provisions (granted under federal FACE Act):

- 500-foot buffer zone around clinic, except for “legitimate personal activity.”
- No bullhorn or megaphone use.
- Defendant may not engage in activity that constitutes intimidation, physical obstructions, interference, force, or threats of force.

MONTANA

FACILITY ORDINANCE:

Montana – Obstructing Health Care Facility Access, MONT. CODE ANN. § 45-8-110 (2010).

Relevant Provision: Creates an eight-foot cease-and-desist bubble zone within a 36-foot buffer zone around health care clinics.

NEBRASKA

RESIDENTIAL PICKETING ORDINANCE:

Lincoln, NE – LINCOLN, NEB., MUN. CODE § 9.40.090 (2010)

Relevant Provisions: Prohibits “focused picketing in that portion of any street which abuts on the property upon which the targeted dwelling is located, or which abuts on property within fifty feet (measured from the lot line) of the property upon which the targeted dwelling is located, except the sidewalk space on the opposite side of the street from the targeted dwelling.” Focused picketing includes “marching, congregating, standing, parading, demonstrating, parking, or patrolling by one or more persons, with or without signs,” directed at a specific person.

Relevant Cases: *Thorburn v. Austin*, 231 F.3d 1114 (8th Cir. 2000) (ordinance ruled constitutional).

RESIDENTIAL PICKETING ORDINANCE:

Nebraska – NEB. REV. STAT. §§ 28-1317-28-1318 (2010).

Relevant Provisions: § 28-1317(1)(a)-(e) prohibits picketing that includes attempting to interfere or interfering with a person’s exercise of his or her lawful right to work or right to enter upon any lawful employment. Lists a variety of actions, including: “picketing or patrolling the place of residence of any such person, or any street, alley, road, highway, or any other place, where such person may be, or in the vicinity thereof, for such purpose, against the will of such person.” § 28-1318(1)-(3) prohibits mass picketing, defined as “any form of picketing in which pickets constitute an obstacle to the free ingress and egress to and from the premises being picketed or any other premises, or upon the public roads, streets, or highways, either by obstructing by their persons or by the placing of vehicles or other physical obstructions.”

Relevant Cases: *United Food & Commercial Workers Int’l Union v. IPB, Inc.*, 857 F.2d 422 (8th Cir. 1988) (ordinance ruled unconstitutional for over breadth because it does not define that distance limitations only apply in situations of violence; speech restrictions violated free speech rights).

NEVADA

INJUNCTION:

Sw. Med. Clinics of Nevada v. Operation Rescue, 744 F. Supp. 230 (D. Nev. 1989).

Anti-Abortion Activity: Between January-June 1989, Operation Rescue protesters physically blocked the entrance to several clinics either by sitting or standing with interlocked arms. These blockades prevented building tenants, not related to the clinics, from entering the premises.

Protesters also physically and verbally harassed patients and clinic staff entering the building.

Relevant Provisions (granted under federal FACE Act):

- No trespassing, blocking, or obstructing a clinic entrance or exit.
- No “knowingly threatening, molesting, assaulting, physically abusing, or tortuously harassing a person, property, or vehicle; including patients and employees.”
- “Sidewalk counseling” allowed so long as it is not forced.
- Violations of the injunction will result in \$500 fine.

OTHER RELEVANT STATE STATUTE:

- Unlawful acts within a health facility: MONT. CODE ANN. § 45-8-110 (2010).

NEW HAMPSHIRE

FACILITY ORDINANCE:

Concord, NH – CONCORD, N.H., CODE OF ORDINANCES, title I, ch. 4, §§ 4-8-1 to 4-8-3; 4-9-1 to 4-9-3 (2010).

Relevant Provisions: Creates a 10-foot buffer zone around the property line of a health care facility where persons may not picket in an aggressive manner, obstruct traffic, or block entrances to the facility. The ordinance includes an eight-foot cease-and-desist bubble zone around any person who makes a clearly communicated request that another person withdraw. The ordinance also permits police to order the dispersal of an assembly that blocks access, and makes it unlawful for those persons to reassemble within 50 feet of a health care facility until 8:00 AM the next day.

RESIDENTIAL PICKETING ORDINANCE:

Concord, NH – CONCORD, N.H., CODE OF ORDINANCES, title I, ch. 4, § 4-8-3 (2010).

Relevant Provisions: Prohibits “demonstration activity which is directed, focused, or targeted at a residence located in a nonresidential zoning district and which takes place before or about that residence.” Exception for picketing a residence that is used as a place of business or public assembly.

NEW JERSEY

INJUNCTIONS:

Murray v. Lawson, 649 A.2d 1253 (N.J. 1994).

Anti-Abortion Activity: Anti-abortion extremists picketed outside the home of a doctor who provided abortions.

Relevant Provisions:

- Establishes a picket-free zone of 100 feet from the residence property line.
- Limits size of protests to 10 people outside the 100-foot zone for one hour every two weeks.
- Protesters must notify local law enforcement 24 hours in advance of intended picketing.

United States v. Gregg, 32 F. Supp. 2d 151 (D.N.J. 2001).

Anti-Abortion Activity: Extremists participated in three blockades of the clinic and attempted a fourth blockade. One blockade consisted of a group of five individuals who blocked the interior entrance to the clinic reception and waiting area by sitting in front of a stairway and chaining themselves together with bicycle locks around their necks. The other two blockades consisted of groups of extremists who sat or lay in front of the exterior clinic entrance with locked arms and legs.

Relevant Provisions (granted under federal FACE Act):

- No blockading, impeding, or attempting to blockade the clinic entrance.
- No entering the interior of the clinic.
- Extremists jointly and severally liable for \$5,000 per violation based on the statutory damages provision of FACE.

NEW MEXICO

RESIDENTIAL PICKETING ORDINANCES:

Albuquerque, NM – ALBUQUERQUE, N.M., CODE OF ORDINANCES § 12-2-26 (2010).

Relevant Provision: Prohibits picketing “focused on and taking place in front of or next to a particular residence, without the express prior consent of the occupant(s).”

Artesia, NM – ARTESIA, N.M., CITY CODE title 5, ch. 1, art. B, § 347 (1996).

Relevant Provision: Prohibits picketing before or about the residence or dwelling of any individual.

Relevant Cases: *Garcia v. Gray*, 507 F.2d 539 (10th Cir. 1974), *cert. denied*, 421 U.S. 971 (1975) (ordinance ruled constitutional).

Bernalillo Cnty., NM –Ordinance No. 2013-17 (Oct. 9, 2013) (to be codified at BERNALILLO CNTY. CODE Ch. 54, art. III, div. 1, Sec. 54-57).

Relevant Provision: Prohibits picketing focused on and near a particular residence without the express prior consent of the owner.

NEW YORK

INJUNCTIONS:

New York v. Kraeger, 160 F. Supp. 2d 360 (N.D.N.Y. 2001).

Anti-Abortion Activity: Anti-abortion extremists followed clinic staff and made threats against them. The extremists blocked clinic entrances and driveways, crowded and shoved patients, yelled at patients, and followed patients to and from their cars.

Relevant Provisions (granted under federal FACE Act):

- No trespassing on, obstructing access to, or blocking the driveways or other property of any facility providing reproductive health care.

- No trespassing on, obstructing access to, or blocking common stairwells or lobby areas that provide access to reproductive health care facilities.
- No physically abusing, grabbing, touching, pushing, shoving, crowding, or harassing anyone entering or exiting a reproductive health care facility.
- No using sound amplification devices or making excessively loud noise that injures, disturbs, or endangers the health or safety of reproductive health care facility patients or staff.
- No defacing, vandalizing, or damaging the property of a reproductive health care facility.

New York v. Operation Rescue Nat'l, 273 F.3d 184 (2d Cir. 2001).

Anti-Abortion Activity: Anti-abortion extremists physically obstructed clinic entrances by crowding patients and their escorts as they entered and exited clinics and by walking very slowly in front of driveways. Extremists approached and distracted oncoming cars in aggressive ways, which created traffic hazards. The extremists were also noisy, shouting at close range and using bullhorns. One anti-abortion extremist threatened a doctor, telling him that abortion is no different than killing doctors.

Relevant Provisions:

- 15-foot buffer zone, rectangular shape.
- Eliminates prior exception for “sidewalk counselors.”
- Bars protest activity within three feet of the city bus stop sign and bus stop bench.
- Creates a no-protest corridor three feet from building façade connecting the driveway and front-entrance buffer zones to ease crowding problems.

Schenck v. Pro-Choice Network, 519 U.S. 357 (1997).

Anti-Abortion Activity: Anti-abortion extremists organized large scale blockades in which they would march, stand, kneel, sit, or lie in parking lot driveways and in doorways. Extremists blocked or hindered cars from entering clinic parking lots, and patients, doctors, nurses, and other clinic employees from entering the clinics. Extremists trespassed onto clinic parking lots and even entered the clinics themselves, threw themselves on the hoods of cars, or crowded around cars as they attempted to turn into parking lot driveways. Extremists grabbed and shoved women entering the clinics and shouted in their faces. Clinic volunteers were elbowed, grabbed, or spit on. Extremists stood in clinic doorways blocking others from entering and exiting.

Relevant Provisions (granted under federal FACE Act):

- 15-foot fixed buffer zone around the driveway and the clinic entrances.
- No more than two “sidewalk counselors” are allowed in the fixed buffer zone, but they must cease-and-desist if requested to do so by their targets.
- No loudspeakers or amplification devices.
- No physical abuse, grabbing, pushing, touching, or shoving.

FACILITY ORDINANCE:

New York, NY – NEW YORK, N.Y., ADMIN CODE title 8, ch. 8, §§ 8-801 to 8-807 (2010).

Relevant Provisions: § 8-803 prohibits activities, and attempted activities, preventing access to reproductive health care facilities, including: 1) knowingly physically obstructing another person from entering into or exiting from a reproductive health care facility by physically striking, showing, restraining, grabbing, or other unwanted physical contact; 2) knowingly obstructing a reproductive health care facility; 3) harassing a person within 15 feet of a reproductive health care facility; 4) engaging in conduct within 15 feet of a reproductive health care facility which places another person in reasonable fear of physical harm; 5) physically damaging a reproductive health care facility so as to interfere with its operation; or 6) knowingly interfering with the operation of a reproductive health care facility, by activities including, interfering with medical procedures being performed or the delivery of goods to the facility.

OTHER RELEVANT STATE STATUTES:

- Criminal interference with health care services: N.Y. PENAL LAW §§ 240.70-240.71 (2010).
- New York Freedom of Access to Clinic Entrances Act: N.Y. CIV. RIGHTS LAW § 79-m (2010).

NORTH CAROLINA

INJUNCTION:

Kaplan v. Prolife Action League, 431 S.E.2d 828 (N.C. App. 1993).

Anti-Abortion Activity: Anti-abortion extremists picketed a dozen times outside the doctor's home, threatened the doctor's life, and attempted to coerce the doctor to stop providing abortions.

Relevant Provisions:

- Restricts "picketing, parading, marching, or demonstrating" on plaintiff doctor's street or within 300 feet of that street.
- Prohibits threatening or communicating threats at doctor's home or elsewhere.
- Prohibits personally confronting the doctor in a threatening manner.

FACILITY ORDINANCE:

North Carolina – N.C. GEN. STAT. § 14-277.4 (2010).

Relevant Provisions: Prohibits obstructing or blocking another person's access to or egress from a health care facility or 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. Also prohibits injuring or threatening to injure a person who is or has been: 1) obtaining health care services; 2) lawfully aiding another to obtain health care services; or 3) providing health care services.

RESIDENTIAL PICKETING ORDINANCE:

Greensboro, NC – GREENSBORO, N.C., MUN. CODE art. VI, § 26-157 (2010).

Relevant Provision: Prohibits picketing “solely in front of, before, or about the residence or dwelling of any individual.”

NORTH DAKOTA

INJUNCTIONS:

Fargo Women’s Health Org. v. Lambs of Christ, 488 N.W.2d 401 (N.D. 1992).

Anti-Abortion Activity: Anti-abortion extremists pushed and shoved patients and escorts, screamed at them, blocked patients, and punched and threatened clinic security guards. Anti-abortion extremists attempted to prevent cars from moving by slowing or stopping them and trying to damage them. Extremists also invaded clinics, broke down doors, and locked themselves together with bicycle U-locks. Anti-abortion extremists followed clinic employees to their homes, to grocery stores, and other public buildings; picketed their homes; and vandalized their property.

Relevant Provisions:

- 100-foot buffer zone, extending from the property line.
- Prohibits “following, photography, videotaping.”
- Prohibits harassing, intimidating or physically abusing persons entering, leaving, or working at the clinics and the spouses and family members of those persons.

United States v. Lindgren, 883 F. Supp. 1321 (D.N.D. 1995).

Anti-Abortion Activity: Anti-abortion extremists threatened to kill clinic employees and followed clinic employees home to harass and intimidate them. Extremists also threatened to damage clinic property, blockaded the clinic by locking their necks to disabled cars in the clinic driveway, and obstructed vehicle access to the clinic parking lot by standing in front of cars and forcing literature on passengers.

Relevant Provisions (granted under federal FACE Act):

- 100-foot buffer zone around clinic property line and employees’ residences.
- 100-foot bubble around clinic employees.
- No blocking of driveway, private sidewalk, or access to driveway.
- No stepping on property (including the driveway and sidewalk).
- No stepping on property that extends north and south from the borders of the driveway to the public road to the east; this includes a portion of the public sidewalk and the apron of the driveway.

RESIDENTIAL PICKETING ORDINANCE:

Fargo, ND – FARGO, N.D., MUN. CODE § 10-1202 (1985), *repealed by Fargo, N.D., Ordinance 2843 (1998)*.

Relevant Provisions: Prohibits engaging “in picketing the dwelling of any individual in the City of Fargo.” “Dwelling” includes any structure or building or dwelling unit within a building,

which is used as a place of residence. “Picketing” includes the practice of standing, marching, or patrolling by one or more persons inside of, in front, or about any premises for the purpose of persuading an occupant of such premises or to protest some action, attitude, or belief.

Relevant Cases: *Veneklase v. City of Fargo*, 248 F.3d 738 (8th Cir. 2001), *cert. denied*, 543 U.S. 815 (2001) (ordinance ruled constitutional).

OHIO

INJUNCTIONS:

Dayton Women’s Health Ctr. v. Enix, 589 N.E.2d 121 (Ohio Ct. App. 1991).

Anti-Abortion Activity: Various anti-abortion activities included picketing of the clinic; residential picketing at the homes of clinic staff; and harassing patients, using large signs (including those that mimicked traffic signs to confuse and interfere with traffic). The yelling, chanting, and singing were often heard inside the clinic, disrupting medical services.

Relevant Provisions:

- No blocking or interfering with clinic driveway, traffic flow, or individuals’ access to the clinic.
- No using signs greater than four feet in any dimension, including signs resembling traffic signs.
- No speaking, chanting, or yelling in a way that reaches or intends to reach the people inside the clinic.
- No trespassing on clinic property.
- No verbal communication with employees, staff, or volunteers without their consent (in person or via the phone).
- No picketing in any form within viewing distance in any location other than the sidewalk on the east side of the drive in front of the clinic, or within the viewing distance of any of the physicians’ offices.
- No picketing at the homes of any clinic workers.
- No picketing in any form within viewing distance of the clinic in groups of more than ten.
- No picketing on the west side of the road within viewing distance of the clinic.

Planned Parenthood Ass’n of Cincinnati v. Project Jericho, 556 N.E.2d 157 (Ohio 1990).

Anti-Abortion Activity: Anti-abortion protesters engaged in various activities, including picketing and shouting so loudly that it disrupted services inside the clinic; harassing patients entering and leaving the building; and blocking sidewalk access to the clinic, as well as an adjacent apartment building (where the protesters’ shouting was heard inside).

Relevant Provisions:

- Bans shouting, chanting, speaking, or singing that does or is intended to reach patients inside the clinic.
- Prohibits interfering with clinic operations, harassing patients and staff, and blocking access to clinics.
- Limits number of picketers based on street locations.

FACILITY ORDINANCE:

Cincinnati, OH – CINCINNATI, OHIO MUN. CODE § 907-5 (2010).

Relevant Provisions: Makes it a crime to trespass on a medical facility's property and allows for more severe penalties than for violation of the state law against trespassing. The ordinance prohibits knowingly, recklessly, or negligently entering or remaining on the premises of a medical facility without the privilege to do so.

Relevant Cases: *City of Cincinnati v. Thompson*, 643 N.E.2d 1157 (Ohio Ct. App.), *appeal dismissed*, 641 N.E.2d 1111 (Ohio 1994) (ordinance ruled constitutional).

RESIDENTIAL PICKETING ORDINANCE:

Upper Arlington, OH – UPPER ARLINGTON, OHIO CODIFIED ORDINANCES § 517.17 (1992).

Relevant Provision: Prohibits picketing before or about the residence or dwelling of any individual.

Relevant Cases: *Vittitow v. City of Upper Arlington*, 830 F. Supp. 1077 (S.D. Ohio 1993), *rev'd*, 43 F.3d 1100 (6th Cir. 1995), *cert. denied*, 515 U.S. 1121 (1995) (ordinance ruled unconstitutional as overbroad).

OREGON

INJUNCTION:

***Portland Feminist Women's Health Ctr. v. Advocates for Life*, 859 F.2d 681 (9th Cir. 1998).**

Anti-Abortion Activity: Anti-abortion extremists surrounded the clinic entrances; pushed and grabbed at patients, staff, and passersby; and screamed and yelled loud enough to be heard inside the clinic. Extremists also used large signs and placards to block access to the clinic entrances, forced literature on those uninterested in taking it, and impeded the access of an ambulance.

Relevant Provisions (granted under federal FACE Act):

- Defendants may not obstruct clinic access.
- Buffer zone based on the geography of the clinic and its doors.
- No yelling, screaming, or chanting that substantially interferes with the provision of medical services.
- No trespassing; damaging the property of the clinic, employees, or patients; or interfering with the clinic's use of public utilities.

OTHER RELEVANT STATE STATUTE:

- Criminal mischief: OR. REV. STAT. § 164.365 (2009).

PENNSYLVANIA

INJUNCTION:

United States v. Roach, 947 F. Supp. 872 (E.D. Pa. 1996).

Anti-Abortion Activity: Anti-abortion extremists blocked all entrances and exits to the clinic, including the fire escape and refused to let anyone out, except for the clinic's Executive Director. The blockades continued after law enforcement officials ordered the extremists to leave; two patrolmen, attempting to aid a clinic client into the building, were prevented from entering by protesters; and protesters had to be physically removed from the premises.

Relevant Provisions (granted under federal FACE Act):

- No entering or remaining on private property of clinic, not including sidewalks.
- No standing, sitting, lying in front of or otherwise blocking or obstructing doors, fire escapes, or entryways so as to render them impassable.
- No touching or engaging in physical contact with any person(s) or car(s) on clinic property.
- Prohibits defendants from violating FACE anywhere.

FACILITY ORDINANCE:

Pittsburgh, PA – PITTSBURGH, PA., CODE OF ORDINANCES §§ 623.03-623.05 (2005).

Relevant Provisions: The ordinance creates an eight-foot consensual approach bubble within 100 feet of any entry door to a hospital, medical office, or medical clinic. The ordinance prohibits congregating, patrolling, picketing, or demonstrating within 15 feet of any entrance, and creates escalating fines for repeated violations. There are exceptions for emergency workers and escorts. Ordinance was revised following the lawsuit to include only the 15 foot buffer zone.

Relevant Cases: *Brown v. City of Pittsburgh*, 543 F. Supp. 2d 448 (W.D.Pa. 2008), *rev'd* 586 F.3d 263 (3d 2009) (ruled that the 15-foot or 100-foot buffer zone, alone, would be constitutional based on *Hill v. Colorado*, but that together, they were unconstitutional).

RHODE ISLAND

RESIDENTIAL PICKETING ORDINANCES:

Barrington, RI – BARRINGTON, R.I., CODE § 138.2 (2010).

Relevant Provisions: Prohibits picketing in front of, adjacent to, or with respect to any property used for a residential purpose. Exception for when such picketing relates to a use or activity being carried on within such property.

Relevant Cases: *Town of Barrington v. Blake*, 568 A.2d 1015 (1990) (ordinance ruled constitutional).

Warwick, RI – WARWICK, R.I., MUN. CODE § 40-9 (2008).

Relevant Provisions: Prohibits picketing “before or about” a residence. Nothing in residential picketing ordinance should be deemed to prohibit: 1) picketing in a lawful manner during labor

dispute, or 2) holding a meeting or an assembly on any premises commonly used for discussions of public interest.

RESIDENTIAL PICKETING ORDINANCE:

Providence, RI – PROVIDENCE, R.I., CODE § 16-13.1 (2010).

Relevant Provision: Prohibits picketing before or about the dwelling of an individual but exempts labor picketing.

Relevant Cases: *People Acting Through Community Effort v. Doorley*, 468 F.2d 1143 (1st Cir. 1972) (ordinance ruled unconstitutional).

SOUTH DAKOTA

RESIDENTIAL PICKETING ORDINANCE:

Sioux Falls, SD – SIOUX FALLS, S.D., MUN. CODE § 38-145 (2010).

Relevant Provision: Prohibits “picketing before or about the residence or dwelling of any individual in the city.”

TEXAS

INJUNCTIONS:

***Operation Rescue v. Planned Parenthood*, 975 S.W.2d 546 (Tex. 1998).**

Anti-Abortion Activity: Anti-abortion extremists coordinated mass demonstrations in the Houston area at the same time as the Republican National Convention. They organized mass blockades and “rescues,” sitting-in and chaining themselves to doors and fixtures on clinic premises. The extremists also congregated and picketed at physicians’ homes.

Relevant Provisions:

At Facilities:

- Buffer zones granted for four specific facilities.
- Defendants may not enter without consent or damage any part of the premises, facilities, and parking lots.
- No blocking or attempting to block, barricade, or in any other manner obstruct the entrances to, or the clinic premises.
- No inhibiting, impeding, obstructing or interfering with, or attempting to inhibit, impede, or obstruct or interfere with the free and unmolested ingress and egress of persons (either pedestrian or vehicular) to and from the facilities and parking lots and the streets and sidewalks adjacent to the facilities and parking lots.
- No touching, physically abusing, intimidating, or harassing any individual attempting to enter or exit the facilities or parking lots.
- No demonstrating (defined as publicly displaying, manifesting, or expressing one's feelings or opinions by oral or other expression, including “sidewalk counseling”).
- No more than two demonstrators may be present within a zone.
- Defendants may not yell, shout, speak above a normal speaking voice, or use any sound amplification device.

- “Sidewalk counseling” is allowed, but no more than one demonstrator may talk to or attempt to talk to a person or group of persons at a time, and no person or group of persons may be approached more than once going into the clinic and once going out. The demonstrator must stop talking and retreat when a targeted person verbally indicates a desire to be left alone.

At Physicians’ Residences:

- Creates 13-foot zones from property line into streets bordering the residences.
- No trespassing on, sitting in, blocking, or impeding physicians, their family members, their guests, or invitees from access to, ingress into, or egress from any part of physicians’ residences.
- No inhibiting, impeding, or attempting to impede or inhibit the free ingress or egress of any person to the streets that provide access to the streets on which the physicians’ residences are located.
- No harassing, threatening, assaulting, or physically abusing physicians, their family members, guests, or invitees.
- No congregating, picketing, patrolling, or demonstrating within 13-foot buffer zones around physicians’ residences. This provision expressly prohibits the placement of any signs, symbols, pictures, or other items from being exhibited or erected on physicians’ property or within the above-designated zones.
- No congregating, picketing, patrolling, or demonstrating in the vicinity of physicians’ residences for more than 45 minutes in any 24-hour period.
- No using any sound amplification devices while demonstrating within 100 feet of physicians’ residences.

United States v. Bird, 124 F.3d 667 (5th Cir. 1997), *amended by* No. 95-20792, 1997 U.S. App. LEXIS 33988 (5th Cir. 1997).

Anti-Abortion Activity: An anti-abortion extremist threw a bottle at a doctor’s car as he was driving to work at a clinic and shouted threatening remarks.

Relevant Provision (granted under federal FACE Act):

- Defendant must stay at least 1000 feet away from all abortion clinics.

FACILITY ORDINANCE:

Dallas, TX – DALLAS, TEX., CITY CODE § 30-4 (2010).

Relevant Provisions: Prohibits operation of loudspeakers within 150 feet of medical facilities and hospitals (as well as schools in operation and nursing homes).

Relevant Cases: *Medline v. Palmer*, 874 F.2d 1085 (5th Cir. 1989), *rh’g denied*, Nos. 88-1060, 88-1118, 88-1646, 1989 U.S. App. Lexis 11680 (5th Cir. 1989) (ordinance ruled constitutional).

RESIDENTIAL PICKETING ORDINANCE:

Dallas, TX – DALLAS, TEX., CITY CODE § 31-34 (2010).

Relevant Provision: Prohibits picketing within 200 feet of the property line of a residence “when the picketing is directed or focused at that particular residence or any of its occupants.”

VERMONT

FACILITY ORDINANCE:

Burlington, VT – BURLINGTON CODE OF ORDINANCES art. IX, §§ 21-111-15 (2012).

Relevant Provision: Ordinance creates 35-foot buffer zone around reproductive health care clinic entrances and driveways, with exception for employees and agents of the facility.

Relevant Cases: *Clift v. City of Burlington*, 925 F. Supp. 2d 614 (D. Vt. 2013) (ordinance ruled constitutional).

VIRGINIA

RESIDENTIAL PICKETING ORDINANCE:

Virginia – VA. CODE ANN. § 18.2-419 (2010).

Relevant Provisions: Prohibits picketing before or about a person’s residence or assembling “in a manner which disrupts or threatens to disrupt any individual’s right to tranquility in his home...nothing herein shall be deemed to prohibit: 1) the picketing in any lawful manner, during a labor dispute, of the place of employment involved in such labor dispute; 2) the picketing in any lawful manner of a construction site; or 3) the holding of a meeting or assembly on any premises commonly used for the discussion of subjects of general public interest.”

Relevant Cases: *Commonwealth v. Hyatt*, 37 Va. Cir. 384 (Va. Cir. Ct. 1995) (ordinance ruled unconstitutional because it discriminated among picketers based on subject matter).

WASHINGTON

OTHER RELEVANT STATE STATUTES:

- Property insurance protection for health care facilities from actions resulting from arson or malicious mischief: WASH. REV. CODE § 48.18.555 (2010).
- Washington Interference with Health Care Facilities or Providers Act: WASH, REV. CODE ANN. § 9A.50 (2010).

WISCONSIN

INJUNCTIONS:

***Milwaukee Women’s Med. Serv. v. Brock*, 2 F. Supp. 2d 1172 (E.D. Wis. 1998).**

Anti-Abortion Activity: Anti-abortion extremists chained themselves to disabled cars and a fuel drum filled with concrete in order to blockade the clinic.

Relevant Provision (granted under federal FACE Act):

- No blockading or obstructing the clinic.

Tompkins v. Cyr, 202 F.3d 770 (5th Cir. 2000).

Anti-Abortion Activity: Anti-abortion extremists demonstrated outside the home of the doctor, outside the hospital where he worked, outside his wife’s workplace, and outside the couple’s church. Extremists carried graphic signs and called the doctor a “murderer” and a “tool of Satan.” Extremists also called the doctor’s house at all hours, sent postcards and letters, made death threats, trespassed, and otherwise stalked the doctor.

Relevant Provisions (granted under federal FACE Act):

- No demonstrations on more than two days a week; no more than one demonstration a day, and may not demonstrate on Sundays.
- Defendants may only demonstrate between 9:00 AM and 6:00 PM, and may only demonstrate for 20 minutes.
- No blocking, obstructing, or trespassing on the doctor’s residential property.
- No lurking within 1500 feet of the doctor’s residential property at night.

RESIDENTIAL PICKETING ORDINANCES:

Brookfield, WI – BROOKFIELD, WIS., GEN. CODE § 9.17(2) (1985).

Relevant Provision: Prohibits picketing “before or about the residence or dwelling of any individual in the Town.”

Relevant Cases: *Frisby v. Schultz*, 487 U.S. 474 (1988) (ordinance ruled constitutional).

Wisconsin Rapids, WI – WISCONSIN RAPIDS, WIS., MUN. CODE § 25.27 (2009).

Relevant Provision: Prohibits picketing “before or about” the residence of any individual in the city of Wisconsin Rapids.

OTHER RELEVANT STATE STATUTE:

- Criminal trespass to a medical facility: WIS. STAT. § 943.145 (2010).

List of Injunctions and Ordinances by Province

The following pages outline some of the injunctions and statutes that exist in each province. These listings are intended to provide an overview of the different strategies that reproductive health care facilities, providers, and patients have pursued over the course of many years to help ensure their safety from anti-abortion harassment and violence. This list is not exhaustive and is up to date as of January 31, 2011.

ALBERTA

INJUNCTIONS:

Calgary, AB

A private injunction was sought as a result of consistent protesters and harassment of both facility staff and patients. A permanent injunction, action number 9101-19769 AD 2002, was obtained by court order from the Court of Queen's Bench of Alberta.

Relevant Provisions: Written description and map indicating where protesters are permitted.

Edmonton, AB

A private injunction was sought as a result of consistent protesters and harassment of both facility staff and patients

Relevant Provisions: Written description and map indicating where protesters are permitted.

BRITISH COLUMBIA

STATUTE:

British Columbia – Access to Abortion Services Act, 1996 R.S.B.C., ch. 1 (Can.).

Relevant Provisions:

- Covers the entire province of British Columbia. Enacted at a facility when protesters have demonstrated.
- The statute creates “access zones” that include:
 - The land on which the abortion care facility is located and 10 meters surrounding the boundaries of the land; and
 - The land on which the residence of every doctor who provides abortion care is located and 160 meters surrounding the boundaries of the land.
- While in an access zone, a person must not:
 - Engage in sidewalk interference;
 - Protest;
 - Beset (continuously or repeatedly observe a service provider, doctor, or patient, or a building in which any of them resides or in which abortion care is provided; or place oneself close to, and to importune a service provider, doctor, or patient, for the purpose of dissuading them from providing or obtaining abortion care);

- Physically interfere with or attempt to interfere with a service provider, doctor, or patient; or
- Intimidate or attempt to intimidate a service provider, doctor, or patient.
- The Lieutenant Governor in Council may establish access zones for specific facilities.
- The statute also prohibits the graphic recording and harassment of a service provider, doctor, or patient while they are within an access zone.

ONTARIO

INJUNCTIONS:

Toronto, ON

A private injunction was sought as a result of consistent protesters and harassment of both facility staff and patients.

Relevant Provision: Establishes a 500-foot buffer zone around the facility.

Toronto, ON

A public injunction, entitled the “Dieleman Injunction,” was sought in 1994, as a result of consistent protesters and harassment of both facility staff and patients at several locations. The Attorney General for Ontario obtained injunction number 93-CQ-36131 in the General Division of the Ontario Courts.

Relevant Provisions:

- 60-foot no protest zone.
- 100-foot buffer zone of restricted access surrounds the no protest zone.
- 10-foot personal zone around staff and patients.
- 500-foot buffer zone around doctors’ homes.
- 15-foot buffer zone around doctors’ offices.

QUÉBEC

INJUNCTIONS:

Montreal, QC

A private injunction was sought as a result of consistent protesters and harassment of both facility staff and patients.

Relevant Provision: Establishes a 100-foot buffer zone around the facility.

Outaouais, QC

A private injunction was sought as a result of consistent protesters and harassment of both facility staff and patients.

Relevant Provision: Establishes a 100-foot buffer zone around the facility.

Appendix 1: Examples of Laws Protecting Reproductive Health Care Facilities, Staff, and Patients

Federal Freedom of Access to Clinic Entrances (FACE) Act 18 U.S.C.A. § 248 (2010).

(a) Prohibited activities.--Whoever--

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

(2) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship; or

(3) intentionally damages or destroys the property of a facility, or attempts to do so, because such facility provides reproductive health services, or intentionally damages or destroys the property of a place of religious worship;

shall be subject to the penalties provided in subsection (b) and the civil remedies provided in subsection (c), except that a parent or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that minor.

(b) Penalties.--Whoever violates this section shall--

(1) in the case of a first offense, be fined in accordance with this title, or imprisoned not more than one year, or both; and

(2) in the case of a second or subsequent offense after a prior conviction under this section, be fined in accordance with this title, or imprisoned not more than 3 years, or both;

except that for an offense involving exclusively a nonviolent physical obstruction, the fine shall be not more than \$10,000 and the length of imprisonment shall be not more than six months, or both, for the first offense; and the fine shall, notwithstanding section 3571, be not more than \$25,000 and the length of imprisonment shall be not more than 18 months, or both, for a subsequent offense; and except that if bodily injury results, the length of imprisonment shall be not more than 10 years, and if death results, it shall be for any term of years or for life.

(c) Civil remedies.--

(1) Right of action.--

(A) In general.--Any person aggrieved by reason of the conduct prohibited by subsection (a) may commence a civil action for the relief set forth in subparagraph (B), except that such an action may be brought under subsection (a)(1) only by a person involved in providing or seeking to provide, or obtaining or seeking to obtain, services in a facility that provides reproductive health services, and such an action may be brought under subsection (a)(2) only by a person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship or by the entity that owns or operates such place of religious worship.

(B) Relief.--In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief and compensatory and punitive damages, as well as 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 final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of \$5,000 per violation.

(2) Action by Attorney General of the United States.--

(A) In general.--If the Attorney General of the United States has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, the Attorney General may commence a civil action in any appropriate United States District Court.

(B) Relief.--In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, and compensatory damages to persons aggrieved as described in paragraph (1)(B). The court, to vindicate the public interest, may also assess a civil penalty against each respondent--

(i) in an amount not exceeding \$10,000 for a nonviolent physical obstruction and \$15,000 for other first violations; and

(ii) in an amount not exceeding \$15,000 for a nonviolent physical obstruction and \$25,000 for any other subsequent violation.

(3) Actions by State Attorneys General.--

(A) In general.--If the Attorney General of a State has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, such Attorney General may commence a civil action in the name of such State, as *parens patriae* on behalf of natural persons residing in such State, in any appropriate United States District Court.

(B) Relief.--In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, compensatory damages, and civil penalties as described in paragraph (2)(B).

(d) Rules of construction.--Nothing in this section shall be construed--

(1) to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment to the Constitution;

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

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

(4) to interfere with the enforcement of State or local laws regulating the performance of abortions or other reproductive health services.

(e) Definitions.--As used in this section:

(1) **Facility.**--The term “facility” includes a hospital, clinic, physician's office, or other facility that provides reproductive health services, and includes the building or structure in which the facility is located.

(2) **Interfere with.**--The term “interfere with” means to restrict a person's freedom of movement.

(3) **Intimidate.**--The term “intimidate” means to place a person in reasonable apprehension of bodily harm to him- or herself or to another.

(4) **Physical obstruction.**--The term “physical obstruction” means rendering impassable ingress to or egress from a facility that provides reproductive health services or to or from a place of religious worship, or rendering passage to or from such a facility or place of religious worship unreasonably difficult or hazardous.

(5) **Reproductive health services.**--The term “reproductive health services” means reproductive health services provided in a hospital, clinic, physician's office, or other facility, and includes medical, surgical, counseling or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.

(6) **State.**--The term “State” includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

California Freedom of Access to Clinic and Church Entrances Act. Cal. Penal Code § 423 (2009).

§ 423.1. 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 threatened use of physical force against the person or property of another.
- (b) "Interfere with" means to restrict a person's freedom of movement.
- (c) "Intimidate" means to place a person in reasonable apprehension of bodily harm to herself or himself or to another.
- (d) "Nonviolent" 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 or to or from a place of religious worship impassable to another person, or rendering passage to or from a reproductive health services facility or a place of religious worship unreasonably difficult or hazardous to another person.
- (f) "Reproductive health services" means reproductive health services provided in a hospital, clinic, physician's office, or other facility and includes medical, surgical, counseling, or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.
- (g) "Reproductive health services client, provider, or assistant" means a person or entity 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 any services in 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.
- (h) "Reproductive health services facility" includes a hospital, clinic, physician's office, or other facility that provides or seeks to provide reproductive health services and includes the building or structure in which the facility is located.

§ 423.2. Actions subject to punishment

Every person who, except a parent or guardian acting towards his or her minor child or ward, commits any of the following acts shall be subject to the punishment specified in Section 423.3.

- (a) 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 client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant.

(b) 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 lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship.

(c) 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 client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant.

(d) By nonviolent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship.

(e) 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 reproductive health services client, provider, assistant, or facility.

(f) Intentionally damages or destroys the property of a place of religious worship.

§ 423.3. Punishment for violation; Jurisdiction; Violation of federal act

(a) A first violation of subdivision (c) or (d) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than six months and a fine not to exceed two thousand dollars (\$2,000).

(b) A second or subsequent violation of subdivision (c) or (d) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than six months and a fine not to exceed five thousand dollars (\$5,000).

(c) A first violation of subdivision (a), (b), (e), or (f) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year and a fine not to exceed twenty-five thousand dollars (\$25,000).

(d) A second or subsequent violation of subdivision (a), (b), (e), or (f) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year and a fine not to exceed fifty thousand dollars (\$50,000).

(e) In imposing fines pursuant to this section, the court shall consider applicable factors in

aggravation and mitigation set out in Rules 4.421 and 4.423 of the California Rules of Court, 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 423.2 or of the federal Freedom of Access to Clinic Entrances Act of 1994, to be a prior violation of Section 423.2.

(f) 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 more severe misdemeanor penalties for first violations and felony-misdemeanor penalties for second and subsequent violations. State law enforcement agencies and prosecutors shall cooperate with federal authorities in the prevention, apprehension, and prosecution of these crimes, and shall seek federal prosecutions when appropriate.

(g) No person shall be convicted under this article for conduct in violation of Section 423.2 that was done on a particular occasion where the identical conduct on that occasion was the basis for a conviction of that person under the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248).

§ 423.4. Right to civil proceeding by aggrieved person

(a) A person aggrieved by a violation of Section 423.2 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, except that only a reproductive health services client, provider, or assistant may bring an action under subdivision (a), (c), or (e) of Section 423.2, and only a person lawfully exercising or seeking to exercise the First Amendment right of religious freedom in a place of religious worship, or the entity that owns or operates a place of religious worship, may bring an action under subdivision (b), (d), or (f) of Section 423.2. 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 one thousand dollars (\$1,000) per exclusively nonviolent violation, and five thousand dollars (\$5,000) per any other violation, for each violation committed.

(b) The Attorney General, a district attorney, or a city attorney may bring a civil action to enjoin a violation of Section 423.2, 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 423.2 or the federal Freedom of Access to Clinic Entrances Act of 1994, to be a prior violation of Section 423.2.

(c) No person shall be found liable under this section for conduct in violation of Section 423.2 done on a particular occasion where the identical conduct on that occasion was the basis for a finding of liability by that person under the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248).

§ 423.5. Court action to protect witnesses and victims

(a) (1) The court in which a criminal or civil proceeding is filed for a violation of subdivision (a), (c), or (e) of Section 423.2 shall take all action reasonably required, including granting restraining orders, to safeguard the health, safety, or privacy of either of the following:

(A) A reproductive health services client, provider, or assistant who is a party or witness in the proceeding.

(B) A person who is a victim of, or at risk of becoming a victim of, conduct prohibited by subdivision (a), (c), or (e) of Section 423.2.

(2) The court in which a criminal or civil proceeding is filed for a violation of subdivision (b), (d), or (f) of Section 423.2 shall take all action reasonably required, including granting restraining orders, to safeguard the health, safety, or privacy of either of the following:

(A) A person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship.

(B) An entity that owns or operates a place of religious worship.

(b) Restraining orders issued pursuant to paragraph (1) of subdivision (a) may include provisions prohibiting or restricting the photographing of persons described in subparagraphs (A) and (B) of paragraph (1) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons. Restraining orders issued pursuant to paragraph (2) of subdivision (a) may include provisions prohibiting or restricting the photographing of persons described in subparagraphs (A) and (B) of paragraph (2) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons.

(c) A court may, in its discretion, permit an individual described in subparagraph (A) or (B) of paragraph (1) of subdivision (a) to use a pseudonym in a civil proceeding described in paragraph (1) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons. A court may, in its discretion, permit an individual described in subparagraph (A) or (B) of paragraph (2) of subdivision (a) to use a pseudonym in a civil proceeding described in paragraph (2) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons.

§ 423.6. Construction of title

This title shall not be construed for any of the following purposes:

- (a) To impair any constitutionally protected activity, or any activity protected by the laws of California 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) To negate, supersede, or otherwise interfere with the operation of any provision of Chapter 10 (commencing with Section 1138) of Part 3 of Division 2 of the Labor Code.
- (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 I of the California Constitution.
- (f) To preclude prosecution under both this title and any other provision of law, except as provided in subdivision (g) of Section 423.3.

North Carolina Obstruction of Health Care Facilities
N.C. GEN. STAT. § 14-277.4 (2010).

§ 14-277.4. Obstruction of health care facilities

(a) 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.

(b) No person shall injure or threaten to injure a person who is or has been:

- (1) Obtaining health care services;
- (2) Lawfully aiding another to obtain health care services; or
- (3) Providing health care services.

(c) A violation of subsection (a) or (b) of this section is a Class 2 misdemeanor. A second conviction for a violation of either subsection (a) or (b) of this section within three years of the first shall be punishable as a Class 1 misdemeanor. A third or subsequent conviction for a violation of either subsection (a) or (b) of this section within three years of the second or most recent conviction shall be punishable as a Class I felony.

(d) 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.

(e) This section shall not prohibit any person from engaging in lawful speech or picketing which does not impede or deny another person's access to health care services or to a health care facility or interfere with the delivery of health care services within a health care facility.

(f) "Health care facility" as used in this section means any hospital, clinic, or other facility that is licensed to administer medical treatment or the primary function of which is to provide medical treatment in this State.

(g) "Health care services" as used in this section means services provided in a health care facility.

(h) Persons subject to the prohibitions in subsection (a) of this section do not include owners, officers, agents, or employees of the health care facility or law enforcement officers acting to protect real or personal property.

Washington Interference with Health Care Facilities or Providers Act WASH, REV. CODE ANN. § 9A.50 (2010).

§ 9A.50.005. Finding

The legislature finds that seeking or obtaining health care is fundamental to public health and safety.

§ 9A.50.010. Definitions

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Health care facility" means a facility that provides health care services directly to patients, including but not limited to, a hospital, clinic, health care provider's office, health maintenance organization, diagnostic or treatment center, neuropsychiatric or mental health facility, hospice, or nursing home.

(2) "Health care provider" has the same meaning as defined in RCW 7.70.020 (1) and (2), and also means an officer, director, employee, or agent of a health care facility who sues or testifies regarding matters within the scope of his or her employment.

(3) "Aggrieved" means:

- (a) A person, physically present at the health care facility when the prohibited actions occur, whose access is or is about to be obstructed or impeded;
- (b) A person, physically present at the health care facility when the prohibited actions occur, whose care is or is about to be disrupted;
- (c) The health care facility, its employees, or agents;
- (d) The owner of the health care facility or the building or property upon which the health care facility is located.

§ 9A.50.020. Interference with health care facility

It is unlawful for a person except as otherwise protected by state or federal law, alone or in concert with others, to willfully or recklessly interfere with access to or from a health care facility or willfully or recklessly disrupt the normal functioning of such facility by:

(1) Physically obstructing or impeding the free passage of a person seeking to enter or depart from the facility or from the common areas of the real property upon which the facility is located;

- (2) Making noise that unreasonably disturbs the peace within the facility;
- (3) Trespassing on the facility or the common areas of the real property upon which the facility is located;
- (4) Telephoning the facility repeatedly, or knowingly permitting any telephone under his or her control to be used for such purpose; or
- (5) Threatening to inflict injury on the owners, agents, patients, employees, or property of the facility or knowingly permitting any telephone under his or her control to be used for such purpose.

§ 9A.50.030. Penalty

A violation of RCW 9A.50.020 is a gross misdemeanor. A person convicted of violating RCW 9A.50.020 shall be punished as follows:

- (1) For a first offense, a fine of not less than two hundred fifty dollars and a jail term of not less than twenty-four consecutive hours;
- (2) For a second offense, a fine of not less than five hundred dollars and a jail term of not less than seven consecutive days; and
- (3) For a third or subsequent offense, a fine of not less than one thousand dollars and a jail term of not less than thirty consecutive days.

§ 9A.50.040. Civil remedies

- (1) A person or health care facility aggrieved by the actions prohibited by RCW 9A.50.020 may seek civil damages from those who committed the prohibited acts and those acting in concert with them. A plaintiff in an action brought under this chapter shall not recover more than his or her actual damages and additional sums authorized in RCW 9A.50.050. Once a plaintiff recovers his or her actual damages and any additional sums authorized under this chapter, additional damages shall not be recovered. A person does not have to be criminally convicted of violating RCW 9A.50.020 to be held civilly liable under this section. It is not necessary to prove actual damages to recover the additional sums authorized under RCW 9A.50.050, costs, and attorneys' fees. The prevailing party is entitled to recover costs and attorneys' fees.
- (2) The superior courts of this state shall have authority to grant temporary, preliminary, and permanent injunctive relief to enjoin violations of this chapter.

In appropriate circumstances, any superior court having personal jurisdiction over one or more defendants may issue injunctive relief that shall have binding effect on the original defendants and persons acting in concert with the original defendants, in any county in the state.

Due to the nature of the harm involved, injunctive relief may be issued without bond in the discretion of the court, notwithstanding any other requirement imposed by statute.

The state and its political subdivisions shall cooperate in the enforcement of court injunctions that seek to protect against acts prohibited by this chapter.

§ 9A.50.050. Civil damages

In a civil action brought under this chapter, an individual plaintiff aggrieved by the actions prohibited by RCW 9A.50.020 may be entitled to recover up to five hundred dollars for each day that the actions occurred, or up to five thousand dollars for each day that the actions occurred if the plaintiff aggrieved by the actions prohibited under RCW 9A.50.020 is a health care facility.

§ 9A.50.060. Informational picketing

Nothing in RCW 9A.50.020 shall prohibit either lawful picketing or other publicity for the purpose of providing the public with information.

§ 9A.50.070. Protection of health care patients and providers

A court having jurisdiction over a criminal or civil proceeding under this chapter shall take all steps reasonably necessary to safeguard the individual privacy and prevent harassment of a health care patient or health care provider who is a party or witness in a proceeding, including granting protective orders and orders in limine.

§ 9A.50.900. Construction

Nothing in this chapter shall be construed to limit the right to seek other available criminal or civil remedies. The remedies provided in this chapter are cumulative, not exclusive.

Appendix 2: Examples of Facility Ordinances

California: Access to Reproductive Health Care Facilities OAKLAND, CAL. MUN. CODE title 8, ch. 8.52 (2010).

§ 8.52.010 Title and purpose.

This chapter shall be known as the “Access to Reproductive Health Care Facilities Ordinance.” The City Council finds that every person in the City of Oakland has a basic and fundamental right to privacy protected by the United States Constitution and explicitly guaranteed in California’s Constitution, Article 1, Section 1, including the right to seek and obtain all health care services permitted under the laws of this State. Central to this right is the need to secure access to all reproductive health care services. Access to these services is a matter of critical importance not only to the individual, but also to the health and welfare of all residents of the City of Oakland and the region. Intentional efforts to harass an individual or prevent that individual from exercising his or her right to seek and obtain reproductive health care services are therefore contrary to the interests of the people of Oakland.

This chapter is not intended to create any limited, designated, or general public fora. Rather it is intended to protect those who seek access to constitutionally protected reproductive health services from conduct which violates their rights.

§ 8.52.020 Definitions.

- A. “Reproductive health services” refers to all medical, surgical, counseling, referral, and informational services related to the termination of a pregnancy, whether such services are provided in a clinic, physician’s office, or other facility other than a licensed hospital, but not if provided at a clinic or other facility owned and/or operated licensed hospital.
- B. “Reproductive health care facility” refers to a facility licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety code or any other facility that provides reproductive health services that is not licensed as a hospital, and is not owned, and/or operated by a licensed hospital.
- C. “Harassing” means the non-consensual and knowing approach within eight feet of another person or occupied motor vehicle for the purpose of passing a leaflet or handbill, to display a sign to, or engage in oral protest, education, or counseling with such other person in a public way or on a sidewalk area within 100 feet of the entrance of a reproductive health care facility.
- D. “Interfering” means to restrict a person’s freedom of movement or access to or egress from a reproductive health care facility providing reproductive health services.

E. “Counseling” means engaging in conversation with, displaying signs to, and/or distributing literature to individuals seeking access to, passage from, or services within the reproductive health care facility.

F. “Eight feet” shall be measured from any extension of the body of the individual seeking access to, passage from, or services within the reproductive health care facility, and/or the exterior of any occupied motor vehicle, to any extension of the body of, or any sign or object held by another person.

G. “Providing reproductive health services” shall include doctors, nurses, any employee of a reproductive health care facility and volunteers who, with the consent of the reproductive health care facility, assist in conducting patients of such facility safely into the facility.

§ 8.52.030 Prohibited harassment of individuals seeking access to health care facilities.

A. It shall be unlawful to use force, threat of force, or physical obstruction to intentionally injure, harass, intimidate, or interfere with or attempt to injure, harass, intimidate, or interfere with any person because that person will be, is, or has been, providing or obtaining reproductive health services.

B. Within 100 feet of the entrance of a reproductive health care facility, it shall be unlawful to willfully and knowingly approach within eight (8) feet of any person seeking to enter such a facility, or any occupied motor vehicle seeking entry, without the consent of such person or vehicle occupant, for the purpose of counseling, harassing, or interfering with such person or vehicle occupant.

C. Within 100 feet of the entrance of a reproductive health care facility, it shall be unlawful to willfully and knowingly approach within eight (8) feet of any person seeking to enter such a facility, or any occupied motor vehicle seeking entry, for the purpose of injuring or intimidating such person or vehicle occupant in connection with seeking reproductive health services.

§ 8.52.040 Enforcement.

A. Any person who shall be convicted of a violation of Section 8.52.030 above shall be deemed guilty of a misdemeanor and shall be punishable by imprisonment in the County jail for not more than one year, or by a fine not to exceed two thousand dollars (\$2,000.00), or by both such fine and imprisonment.

B. Civil Remedies:

1. Any person providing, seeking to provide, or seeking reproductive health services who is aggrieved by conduct prohibited by this chapter may commence a civil action in the Courts of the State of California.

2. In any action commenced under subsection A of this section, the court may award appropriate relief, including temporary, preliminary, or permanent injunctive relief and compensatory and exemplary damages and reasonable fees for attorneys and expert witnesses. With respect to damages, at any time before final judgment, plaintiff may elect to recover, in lieu of compensatory damages, an award of statutory damages in the amount of five thousand dollars (\$5,000.00) per violation.

§ 8.52.050 Accommodation of competing rights.

In adopting this legislation, the Oakland City Council recognizes both the fundamental constitutional right to assemble peacefully and to demonstrate on matters of public concern, as well as the right to seek and obtain health care. This legislation promotes the full exercise of these rights and strikes an appropriate accommodation between them.

Nothing in this chapter shall be construed to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment to the United States Constitution, the California Constitution or any federal or California statute.

§ 8.52.060 Severability.

If any part, provision, or clause of this Ordinance or the application thereof to any person or circumstance, is held to be invalid by a court of competent jurisdiction, all other provisions and clauses hereof, including the application of such provisions and clauses to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this chapter are severable.

Colorado: Preventing Passage to and From a Health Care Facility – Engaging in Prohibited Activities Near Facility.

COLO. REV. STAT. § 18-9-122 (2010), upheld as constitutional by the U.S. Supreme Court in *Hill v. Colorado*.

§ 18-9-122. Preventing passage to and from a health care facility - engaging in prohibited activities near facility

(1) The general assembly recognizes that access to health care facilities for the purpose of obtaining medical counseling and treatment is imperative for the citizens of this state; that the exercise of a person's right to protest or counsel against certain medical procedures must be balanced against another person's right to obtain medical counseling and treatment in an unobstructed manner; and that preventing the willful obstruction of a person's access to medical counseling and treatment at a health care facility is a matter of statewide concern. The general assembly therefore declares that it is appropriate to enact legislation that prohibits a person from knowingly obstructing another person's entry to or exit from a health care facility.

(2) A person commits a class 3 misdemeanor if such person knowingly obstructs, detains, hinders, impedes, or blocks another person's entry to or exit from a health care facility.

(3) No person shall knowingly approach 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 one hundred feet from any entrance door to a health care facility. Any person who violates this subsection (3) commits a class 3 misdemeanor.

(4) For the purposes of this section, "health care facility" means any entity that is licensed, certified, or otherwise authorized or permitted by law to administer medical treatment in this state.

(5) Nothing in this section shall be construed to prohibit a statutory or home rule city or county or city and county from adopting a law for the control of access to health care facilities that is no less restrictive than the provisions of this section.

(6) In addition to, and not in lieu of, the penalties set forth in this section, a person who violates the provisions of this section shall be subject to civil liability, as provided in section 13-21-106.7, C.R.S.

Massachusetts: Protesting and Educating in the Vicinity of Reproductive Health Care Facilities Restricted.

MASS. GEN. LAWS ANN. ch. 266, § 120E ½ (2010).

§ 120E1/2. Protesting and Educating in the Vicinity of Reproductive Health Care Facilities Restricted.

(a) For the purposes of this section, "reproductive health care facility" means a place, other than within or upon the grounds of a hospital, where abortions are offered or performed.

(b) No person shall knowingly enter or remain on a public way or sidewalk adjacent to a reproductive health care facility within a radius of 35 feet of any portion of an entrance, exit or driveway of a reproductive health care facility or within the area within a rectangle created by extending the outside boundaries of any entrance, exit or driveway of a reproductive health care facility in straight lines to the point where such lines intersect the sideline of the street in front of such entrance, exit or driveway. This subsection shall not apply to the following:--

- (1) persons entering or leaving such facility;
- (2) employees or agents of such facility acting within the scope of their employment;
- (3) law enforcement, ambulance, firefighting, construction, utilities, public works and other municipal agents acting within the scope of their employment; and
- (4) persons using the public sidewalk or street right-of-way adjacent to such facility solely for the purpose of reaching a destination other than such facility.

(c) The provisions of subsection (b) shall only take effect during a facility's business hours and if the area contained within the radius and rectangle described in said subsection (b) is clearly marked and posted.

(d) Whoever knowingly violates this section shall be punished, for the first offense, by a fine of not more than \$500 or not more than three months in a jail or house of correction, or by both such fine and imprisonment, and for each subsequent offense, by a fine of not less than \$500 and not more than \$5,000 or not more than two and one-half years in a jail or house of correction, or both such fine and imprisonment. A person who knowingly violates this section may be arrested without a warrant by a sheriff, deputy sheriff or police officer if that sheriff, deputy sheriff, or police officer observes that person violating this section.

(e) Any person who knowingly obstructs, detains, hinders, impedes or blocks another person's entry to or exit from a reproductive health care facility shall be punished, for the first offense, by a fine of not more than \$500 or not more than three months in a jail or house of correction, or by both such fine and imprisonment, and for each subsequent offense, by a fine of not less than \$500 nor more than \$5,000 or not more than two and one-half years in a jail or house of

correction, or by both such fine and imprisonment. A person who knowingly violates this provision may be arrested without a warrant by a sheriff, deputy sheriff or police officer.

(f) A reproductive health care facility or a person whose rights to provide or obtain reproductive health care services have been violated or interfered with by a violation of this section or any person whose rights to express their views, assemble or pray near a reproductive health care facility have been violated or interfered with may commence a civil action for equitable relief. The civil action shall be commenced either in the superior court for the county in which the conduct complained of occurred, or in the superior court for the county in which any person or entity complained of resides or has a principal place of business.

Appendix 3: Examples of Residential Picketing Ordinances

California: San Jose, Cal., Mun. Code § 10.09.010 (2010).

§ 10.09.010 Targeted residential picketing prohibited.

- A.** No person shall engage in picketing activity that is targeted at and is within three hundred feet of a residential dwelling.
- B.** For purposes of this chapter, the term "residential dwelling" means any permanent building being used by its occupants solely for nontransient residential uses.
- C.** For purposes of this chapter, the term "targeted" picketing means picketing activity that is targeted at a particular residential dwelling and proceeds on a definite course or route in front of or around that particular residential dwelling.
- D.** This chapter does not and shall not be interpreted to preclude picketing in a residential area that is not targeted at a particular residential dwelling.

Colorado: Colo. Rev. Stat. § 18-9-108.5 (2010).

(1) (a) The general assembly hereby finds that:

(I) The protection and preservation of the home is a compelling state interest;

(II) Residents of Colorado are entitled to enjoy a feeling of well-being, tranquility, and privacy in their homes and dwellings;

(III) The practice of targeted residential picketing causes emotional disturbances and distress to the occupants and has the potential to incite breaches of the peace; and

(IV) The practice of targeted residential picketing does not seek to disseminate a message to the general public but, instead, seeks to harass and intrude on the privacy of the targeted resident.

(b) The general assembly further finds that ample alternative means of communication are available to those who would choose to engage in picketing outside a person's residence.

(2) As used in this section, unless the context otherwise requires:

(a) "Residence" means any single-family or multi-family 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.

(3) (a) It shall be unlawful for a person to engage in targeted picketing except when the person is engaging in picketing while marching, without stopping in front or on either side of a residence, over a route that proceeds a distance that extends beyond three adjacent structures to one side of the targeted residence along the one-way length and three adjacent structures to the other side of the targeted residence along the one-way length or three hundred feet to one side of the targeted residence along the one-way length and three hundred feet to the other side of the targeted residence along the one-way length, whichever distance is shorter.

(b) (I) It shall be unlawful for a person while engaged in targeted picketing to hold, carry, or otherwise display on his or her person a sign or placard while he or she is on a street or sidewalk in a residential area if the person does not comply with the following restrictions:

(A) All signs or placards shall be no greater in size than six square feet;

(B) Each person may carry, hold, or otherwise display no more than one sign or placard.

(II) The restrictions specified pursuant to subparagraph (I) of this paragraph (b) shall not apply to a person while engaged in targeted picketing carrying a sign or placard temporarily while transporting the sign or placard from the person's residence or business to a vehicle.

(4) Vehicles or trailers used in targeted picketing shall not park within three residences or three hundred feet of a residence that is the subject of targeted picketing. There is a presumption that a vehicle or trailer is used in targeted picketing when signage is affixed to the vehicle containing content related to the targeted picketing.

(5) It shall not be a violation of subsection (3) of this section unless a person has previously been ordered by a peace officer or other law enforcement official to move, disperse, or take other appropriate action to comply with this section and the person has failed to promptly comply with the warning. The warning issued by the peace officer or other law enforcement official shall indicate the required distances the person engaging in picketing must march or other conditions necessary to comply with this section. In order to ensure that an appropriate warning has been given, the local law enforcement agency shall maintain a written record indicating the name of each warned individual, the address or addresses of the targeted residence or residences, and the date and time of the warning.

(6) A person who violates subsection (3) of this section commits an unclassified misdemeanor. The court may impose a fine of no more than five thousand dollars.

(7) The provisions of this section shall not prohibit a local government from adopting more restrictive provisions concerning targeted picketing or carrying in a residential area more than one sign of a certain size.

**Nebraska: Lincoln, Neb., Mun. Code § 9.40.090 (2010).
§ 9.40.090 Focused Residential Picketing, Prohibited.**

(a) It shall be unlawful for any person to engage in focused picketing in that portion of any street which abuts on the property upon which the targeted dwelling is located, or which abuts on property within fifty feet (measured from the lot line) of the property upon which the targeted dwelling is located, except the sidewalk space on the opposite side of the street from the targeted dwelling.

(b) For purposes of this section, the following definitions shall apply:

(1) Focused picketing shall mean picketing directed toward a specific person or persons including, but not limited to, marching, congregating, standing, parading, demonstrating, parking, or patrolling by one or more persons, with or without signs.

(2) Sidewalk space shall mean that portion of a street between the curb line and the adjacent property line.

(3) Street shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(4) Targeted dwelling shall mean any building or dwelling unit within a building, in which the target or targets of focused picketing reside.

(c) This section shall not apply to any picketing, focused or otherwise, which lawfully occurs before or about any commercial or industrial establishment or business, regardless of where located.

(d) This section shall not be construed to authorize conduct which is otherwise prohibited by law.

Wisconsin: Brookfield, Wis., Gen. Code § 9.17(2) (1985).

Picket lines and picketing shall be prohibited in front of, adjacent to or with respect to any property used for residential purposes, except where such picketing relates to a use or activity being carried on within such property.

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