Proposed Substitute House Bill 2351 (H-3120.1)

House Technology, Economic Development, and Veterans Committee

By Representative Cortes

Original Bill:

Counties, cities, towns, incident command systems, and law enforcement are prohibited from using resources to assist in enforcement actions that target an emergency responder based on the responder's protected status. Counties, cities, towns, and law enforcement must review and update existing policies related to the collection and dissemination of information related to an emergency responder's protected status. The Governor or a county, city, or town may designate an "emergency operation zone," and law enforcement officer activity within a designated zone is conditioned. The crime of obstructing a law enforcement officer is modified to include emergency responders.

Proposed Substitute House Bill (H-3120.1) compared to the Original Bill:

- Creates an affirmative defense for the crime of obstruction due to a mental health crisis;
- Adds certain Washington State Department of Transportation workers to definition of emergency responders;
- Removes public officers from definition of emergency responders;
- Removes the requirement that cities, towns, counties, and law enforcement review policies related to the collection and dissemination of information related to an emergency responder's protected status;
- Limits county, city, town, incident command system, and law enforcement's use of an emergency responder's information to compliance with policies in effect prior to April 15, 2026;
- Removes January 1, 2027, implementation date for counties;
- Removes requirement that entity designating an emergency operation zone notify law enforcement;
- Changes notification to law enforcement of activity in emergency operation zone to designating entity rather than incident command system; and
- Changes reporting of certain violations to the Attorney General to discretionary rather than mandatory.

Staff: Martha Wehling
Date: January 22, 2026

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-3120.1/26

ATTY/TYPIST: RR:akl

BRIEF DESCRIPTION: Protecting emergency responders and emergency response operations in Washington.

AN ACT Relating to protecting emergency responders and emergency response operations in Washington; amending RCW 9A.76.020; adding a new section to chapter 35.21 RCW; adding a new section to chapter 36.01 RCW; adding new sections to chapter 38.52 RCW; creating new sections; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** The legislature finds that undue interference with emergency responders working to mitigate an ongoing emergency or disaster can obstruct emergency response operations and endanger the lives and property of the residents of Washington. It is the intent of the legislature to preserve the integrity of emergency response operations, protect the rights and safety of all emergency responders, and to ensure due process of law throughout the state.

Sec. 2. RCW 9A.76.020 and 2001 c 308 s 3 are each amended to read as follows:

(1) A person is guilty of obstructing ((~~a law enforcement officer~~)) an emergency responder if the person willfully hinders, delays, or obstructs any ((~~law enforcement officer~~)) emergency responder in the discharge of his or her official powers or duties if the emergency responder is in uniform, announces he or she is an

emergency responder, and a reasonable person would understand based on the totality of the circumstances that he or she is an emergency responder.

(2) ((~~"Law enforcement officer" means any general authority, limited authority, or specially commissioned Washington peace officer or federal peace officer as those terms are defined in RCW 10.93.020, and other public officers who are responsible for enforcement of fire, building, zoning, and life and safety codes.~~

~~(3)~~)) Obstructing ((~~a law enforcement officer~~)) an emergency responder is a gross misdemeanor.

(3) Nothing in this section shall be construed to prohibit:

(a) Activity protected under the Constitution of the United States or the Washington state Constitution; or

(b) Activity undertaken by a law enforcement officer for an authorized and lawful purpose.

(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Emergency responder" means:

(i) Any general authority, limited authority, or specially commissioned Washington peace officer or federal peace officer as those terms are defined in RCW 10.93.020;

(ii) Any employee or agent of a government agency or private corporation that provides firefighting, fire response, fire control, or fire suppression services, who is responding to or engaged in an active fire or rescue incident;

(iii) Any employee or agent of a government agency or private corporation that provides emergency medical transportation, care, or services, who is responding to or engaged in an active medical emergency incident;

(iv) Any emergency worker as that term is defined in RCW 38.52.010;

(v) Any employee or agent of a government agency or private corporation who is responding to or engaged in an emergency road closure incident; or

(vi) Any emergency responder as that term is defined in RCW 24.60.010.

(b) "Law enforcement officer" means any general authority, limited authority, or specially commissioned Washington peace officer or federal peace officer as those terms are defined in RCW 10.93.020.

(5) It is an affirmative defense to the charge if a person establishes by a preponderance of the evidence that the person was experiencing a mental health crisis at the time of the unlawful conduct.

NEW SECTION. **Sec. 3.** A new section is added to chapter 35.21 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, no agency of any city or town, including unclassified cities or towns, including law enforcement, may use agency funds, facilities, property, equipment, or personnel to investigate, enforce, cooperate with, or assist in the investigation or enforcement of any federal registration or surveillance programs or any other laws, rules, or policies that target any emergency responder who resides or works in Washington, solely on the basis of race, religion, immigration, or citizenship status, or national or ethnic origin. This subsection does not apply to any program with the primary purpose of providing persons with services or benefits, or to RCW 9.94A.685.

(2) Nothing in subsection (1) of this section prohibits the collection, use, or disclosure of information that is:

(a) Required to comply with state or federal law;

(b) In response to a lawfully issued court order;

(c) Necessary to perform agency duties, functions, or other business, as permitted by statute or rule, conducted by the agency that is not related to immigration enforcement;

(d) Required to comply with policies, grants, waivers, or other requirements necessary to maintain funding, if the policy, grant, waiver, or requirement was in effect prior to April 15, 2026; or

(e) In the form of deidentified or aggregated data, including census data.

(3) For the purpose of this section, "emergency responder" has the same meaning as in RCW 9A.76.020.

(4) This section applies to all agencies of cities or towns including unclassified cities or towns operating or existing in Washington on or after January 1, 2027.

NEW SECTION. **Sec. 4.** A new section is added to chapter 36.01 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, no agency of any county, including law enforcement, may use agency

funds, facilities, property, equipment, or personnel to investigate, enforce, cooperate with, or assist in the investigation or enforcement of any federal registration or surveillance programs or any other laws, rules, or policies that target any emergency responder who resides or works in Washington, solely on the basis of race, religion, immigration, or citizenship status, or national or ethnic origin. This subsection does not apply to any program with the primary purpose of providing persons with services or benefits, or to RCW 9.94A.685.

(2) Nothing in subsection (1) of this section prohibits the collection, use, or disclosure of information that is:

(a) Required to comply with state or federal law;

(b) In response to a lawfully issued court order;

(c) Necessary to perform agency duties, functions, or other business, as permitted by statute or rule, conducted by the agency that is not related to immigration enforcement;

(d) Required to comply with policies, grants, waivers, or other requirements necessary to maintain funding, if the policy, grant, waiver, or requirement was in effect prior to April 15, 2026; or

(e) In the form of deidentified or aggregated data, including census data.

(3) For the purpose of this section, "emergency responder" has the same meaning as in RCW 9A.76.020.

NEW SECTION. **Sec. 5.** A new section is added to chapter 38.52 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, no incident command system, including law enforcement, may use any state or local funds, facilities, property, equipment, or personnel to investigate, enforce, cooperate with, or assist in the investigation or enforcement of any federal registration or surveillance programs or any other laws, rules, or policies that target any emergency responder who resides or works in Washington, solely on the basis of race, religion, immigration, or citizenship status, or national or ethnic origin.

(2) Nothing in subsection (1) of this section prohibits the collection, use, or disclosure of information that is:

(a) Required to comply with state or federal law;

(b) In response to a lawfully issued court order;

(c) Necessary to perform incident command system duties, functions, or other business, as permitted by statute or rule, conducted by the incident command system that is not related to immigration enforcement;

(d) Required to comply with policies, grants, waivers, or other requirements necessary to maintain funding, if the policy, grant, waiver, or requirement was in effect prior to April 15, 2026; or

(e) In the form of deidentified or aggregated data, including census data.

(3) For the purpose of this section, "emergency responder" has the same meaning as in RCW 9A.76.020.

(4) This section applies to all incident command systems directing or coordinating emergency response activities that take place in Washington on or after January 1, 2027.

NEW SECTION. **Sec. 6.** A new section is added to chapter 38.52 RCW to read as follows:

(1)(a) The governor and the executive authority of each political subdivision of the state are authorized to designate any geographic area within their respective jurisdictions that contains an ongoing emergency or disaster as an emergency operation zone. The emergency operation zone may be drawn to include affected and at-risk areas, areas where emergency responders are staging or working, and reasonable buffer zones. The designating authority shall establish a duration for the emergency operation zone's existence that may not exceed 30 days, but the designating authority may modify or renew the designation as needed for emergencies or disasters that spread beyond the zone's established borders or persist beyond the zone's established duration.

(b) Whenever a designating authority establishes or modifies an emergency operation zone it shall, as soon as practicable, publish notice of the zone's existence, borders, and duration on the designating authority's publicly accessible website. A notice prepared under this subsection shall include a citation to this section and the statement "INTERFERENCE WITH EMERGENCY RESPONDERS WITHIN AN EMERGENCY OPERATION ZONE IS RESTRICTED BY STATE LAW."

(2) Except as provided in subsection (3) of this section, any law enforcement officer who enters or remains in an emergency operation zone to target an emergency responder for the purpose of enforcing a local, state, or federal law against the emergency responder, shall:

(a) Visibly display identification in all places and at all times while present in the emergency operation zone. Identification must include, at minimum, the officer's agency name and an individual identification number the officer's employer can link to the officer's legal name and identity;

(b) Disclose to the designating authority the nature and scope of the officer's intended activities within the emergency operation zone. The officer or the officer's employer must make this disclosure before the officer enters the emergency operation zone;

(c) Obtain a valid judicial warrant before undertaking any search, seizure, or arrest for which a warrant is required, and provide a copy of such warrant upon request to the designating authority of the emergency operation zone and the subject of the warrant; and

(d) Refrain from disrupting emergency operations throughout the emergency operation zone or interfering with any emergency responders within the emergency operation zone, unless acting pursuant to a judicial warrant authorizing a specified search or seizure.

(3) The requirements of subsection (2) of this section do not apply to:

(a) Any law enforcement officer outside an emergency operation zone;

(b) Any law enforcement officer who enters or remains in an emergency operation zone, if the officer does not intend to target an emergency responder for the purpose of enforcing a local, state, or federal law against the emergency responder;

(c) Any law enforcement officer who is lawfully operating under a previously established assumed identity for the purpose of investigating a suspected violent offense by an emergency responder who lives, works, or is present in the emergency operation zone, if: (i) The officer is operating under an assumed identity with the knowledge and authorization of the officer's superiors, and (ii) compliance with the requirements of this section would be likely to compromise the ongoing criminal investigation of the emergency responder or endanger the investigating officer; or

(d) Any law enforcement officer who cannot reasonably comply with the requirements of this section as a result of an ongoing search for or pursuit of an emergency responder who the officer has probable cause to believe has committed a violent offense or is about to commit a violent offense.

(4) A violation of this section is not a criminal or civil offense and does not provide any basis for criminal or civil liability, but such violation may be reported to the attorney general.

(5) In response to any reported violation of this section, the attorney general may:

(a) Provide notification of the violation to the governor and any affected political subdivision of the state, the attorney general of the United States, the United States department of justice office of the inspector general, and any member or committee of the United States congress or Washington legislature;

(b) Publish a public report on the attorney general's website that details the violation; and

(c) Provide notification of the violation to any affected individuals and organizations, including legal advocacy organizations.

(6) In response to any reported violation of this section by a federal officer or agent that disrupted or interfered with an emergency response or resulted in the detention or arrest of an emergency responder, the attorney general must provide notification of the violation to the attorney general of the United States and the United States department of justice office of the inspector general. The attorney general may provide additional notifications and reporting as provided in subsection (5) of this section.

(7) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Emergency operation zone" means any designated geographic area as described in subsection (1) of this section that contains an ongoing emergency or disaster.

(b) "Emergency responder" has the same meaning as in RCW 9A.76.020.

(c) "Law enforcement officer" means any employee, agent, officer, or contractor of any local or state government in the United States, or the federal government of the United States, who enforces local, state, or federal law, and who is authorized to search, seize, detain, or arrest any person.

(d) "Violent offense" has the same meaning as provided in RCW 9.94A.030.

NEW SECTION. **Sec. 7.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 8.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

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