

Bill No. 7819

Introduced in Council:

May 20, 2019

Introduced by:

Caitlin Cook

Adopted by Council:

Referred to:

Ordinances & Rules

1 **Bill No. 7819** - A BILL to amend the Code of the City of Charleston, by adding thereto a
2 new section within Chapter 78, Article IV, designated 78-235, relating to access to
3 health care facilities and picketing activities at health care facilities; preserving a right to
4 protest; protecting patients from obstructions to their entry or exit from a health care
5 facility; creating misdemeanor offenses for certain violations; and preserving a private
6 right of action in addition to the criminal penalties.

7

8 **Now, therefore, be it ordained by the Council of the City of Charleston:**

9

10 That the Code of the City of Charleston be amended by adding thereto a new section
11 within Chapter 78, Article IV, designated 78-235, to read as follows:

12

13 **CHAPTER 78. – OFFENSES AND MISCELLANEOUS PROVISIONS.**

14

15 **ARTICLE IV. – OFFENSES INVOLVING PUBLIC PEACE AND ORDER.**

16

17 **DIVISION 3. – PICKETING.**

18

19 Sec. 78-235. Protecting passage to and from health care facilities; preserving rights of
20 picketers; offense and penalties.

21

22 (a) The City Council recognizes that access to health care facilities for the purpose of
23 obtaining medical counseling and treatment is imperative; that the exercise of a
24 person's right to protest or counsel against certain medical procedures must be
25 balanced against another person's right to obtain medical counseling and treatment in
26 an unobstructed manner; and that preventing the willful obstruction of a person's
27 access to medical counseling and treatment at a health care facility is a matter of public
28 concern. The City Council therefore declares that it is appropriate to enact an ordinance
29 that prohibits a person from knowingly obstructing another person's entry to or exit from
30 a health care facility.

31

32 (b) A person who knowingly obstructs, detains, hinders, impedes, or blocks another
33 person's entry to or exit from a health care facility or a health care facility's dedicated
34 parking facility is guilty of a misdemeanor offense and, upon conviction, may be
35 confined for up to 30 days or fined up to \$500, or both confined and fined.

36

37 (c) No person shall knowingly approach another person within eight feet of such person,
38 unless such other person consents, for the purpose of passing a leaflet or handbill to,
39 displaying a sign to, or engaging in oral protest, education, or counseling with such
40 other person in the public right-of-way or sidewalk area within a radius of 100 feet from
41 any entrance door to a health care facility. Any person who violates this subsection (c)
42 is guilty of a misdemeanor offense and, upon conviction, may be confined for up to 30
43 days or fined up to \$500, or both confined and fined.

44

45 (d) For the purposes of this section, "health care facility" means any entity operating
46 within the City that is licensed, certified, or otherwise authorized or permitted by law to
47 administer health care services, medical treatment, or behavioral or mental health
48 services as a health care provider in West Virginia.

49

50 (e) In addition to, and not in lieu of, the penalties set forth in this section, a person is
51 entitled to recover civil damages and obtain injunctive relief from any person who
52 violates the provisions of this section or incites others to violate the provisions of this
53 section. A criminal conviction under this section is not a condition precedent to
54 maintaining a civil action pursuant to this subsection.

55

56 (f) Any provision of the Code of the City of Charleston that is in conflict with this section
57 is hereby repealed and the provisions of this section shall apply with respect to any
58 such conflict.