

Amendment A, Version 1, to CB 120549 – Relating to crime of Obstructing a Public Officer to include obstructing firefighters and fire department personnel.

Sponsor: Councilmember Mosqueda

Exemption for personal medical treatment and clarification of terminology

**Effect:** This amendment would provide an affirmative defense against persons who are charged with obstructing a public officer, when such obstruction occurs because the person is attempting to obstruct their own medical care, provided such care is being administered by the fire department.

The amendment also clarifies what constitutes an incitement to violence, when such incitement may be considered the basis for a charge of obstruction of a public officer at the scene of a fire department emergency response while it is in progress.

The Seattle Police Department (SPD) is requested to update its policy manual to reflect amendments made to 12A.16.010, and to include provisions related to the affirmative defense regarding personal medical treatment. SPD is also requested to instruct officers not to arrest persons who are attempting to obstruct their own medical care under 12A.16.010.

SPD staff have confirmed that the department will update its policies to reflect all amendments to 12A.16.010 and will also instruct officers not to arrest persons who are attempting to obstruct their own medical care under the amended statute.

1. On page 2, in subsection A of Section 1, amend list item 6 as follows:

A. A person is guilty of obstructing a public officer, if, with knowledge that the person being obstructed is a public officer, he or she:

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6. Intentionally refuses to leave the scene of a fire department emergency response while it is in progress after being requested to leave by a public officer when the person's conduct or presence hinders, delays, or compromises legitimate fire department actions or rescue efforts; threatens the safety of fire department personnel or members of the public; or attempts to incite others to violence by intentionally advocating or directing imminent violence toward a specific person or group, when it is likely that such advocacy or direction will imminently result in actual violence toward that person or group.

2. Beginning on page 2, following subsection A of Section 1, amend an existing subsection and add new subsections as follows, renumbering accordingly:

B. Hindering, delaying, or compromising one's own medical treatment shall not be the basis for a charge under this Section 12A.16.010, when such treatment was being provided by

fire department personnel.

~~((B.))~~ C. No person shall be convicted of violating this Section 12A.16.010 if the public officer was not acting lawfully in a governmental fashion.

D. No person shall be convicted of violating this Section 12A.16.010 if the person was obstructing their own medical treatment, when such treatment was being provided by fire department personnel.

~~((C.))~~ E. For purposes of this Section 12A.16.010, a “public officer” means those individuals responsible for the enforcement of the provisions of the Seattle Municipal Code, including provisions related to fire, building, zoning, and life and safety codes; those individuals empowered to make arrests for offenses under the Seattle Municipal Code; those individuals responsible for the enforcement of the federal state or criminal laws; or a firefighter or other employee of a fire department who was performing his or her official duties as the time of the obstruction.

~~((D.))~~ F. Obstructing a public officer is a gross misdemeanor.

3. On page 3, after Section 2, add a new Section as follows:

Section 3. The Seattle Police Department (SPD) is requested to update its policy manual to include amendments made to Seattle Municipal Code Section 12A.16.010, including the provision that exempts from conviction those persons who are attempting to obstruct their own medical treatment, when such treatment is being provided by fire department personnel. SPD should include in this update instructions to officers not to arrest persons who are attempting to obstruct their own medical care under Section 12A.16.010.

Renumber the remaining Section(s) and subsection(s) accordingly.