

2 SSB 5307 - S AMD - 0000299

3 By Senator Roach

4 Adopted 3/15/93

5 On page 5, after line 15, insert a new section as follows:

6 "Sec. 4. RCW 10.31.100 and 1988 c 190 s 1 are each amended to read
7 as follows:

8 A police officer having probable cause to believe that a person has
9 committed or is committing a felony shall have the authority to arrest
10 the person without a warrant. A police officer may arrest a person
11 without a warrant for committing a misdemeanor or gross misdemeanor
12 only when the offense is committed in the presence of the officer,
13 except as provided in subsections (1) through (~~(8)~~) (9) of this
14 section.

15 (1) Any police officer having probable cause to believe that a
16 person has committed or is committing a misdemeanor or gross
17 misdemeanor, involving physical harm or threats of harm to any person
18 or property or the unlawful taking of property or involving the use or
19 possession of cannabis, or involving the acquisition, possession, or
20 consumption of alcohol by a person under the age of twenty-one years
21 under RCW 66.44.270 shall have the authority to arrest the person.

22 (2) A police officer shall arrest and take into custody, pending
23 release on bail, personal recognizance, or court order, a person
24 without a warrant when the officer has probable cause to believe that:

25 (a) An order has been issued of which the person has knowledge
26 under RCW 10.99.040(2), 10.99.050, 26.09.060, 26.44.063, chapter 26.26
27 RCW, or chapter 26.50 RCW restraining the person and the person has
28 violated the terms of the order restraining the person from acts or
29 threats of violence or excluding the person from a residence or, in the
30 case of an order issued under RCW 26.44.063, imposing any other
31 restrictions or conditions upon the person; or

32 (b) The person is eighteen years or older and within the preceding
33 four hours has assaulted that person's spouse, former spouse, or a
34 person eighteen years or older with whom the person resides or has
35 formerly resided and the officer believes: (i) A felonious assault has
36 occurred; (ii) an assault has occurred which has resulted in bodily

1 injury to the victim, whether the injury is observable by the
2 responding officer or not; or (iii) that any physical action has
3 occurred which was intended to cause another person reasonably to fear
4 imminent serious bodily injury or death. Bodily injury means physical
5 pain, illness, or an impairment of physical condition. When the
6 officer has probable cause to believe that spouses, former spouses, or
7 other persons who reside together or formerly resided together have
8 assaulted each other, the officer is not required to arrest both
9 persons. The officer shall arrest the person whom the officer believes
10 to be the primary physical aggressor. In making this determination,
11 the officer shall make every reasonable effort to consider: (i) The
12 intent to protect victims of domestic violence under RCW 10.99.010;
13 (ii) the comparative extent of injuries inflicted or serious threats
14 creating fear of physical injury; and (iii) the history of domestic
15 violence between the persons involved.

16 (3) Any police officer having probable cause to believe that a
17 person has committed or is committing a violation of any of the
18 following traffic laws shall have the authority to arrest the person:

19 (a) RCW 46.52.010, relating to duty on striking an unattended car
20 or other property;

21 (b) RCW 46.52.020, relating to duty in case of injury to or death
22 of a person or damage to an attended vehicle;

23 (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or
24 racing of vehicles;

25 (d) RCW 46.61.502 or 46.61.504, relating to persons under the
26 influence of intoxicating liquor or drugs;

27 (e) RCW 46.20.342, relating to driving a motor vehicle while
28 operator's license is suspended or revoked;

29 (f) RCW 46.61.525, relating to operating a motor vehicle in a
30 negligent manner.

31 (4) A law enforcement officer investigating at the scene of a motor
32 vehicle accident may arrest the driver of a motor vehicle involved in
33 the accident if the officer has probable cause to believe that the
34 driver has committed in connection with the accident a violation of any
35 traffic law or regulation.

36 (5) Any police officer having probable cause to believe that a
37 person has committed or is committing a violation of RCW 88.12.100
38 shall have the authority to arrest the person.

1 (6) An officer may act upon the request of a law enforcement
2 officer in whose presence a traffic infraction was committed, to stop,
3 detain, arrest, or issue a notice of traffic infraction to the driver
4 who is believed to have committed the infraction. The request by the
5 witnessing officer shall give an officer the authority to take
6 appropriate action under the laws of the state of Washington.

7 (7) Any police officer having probable cause to believe that a
8 person has committed or is committing any act of indecent exposure, as
9 defined in RCW 9A.88.010, may arrest the person.

10 (8) A police officer may arrest and take into custody, pending
11 release on bail, personal recognizance, or court order, a person
12 without a warrant when the officer has probable cause to believe that
13 an order has been issued of which the person has knowledge under
14 chapter 10.14 RCW and the person has violated the terms of that order.

15 (9) A police officer having probable cause to believe that a person
16 illegally possesses or illegally has possessed a firearm or other
17 dangerous weapon on private or public elementary or secondary school
18 premises shall have the authority to arrest the person.

19 (10) Except as specifically provided in subsections (2), (3), (4),
20 and (6) of this section, nothing in this section extends or otherwise
21 affects the powers of arrest prescribed in Title 46 RCW.

22 ((+10+)) (11) No police officer may be held criminally or civilly
23 liable for making an arrest pursuant to RCW 10.31.100(2) or (8) if the
24 police officer acts in good faith and without malice."

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26 By Senator Roach

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28 On page 1, line 2 of the title, after "9.41.300" insert "10.31.100"

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