

---

**SUBSTITUTE SENATE BILL 5835**

---

**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** Senate Committee on Law & Justice (originally sponsored by Senators Johnson, Smith, Roach, McCaslin, Schow, Long and Winsley)

Read first time 02/23/95.

1 AN ACT Relating to restraining orders; amending RCW 26.09.050 and  
2 26.10.040; and reenacting and amending RCW 10.31.100.

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

4 **Sec. 1.** RCW 10.31.100 and 1993 c 209 s 1 and 1993 c 128 s 5 are  
5 each reenacted and amended to read as follows:

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

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

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

4 (a) An order has been issued of which the person has knowledge  
5 under RCW 10.99.040(2), 10.99.050, 26.09.050, 26.09.060, 26.10.040,  
6 26.44.063, chapter 26.26 RCW, or chapter 26.50 RCW restraining the  
7 person and the person has violated the terms of the order restraining  
8 the person from acts or threats of violence or excluding the person  
9 from a residence or, in the case of an order issued under RCW  
10 26.44.063, imposing any other restrictions or conditions upon the  
11 person; or

12 (b) The person is eighteen years or older and within the preceding  
13 four hours has assaulted that person's spouse, former spouse, or a  
14 person eighteen years or older with whom the person resides or has  
15 formerly resided and the officer believes: (i) A felonious assault  
16 has occurred; (ii) an assault has occurred which has resulted in bodily  
17 injury to the victim, whether the injury is observable by the  
18 responding officer or not; or (iii) that any physical action has  
19 occurred which was intended to cause another person reasonably to fear  
20 imminent serious bodily injury or death. Bodily injury means physical  
21 pain, illness, or an impairment of physical condition. When the  
22 officer has probable cause to believe that spouses, former spouses, or  
23 other persons who reside together or formerly resided together have  
24 assaulted each other, the officer is not required to arrest both  
25 persons. The officer shall arrest the person whom the officer believes  
26 to be the primary physical aggressor. In making this determination,  
27 the officer shall make every reasonable effort to consider: (i) The  
28 intent to protect victims of domestic violence under RCW 10.99.010;  
29 (ii) the comparative extent of injuries inflicted or serious threats  
30 creating fear of physical injury; and (iii) the history of domestic  
31 violence between the persons involved.

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

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

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

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

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

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

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

9 (4) A law enforcement officer investigating at the scene of a motor  
10 vehicle accident may arrest the driver of a motor vehicle involved in  
11 the accident if the officer has probable cause to believe that the  
12 driver has committed in connection with the accident a violation of any  
13 traffic law or regulation.

14 (5) Any police officer having probable cause to believe that a  
15 person has committed or is committing a violation of RCW ((88.12.100))  
16 88.12.025 shall have the authority to arrest the person.

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

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

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

31 (9) Any police officer having probable cause to believe that a  
32 person has, within twenty-four hours of the alleged violation,  
33 committed a violation of RCW 9A.50.020 may arrest such person.

34 (10) A police officer having probable cause to believe that a  
35 person illegally possesses or illegally has possessed a firearm or  
36 other dangerous weapon on private or public elementary or secondary  
37 school premises shall have the authority to arrest the person.

1 For purposes of this subsection, the term "firearm" has the meaning  
2 defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning  
3 defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

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

7 (12) No police officer may be held criminally or civilly liable for  
8 making an arrest pursuant to RCW 10.31.100 (2) or (8) if the police  
9 officer acts in good faith and without malice.

10 **Sec. 2.** RCW 26.09.050 and 1994 sp.s. c 7 s 451 are each amended to  
11 read as follows:

12 (1) In entering a decree of dissolution of marriage, legal  
13 separation, or declaration of invalidity, the court shall determine the  
14 marital status of the parties, make provision for a parenting plan for  
15 any minor child of the marriage, make provision for the support of any  
16 child of the marriage entitled to support, consider or approve  
17 provision for the maintenance of either spouse, make provision for the  
18 disposition of property and liabilities of the parties, make provision  
19 for the allocation of the children as federal tax exemptions, make  
20 provision for any necessary continuing restraining orders including the  
21 provisions contained in RCW 9.41.800, make provision for the issuance  
22 within this action of the restraint provisions of a domestic violence  
23 protection order under chapter 26.50 RCW or an antiharassment  
24 protection order under chapter 10.14 RCW, and make provision for the  
25 change of name of any party.

26 (2) Restraining orders issued under this section restraining the  
27 person from molesting or disturbing another party or from going onto  
28 the grounds of or entering the home, workplace, or school of the other  
29 party or the day care or school of any child shall prominently bear on  
30 the front page of the order the legend: VIOLATION OF THIS ORDER WITH  
31 ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.09  
32 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

33 (3) The court shall order that any restraining order bearing a  
34 criminal offense legend, any domestic violence protection order, or any  
35 antiharassment protection order granted under this section, in addition  
36 to the law enforcement information sheet or proof of service of the  
37 order, be forwarded by the clerk of the court on or before the next  
38 judicial day to the appropriate law enforcement agency specified in the

1 order. Upon receipt of the order, the law enforcement agency shall  
2 forthwith enter the order into any computer-based criminal intelligence  
3 information system available in this state used by law enforcement  
4 agencies to list outstanding warrants. The order is fully enforceable  
5 in any county in the state.

6 **Sec. 3.** RCW 26.10.040 and 1994 sp.s. c 7 s 453 are each amended to  
7 read as follows:

8 In entering an order under this chapter, the court shall consider,  
9 approve, or make provision for:

10 (1) Child custody, visitation, and the support of any child  
11 entitled to support;

12 (2) The allocation of the children as a federal tax exemption;  
13 ((and))

14 (3) Any necessary continuing restraining orders, including the  
15 provisions contained in RCW 9.41.800;

16 (4) A domestic violence protection order under chapter 26.50 RCW or  
17 an antiharassment protection order under chapter 10.14 RCW. The court  
18 may grant any of the relief provided in RCW 26.50.060 except relief  
19 pertaining to residential provisions for the children which provisions  
20 shall be provided for under this chapter, and any of the relief  
21 provided in RCW 10.14.080;

22 (5) Restraining orders issued under this section restraining the  
23 person from molesting or disturbing another party or from going onto  
24 the grounds of or entering the home, workplace, or school of the other  
25 party or the day care or school of any child shall prominently bear on  
26 the front page of the order the legend: VIOLATION OF THIS ORDER WITH  
27 ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.10  
28 RCW AND WILL SUBJECT A VIOLATOR TO ARREST;

29 (6) The court shall order that any restraining order bearing a  
30 criminal offense legend, any domestic violence protection order, or any  
31 antiharassment protection order granted under this section, in addition  
32 to the law enforcement information sheet or proof of service of the  
33 order, be forwarded by the clerk of the court on or before the next  
34 judicial day to the appropriate law enforcement agency specified in the  
35 order. Upon receipt of the order, the law enforcement agency shall  
36 forthwith enter the order into any computer-based criminal intelligence  
37 information system available in this state used by law enforcement

1 agencies to list outstanding warrants. The order is fully enforceable  
2 in any county in the state.

--- END ---