
HOUSE BILL 1043

State of Washington

56th Legislature

1999 Regular Session

By Representatives Wensman, Thomas, Ballasiotes, O'Brien, Sheahan, Radcliff, McDonald, Conway and Fortunato

Read first time 01/13/1999. Referred to Committee on Judiciary.

1 AN ACT Relating to arrests without warrant; and amending RCW
2 10.31.100.

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

4 **Sec. 1.** RCW 10.31.100 and 1997 c 66 s 10 are each amended to read
5 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, or involving criminal trespass under RCW 9A.52.070
19 or 9A.52.080, 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 26.10.115, 26.44.063, chapter 26.26 RCW, or chapter 26.50 RCW
7 restraining the person and the person has violated the terms of the
8 order restraining the person from acts or threats of violence or
9 restraining the person from going onto the grounds of or entering a
10 residence, workplace, school, or day care or, in the case of an order
11 issued under RCW 26.44.063, imposing any other restrictions or
12 conditions upon the person; or

13 (b) The person is sixteen years or older and within the preceding
14 four hours has assaulted a family or household member as defined in RCW
15 10.99.020 and the officer believes: (i) A felonious assault has
16 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 family or household members
23 have assaulted each other, the officer is not required to arrest both
24 persons. The officer shall arrest the person whom the officer believes
25 to be the primary physical aggressor. In making this determination,
26 the officer shall make every reasonable effort to consider: (i) The
27 intent to protect victims of domestic violence under RCW 10.99.010;
28 (ii) the comparative extent of injuries inflicted or serious threats
29 creating fear of physical injury; and (iii) the history of domestic
30 violence between the persons involved.

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

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

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

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

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

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

5 (f) RCW 46.61.5249, relating to operating a motor vehicle in a
6 negligent manner.

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

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

15 (6) An officer may act upon the request of a law enforcement
16 officer in whose presence a traffic (~~infraction~~) offense, boating
17 offense, or any gross misdemeanor or misdemeanor offense was committed,
18 to stop, detain, arrest, or issue a citation or notice of (~~traffic~~)
19 infraction to the (~~driver~~) person who is believed to have committed
20 the (~~infraction~~) offense. The request by the witnessing officer
21 shall give an officer the authority to take appropriate action under
22 the laws of the state of Washington. For the purposes of this
23 subsection, "traffic offense" means a traffic offense that is a gross
24 misdemeanor, misdemeanor, or infraction under Title 46 RCW or
25 equivalent local law, and "boating offense" means a gross misdemeanor,
26 misdemeanor, or infraction under chapter 88.12 RCW or equivalent local
27 law involving the operation of a vessel. For the purposes of this
28 section, "law enforcement officer" includes a general authority,
29 limited authority, or specially commissioned Washington peace officer,
30 or a federal peace officer, as all are defined in RCW 10.93.020.

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

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

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

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

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

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

14 (12) No police officer or federal peace officer may be held
15 criminally or civilly liable for making an arrest pursuant to RCW
16 10.31.100 (2), (6), or (8) if the police officer acts in good faith and
17 without malice.

--- END ---