
HOUSE BILL 1168

State of Washington

56th Legislature

1999 Regular Session

By Representatives Cooper, Radcliff, Quall, Talcott, Constantine, Cairnes, O'Brien, Reardon, Linville, Morris, D. Schmidt, McDonald, Poulsen, Kenney, Campbell, Conway, Rockefeller and Keiser

Read first time 01/18/1999. Referred to Committee on Education.

1 AN ACT Relating to school safety; and amending RCW 28A.635.020 and
2 10.31.100.

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

4 **Sec. 1.** RCW 28A.635.020 and 1997 c 266 s 6 are each amended to
5 read as follows:

6 (1) It shall be unlawful for any person to willfully disobey the
7 order of the chief administrative officer of a public school district,
8 or of an authorized designee of any such administrator, to leave any
9 motor vehicle, building, grounds or other property which is owned,
10 operated or controlled by the school district if the person so ordered
11 is under the influence of alcohol or drugs, or is committing, threatens
12 to imminently commit or incites another to imminently commit any act
13 which would disturb or interfere with or obstruct any lawful task,
14 function, process or procedure of the school district or any lawful
15 task, function, process or procedure of any student, official, employee
16 or invitee of the school district. The order of a school officer or
17 designee acting pursuant to this subsection shall be valid if the
18 officer or designee reasonably believes a person ordered to leave is

1 under the influence of alcohol or drugs, is committing acts, or is
2 creating a disturbance as provided in this subsection.

3 (2) It shall be unlawful for any person to refuse to leave public
4 property immediately adjacent to a building, grounds or property which
5 is owned, operated or controlled by a school district when ordered to
6 do so by a law enforcement officer if such person is engaging in
7 conduct which creates a substantial risk of causing injury to any
8 person, or substantial harm to property, or such conduct amounts to
9 disorderly conduct under RCW 9A.84.030.

10 (3) Nothing in this section shall be construed to prohibit or
11 penalize activity consisting of the lawful exercise of freedom of
12 speech, freedom of press and the right to peaceably assemble and
13 petition the government for a redress of grievances: PROVIDED, That
14 such activity neither does or threatens imminently to materially
15 disturb or interfere with or obstruct any lawful task, function,
16 process or procedure of the school district, or any lawful task,
17 function, process or procedure of any student, official, employee or
18 invitee of the school district: PROVIDED FURTHER, That such activity
19 is not conducted in violation of a prohibition or limitation lawfully
20 imposed by the school district upon entry or use of any motor vehicle,
21 building, grounds or other property which is owned, operated or
22 controlled by the school district.

23 (4) A police officer shall arrest without a warrant and take into
24 custody, pending release on bail, personal recognizance, or court
25 order, a person who the officer has probable cause to believe has
26 willfully refused to obey a valid order to leave school grounds under
27 subsection (1) of this section.

28 (5) Any person guilty of violating this section shall be deemed
29 guilty of a gross misdemeanor punishable as provided in chapter 9A.20
30 RCW.

31 **Sec. 2.** RCW 10.31.100 and 1997 c 66 s 10 are each amended to read
32 as follows:

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

1 (1) Any police officer having probable cause to believe that a
2 person has committed or is committing a misdemeanor or gross
3 misdemeanor, involving physical harm or threats of harm to any person
4 or property or the unlawful taking of property or involving the use or
5 possession of cannabis, or involving the acquisition, possession, or
6 consumption of alcohol by a person under the age of twenty-one years
7 under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070
8 or 9A.52.080, shall have the authority to arrest the person.

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

12 (a) An order has been issued of which the person has knowledge
13 under RCW 10.99.040(2), 10.99.050, 26.09.050, 26.09.060, 26.10.040,
14 26.10.115, 26.44.063, chapter 26.26 RCW, or chapter 26.50 RCW
15 restraining the person and the person has violated the terms of the
16 order restraining the person from acts or threats of violence or
17 restraining the person from going onto the grounds of or entering a
18 residence, workplace, school, or day care or, in the case of an order
19 issued under RCW 26.44.063, imposing any other restrictions or
20 conditions upon the person; or

21 (b) The person is sixteen years or older and within the preceding
22 four hours has assaulted a family or household member as defined in RCW
23 10.99.020 and the officer believes: (i) A felonious assault has
24 occurred; (ii) an assault has occurred which has resulted in bodily
25 injury to the victim, whether the injury is observable by the
26 responding officer or not; or (iii) that any physical action has
27 occurred which was intended to cause another person reasonably to fear
28 imminent serious bodily injury or death. Bodily injury means physical
29 pain, illness, or an impairment of physical condition. When the
30 officer has probable cause to believe that family or household members
31 have assaulted each other, the officer is not required to arrest both
32 persons. The officer shall arrest the person whom the officer believes
33 to be the primary physical aggressor. In making this determination,
34 the officer shall make every reasonable effort to consider: (i) The
35 intent to protect victims of domestic violence under RCW 10.99.010;
36 (ii) the comparative extent of injuries inflicted or serious threats
37 creating fear of physical injury; and (iii) the history of domestic
38 violence between the persons involved.

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

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

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

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

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

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

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

16 (4) A law enforcement officer investigating at the scene of a motor
17 vehicle accident may arrest the driver of a motor vehicle involved in
18 the accident if the officer has probable cause to believe that the
19 driver has committed in connection with the accident a violation of any
20 traffic law or regulation.

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

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

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

33 (8) A police officer may arrest and take into custody, pending
34 release on bail, personal recognizance, or court order, a person
35 without a warrant when the officer has probable cause to believe that
36 an order has been issued of which the person has knowledge under
37 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) A police officer shall arrest without a warrant and take into
12 custody, pending release on bail, personal recognizance, or court
13 order, a person who the officer has probable cause to believe has
14 willfully refused to obey a valid order to leave school grounds under
15 RCW 28A.635.020(1).

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

19 (~~(12)~~) (13) No police officer may be held criminally or civilly
20 liable for making an arrest pursuant to RCW 10.31.100 (2) or (8) if the
21 police officer acts in good faith and without malice.

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