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HOUSE BILL 2540

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State of Washington

56th Legislature

2000 Regular Session

By Representatives Lantz, Cox, Dickerson, Lovick, Kastama, Cooper and Delvin

Read first time 01/17/2000. Referred to Committee on Judiciary.

1 AN ACT Relating to arrest without warrant for failure to obey  
2 police, flagmen, or fire fighters; 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 1999 c 184 s 14 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) A foreign protection order, as defined in RCW 26.52.010, has  
14 been issued of which the person under restraint has knowledge and the  
15 person under restraint has violated a provision of the foreign  
16 protection order prohibiting the person under restraint from contacting  
17 or communicating with another person, or of a provision excluding the  
18 person under restraint from a residence, workplace, school, or day  
19 care, or a violation of any provision for which the foreign protection  
20 order specifically indicates that a violation will be a crime; or

21 (c) 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 (g) RCW 46.61.015, relating to failing to obey police officers,  
17 flagmen, or fire fighters.

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

23 (5) Any police officer having probable cause to believe that a  
24 person has committed or is committing a violation of RCW (~~88.12.025~~)  
25 79A.60.040 shall have the authority to arrest the person.

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

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

35 (8) A police officer may arrest and take into custody, pending  
36 release on bail, personal recognizance, or court order, a person  
37 without a warrant when the officer has probable cause to believe that  
38 an order has been issued of which the person has knowledge under  
39 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 may be held criminally or civilly liable for  
15 making an arrest pursuant to RCW 10.31.100 (2) or (8) if the police  
16 officer acts in good faith and without malice.

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