
HOUSE BILL 2000

State of Washington 57th Legislature 2001 Regular Session

By Representatives Delvin, Lovick and Hankins

Read first time 02/12/2001. 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 2000 c 119 s 4 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 26.44.063, or chapter 10.99, 26.09, 26.10, 26.26, 26.50, or
6 74.34 RCW restraining the person and the person has violated the terms
7 of the order restraining the person from acts or threats of violence,
8 or restraining the person from going onto the grounds of or entering a
9 residence, workplace, school, or day care, or prohibiting the person
10 from knowingly coming within, or knowingly remaining within, a
11 specified distance of a location or, in the case of an order issued
12 under RCW 26.44.063, imposing any other restrictions or conditions upon
13 the person; or

14 (b) A foreign protection order, as defined in RCW 26.52.010, has
15 been issued of which the person under restraint has knowledge and the
16 person under restraint has violated a provision of the foreign
17 protection order prohibiting the person under restraint from contacting
18 or communicating with another person, or excluding the person under
19 restraint from a residence, workplace, school, or day care, or
20 prohibiting the person from knowingly coming within, or knowingly
21 remaining within, a specified distance of a location, or a violation of
22 any provision for which the foreign protection order specifically
23 indicates that a violation will be a crime; or

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

1 creating fear of physical injury; and (iii) the history of domestic
2 violence between the persons involved.

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

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

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

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

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

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

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

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 79A.60.040
25 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~~) offense, boating
28 offense, or any gross misdemeanor or misdemeanor offense was committed,
29 to stop, detain, arrest, or issue a citation or notice of (~~traffic~~)
30 infraction to the (~~driver~~) person who is believed to have committed
31 the (~~infraction~~) offense. The request by the witnessing officer
32 shall give an officer the authority to take appropriate action under
33 the laws of the state of Washington. For the purposes of this
34 subsection, "traffic offense" means a traffic offense that is a gross
35 misdemeanor, misdemeanor, or infraction under Title 46 RCW or
36 equivalent local law, and "boating offense" means a gross misdemeanor,
37 misdemeanor, or infraction under chapter 79A.60 RCW or equivalent local
38 law involving the operation of a vessel. For the purposes of this
39 section, "law enforcement officer" includes a general authority,

1 limited authority, or specially commissioned Washington peace officer,
2 or a federal peace officer, as all are defined in RCW 10.93.020.

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

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

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

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

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

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

24 (12) No police officer or federal peace officer may be held
25 criminally or civilly liable for making an arrest pursuant to ((RCW
26 ~~10.31.100~~)) subsection (2), (6), or (8) of this section if the
27 ((police)) officer acts in good faith and without malice.

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