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HOUSE BILL 2603

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State of Washington

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By Representatives Orcutt, O'Brien, Doumit, Sump, Lysen, Benson, Lisk, Mulliken and Woods

Read first time 01/22/2002. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to operating watercraft; amending RCW 10.31.100;  
2 and adding a new section to chapter 79A.60 RCW.

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

23 (5) A police officer investigating at the scene of an accident  
24 involving a vessel regulated under chapter 79A.60 RCW may arrest the  
25 operator of a vessel involved in the accident if the officer has  
26 probable cause to believe that the operator of the vessel has committed  
27 a violation of chapter 79A.60 RCW in connection with the accident. In  
28 addition, any police officer having probable cause to believe that a  
29 person has committed or is committing a violation of RCW 79A.60.040  
30 shall have the authority to arrest the person.

31 (6) (~~An~~) A police officer may act upon the request of a law  
32 enforcement officer in whose presence a traffic infraction was  
33 committed, to stop, detain, arrest, or issue a notice of traffic  
34 infraction to the driver who is believed to have committed the  
35 infraction. The request by the witnessing officer shall give an  
36 officer the authority to take appropriate action under the laws of the  
37 state of Washington.

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

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

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

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

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

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

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

25 NEW SECTION. **Sec. 2.** A new section is added to chapter 79A.60 RCW  
26 to read as follows:

27 A law enforcement officer investigating at the scene of an accident  
28 involving a vessel regulated under this chapter may issue a notice of  
29 infraction to the operator of a vessel involved in the accident if the  
30 officer has reasonable cause to believe that the operator of the vessel  
31 has committed an infraction in connection with the accident.

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