
SUBSTITUTE HOUSE BILL 2722

State of Washington **63rd Legislature** **2014 Regular Session**

By House Early Learning & Human Services (originally sponsored by Representatives Roberts and Kagi)

READ FIRST TIME 02/04/14.

1 AN ACT Relating to arrest of sixteen and seventeen year olds for
2 domestic violence assault; 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 2013 2nd sp.s. c 35 s 22 are each
5 amended to read 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 (~~((11))~~) (12) of this
12 section.

13 (1) Any police officer having probable cause to believe that a
14 person has committed or is committing a misdemeanor or gross
15 misdemeanor, involving physical harm or threats of harm to any person
16 or property or the unlawful taking of property or involving the use or
17 possession of cannabis, or involving the acquisition, possession, or
18 consumption of alcohol by a person under the age of twenty-one years

1 under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070
2 or 9A.52.080, shall have the authority to arrest the person.

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

6 (a) An order has been issued of which the person has knowledge
7 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09, 26.10,
8 26.26, 26.50, or 74.34 RCW restraining the person and the person has
9 violated the terms of the order restraining the person from acts or
10 threats of violence, or restraining the person from going onto the
11 grounds of or entering a residence, workplace, school, or day care, or
12 prohibiting the person from knowingly coming within, or knowingly
13 remaining within, a specified distance of a location or, in the case of
14 an order issued under RCW 26.44.063, imposing any other restrictions or
15 conditions upon the person; or

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

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

1 the officer shall make every reasonable effort to consider: ~~((+i+))~~
2 (A) The intent to protect victims of domestic violence under RCW
3 10.99.010; ~~((+ii+))~~ (B) the comparative extent of injuries inflicted or
4 serious threats creating fear of physical injury; and ~~((+iii+))~~ (C) the
5 history of domestic violence of each person involved, including whether
6 the conduct was part of an ongoing pattern of abuse; or

7 (d) The person has violated RCW 46.61.502 or 46.61.504 or an
8 equivalent local ordinance and the police officer has knowledge that
9 the person has a prior offense as defined in RCW 46.61.5055 within ten
10 years.

11 (3) Any police officer may arrest a person who is sixteen or
12 seventeen years old and within the preceding four hours has assaulted
13 a family or household member as defined in RCW 10.99.020 and the
14 officer believes: (a) A felonious assault has occurred; (b) an assault
15 has occurred which has resulted in bodily injury to the victim, whether
16 the injury is observable by the responding officer or not; or (c) that
17 any physical action has occurred which was intended to cause another
18 person reasonably to fear imminent serious bodily injury or death. In
19 making the determination to arrest, the officer shall consider: (i)
20 The intent to protect victims of domestic violence under RCW 10.99.010;
21 (ii) the extent of injuries inflicted or serious threats creating fear
22 of physical injury; and (iii) the history of domestic violence or
23 stalking of each person involved, including whether the conduct was
24 part of an ongoing pattern of abuse.

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

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

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

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

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

36 (e) RCW 46.61.503 or 46.25.110, relating to persons having alcohol
37 or THC in their system;

1 (f) RCW 46.20.342, relating to driving a motor vehicle while
2 operator's license is suspended or revoked;

3 (g) RCW 46.61.5249, relating to operating a motor vehicle in a
4 negligent manner.

5 ~~((+4))~~ (5) A law enforcement officer investigating at the scene of
6 a motor vehicle accident may arrest the driver of a motor vehicle
7 involved in the accident if the officer has probable cause to believe
8 that the driver has committed in connection with the accident a
9 violation of any traffic law or regulation.

10 ~~((+5))~~ (6)(a) A law enforcement officer investigating at the scene
11 of a motor vessel accident may arrest the operator of a motor vessel
12 involved in the accident if the officer has probable cause to believe
13 that the operator has committed, in connection with the accident, a
14 criminal violation of chapter 79A.60 RCW.

15 (b) A law enforcement officer investigating at the scene of a motor
16 vessel accident may issue a citation for an infraction to the operator
17 of a motor vessel involved in the accident if the officer has probable
18 cause to believe that the operator has committed, in connection with
19 the accident, a violation of any boating safety law of chapter 79A.60
20 RCW.

21 ~~((+6))~~ (7) Any police officer having probable cause to believe
22 that a person has committed or is committing a violation of RCW
23 79A.60.040 shall have the authority to arrest the person.

24 ~~((+7))~~ (8) An officer may act upon the request of a law
25 enforcement officer in whose presence a traffic infraction was
26 committed, to stop, detain, arrest, or issue a notice of traffic
27 infraction to the driver who is believed to have committed the
28 infraction. The request by the witnessing officer shall give an
29 officer the authority to take appropriate action under the laws of the
30 state of Washington.

31 ~~((+8))~~ (9) Any police officer having probable cause to believe
32 that a person has committed or is committing any act of indecent
33 exposure, as defined in RCW 9A.88.010, may arrest the person.

34 ~~((+9))~~ (10) A police officer may arrest and take into custody,
35 pending release on bail, personal recognizance, or court order, a
36 person without a warrant when the officer has probable cause to believe
37 that 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 ~~((+10+))~~ (11) Any police officer having probable cause to believe
2 that a person has, within twenty-four hours of the alleged violation,
3 committed a violation of RCW 9A.50.020 may arrest such person.

4 ~~((+11+))~~ (12) A police officer having probable cause to believe
5 that a person illegally possesses or illegally has possessed a firearm
6 or 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 ~~((+12+))~~ (13) Except as specifically provided in subsections (2),
12 ~~((+3+))~~ (4), ~~((+4+))~~ (5), and ~~((+7+))~~ (8) of this section, nothing in
13 this section extends or otherwise affects the powers of arrest
14 prescribed in Title 46 RCW.

15 ~~((+13+))~~ (14) No police officer may be held criminally or civilly
16 liable for making an arrest pursuant to subsection (2) or ~~((+9+))~~ (10)
17 of this section if the police officer acts in good faith and without
18 malice.

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