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HOUSE BILL 1226

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State of Washington

64th Legislature

2015 Regular Session

By Representatives Goodman, Kagi, Orwall, Van De Wege, and Ortiz-Self

Read first time 01/15/15. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to arrest of sixteen and seventeen year olds for  
2 domestic violence assault; and reenacting 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 2014 c 202 s 307, 2014 c 100 s 2, and  
5 2014 c 5 s 1 are each reenacted and amended to read as follows:

6 A police officer having probable cause to believe that a person  
7 has committed or is committing a felony shall have the authority to  
8 arrest the person without a warrant. A police officer may arrest a  
9 person without a warrant for committing a misdemeanor or gross  
10 misdemeanor only when the offense is committed in the presence of an  
11 officer, except as provided in subsections (1) through (~~(11)~~) (12)  
12 of this 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  
17 or possession of cannabis, or involving the acquisition, possession,  
18 or consumption of alcohol by a person under the age of twenty-one  
19 years under RCW 66.44.270, or involving criminal trespass under RCW  
20 9A.52.070 or 9A.52.080, shall have the authority to arrest the  
21 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  
4 that:

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

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

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

1 injuries inflicted or serious threats creating fear of physical  
2 injury; and ~~((+iii))~~ (C) the history of domestic violence of each  
3 person involved, including whether the conduct was part of an ongoing  
4 pattern of abuse.

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

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

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

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

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

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

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

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

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

37 ~~((+4))~~ (5) A law enforcement officer investigating at the scene  
38 of a motor vehicle accident may arrest the driver of a motor vehicle  
39 involved in the accident if the officer has probable cause to believe

1 that the driver has committed in connection with the accident a  
2 violation of any traffic law or regulation.

3 ~~((+5))~~ (6)(a) A law enforcement officer investigating at the  
4 scene of a motor vessel accident may arrest the operator of a motor  
5 vessel involved in the accident if the officer has probable cause to  
6 believe that the operator has committed, in connection with the  
7 accident, a criminal violation of chapter 79A.60 RCW.

8 (b) A law enforcement officer investigating at the scene of a  
9 motor vessel accident may issue a citation for an infraction to the  
10 operator of a motor vessel involved in the accident if the officer  
11 has probable cause to believe that the operator has committed, in  
12 connection with the accident, a violation of any boating safety law  
13 of chapter 79A.60 RCW.

14 ~~((+6))~~ (7) Any police officer having probable cause to believe  
15 that a person has committed or is committing a violation of RCW  
16 79A.60.040 shall have the authority to arrest the person.

17 ~~((+7))~~ (8) An officer may act upon the request of a law  
18 enforcement officer in whose presence a traffic infraction was  
19 committed, to stop, detain, arrest, or issue a notice of traffic  
20 infraction to the driver who is believed to have committed the  
21 infraction. The request by the witnessing officer shall give an  
22 officer the authority to take appropriate action under the laws of  
23 the state of Washington.

24 ~~((+8))~~ (9) Any police officer having probable cause to believe  
25 that a person has committed or is committing any act of indecent  
26 exposure, as defined in RCW 9A.88.010, may arrest the person.

27 ~~((+9))~~ (10) A police officer may arrest and take into custody,  
28 pending release on bail, personal recognizance, or court order, a  
29 person without a warrant when the officer has probable cause to  
30 believe that an order has been issued of which the person has  
31 knowledge under chapter 10.14 RCW and the person has violated the  
32 terms of that order.

33 ~~((+10))~~ (11) Any police officer having probable cause to believe  
34 that a person has, within twenty-four hours of the alleged violation,  
35 committed a violation of RCW 9A.50.020 may arrest such person.

36 ~~((+11))~~ (12) A police officer having probable cause to believe  
37 that a person illegally possesses or illegally has possessed a  
38 firearm or other dangerous weapon on private or public elementary or  
39 secondary school premises shall have the authority to arrest the  
40 person.

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

4 ~~((+12+))~~ (13) A law enforcement officer having probable cause to  
5 believe that a person has committed a violation under RCW  
6 77.15.160(4) may issue a citation for an infraction to the person in  
7 connection with the violation.

8 ~~((+13+))~~ (14) A law enforcement officer having probable cause to  
9 believe that a person has committed a criminal violation under RCW  
10 77.15.809 or 77.15.811 may arrest the person in connection with the  
11 violation.

12 ~~((+14+))~~ (15) Except as specifically provided in subsections (2),  
13 ~~((+3+))~~ (4), ~~((+4+))~~ (5), and ~~((+7+))~~ (8) of this section, nothing in  
14 this section extends or otherwise affects the powers of arrest  
15 prescribed in Title 46 RCW.

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

20 ~~((+16+))~~ (17) A police officer shall arrest and keep in custody,  
21 until release by a judicial officer on bail, personal recognizance,  
22 or court order, a person without a warrant when the officer has  
23 probable cause to believe that the person has violated RCW 46.61.502  
24 or 46.61.504 or an equivalent local ordinance and the police officer  
25 has knowledge that the person has a prior offense as defined in RCW  
26 46.61.5055 within ten years.

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