
HOUSE BILL 2279

State of Washington 64th Legislature 2015 2nd Special Session

By Representative Klippert

Prefiled 06/27/15.

1 AN ACT Relating to probable cause for persons in violation of an
2 impaired driving offense; 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) 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
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 years or older and within the preceding
26 four hours has assaulted a family or household member as defined in
27 RCW 10.99.020 and the officer believes: (i) A felonious assault has
28 occurred; (ii) an assault has occurred which has resulted in bodily
29 injury to the victim, whether the injury is observable by the
30 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; or

5 (d) The person has violated RCW 46.61.502 or 46.61.504 or an
6 equivalent local ordinance. The person shall be arrested, booked into
7 jail (which includes being fingerprinted and photographed), and must
8 remain in custody for no less than six hours.

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

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

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

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

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

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

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

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

26 (4) A law enforcement officer investigating at the scene of a
27 motor vehicle accident may arrest the driver of a motor vehicle
28 involved in the accident if the officer has probable cause to believe
29 that the driver has committed in connection with the accident a
30 violation of any traffic law or regulation.

31 (5)(a) A law enforcement officer investigating at the scene of a
32 motor vessel accident may arrest the operator of a motor vessel
33 involved in the accident if the officer has probable cause to believe
34 that the operator has committed, in connection with the accident, a
35 criminal violation of chapter 79A.60 RCW.

36 (b) A law enforcement officer investigating at the scene of a
37 motor vessel accident may issue a citation for an infraction to the
38 operator of a motor vessel involved in the accident if the officer
39 has probable cause to believe that the operator has committed, in

1 connection with the accident, a violation of any boating safety law
2 of chapter 79A.60 RCW.

3 (6) Any police officer having probable cause to believe that a
4 person has committed or is committing a violation of RCW 79A.60.040
5 shall have the authority to arrest the person.

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

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

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

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

24 (11) A police officer having probable cause to believe that a
25 person illegally possesses or illegally has possessed a firearm or
26 other dangerous weapon on private or public elementary or secondary
27 school premises shall have the authority to arrest the person.

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

31 (12) A law enforcement officer having probable cause to believe
32 that a person has committed a violation under RCW 77.15.160(4) may
33 issue a citation for an infraction to the person in connection with
34 the violation.

35 (13) A law enforcement officer having probable cause to believe
36 that a person has committed a criminal violation under RCW 77.15.809
37 or 77.15.811 may arrest the person in connection with the violation.

38 (14) Except as specifically provided in subsections (2), (3),
39 (4), and (7) of this section, nothing in this section extends or
40 otherwise affects the powers of arrest prescribed in Title 46 RCW.

1 (15) No police officer may be held criminally or civilly liable
2 for making an arrest pursuant to subsection (2) or (9) of this
3 section if the police officer acts in good faith and without malice.

4 (16) A police officer shall arrest and keep in custody, until
5 release by a judicial officer on bail, personal recognizance, or
6 court order, a person without a warrant when the officer has probable
7 cause to believe that the person has violated RCW 46.61.502 or
8 46.61.504 or an equivalent local ordinance and the police officer has
9 knowledge that the person has a prior offense as defined in RCW
10 46.61.5055 within ten years.

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