
SENATE BILL 5521

State of Washington

67th Legislature

2022 Regular Session

By Senator Padden

Prefiled 12/09/21.

1 AN ACT Relating to good faith exceptions to the exclusionary
2 evidence rule; adding a new section to chapter 10.58 RCW; creating a
3 new section; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 10.58
6 RCW to read as follows:

7 (1) The court shall not exclude evidence that is otherwise
8 admissible in a criminal proceeding on the basis that the evidence
9 was obtained as a result of an unconstitutional search or seizure if
10 the court determines that the search or seizure was carried out under
11 circumstances in which the peace officer acted with an objectively
12 reasonable good faith belief that his or her conduct was lawful and
13 constitutionally permissible.

14 (2) Circumstances in which a peace officer acted with an
15 objectively reasonable good faith belief that his or her conduct was
16 lawful and constitutionally permissible include, but are not limited
17 to, the following:

18 (a) Obtaining evidence pursuant to a search warrant or an arrest
19 warrant obtained from a neutral and detached magistrate that the
20 peace officer reasonably believes to be valid;

1 (b) Obtaining evidence pursuant to a warrantless search incident
2 to an arrest for violation of a statute or ordinance that is later
3 declared unconstitutional or otherwise invalidated; and

4 (c) Obtaining evidence in reliance upon a court precedent that is
5 later overruled.

6 (3) A showing that a peace officer obtained evidence pursuant to,
7 and within the scope of, a search warrant constitutes prima facie
8 evidence that the peace officer acted with an objectively reasonable
9 good faith belief that his or her conduct was lawful and
10 constitutionally permissible.

11 (4) A court shall not exclude evidence that is otherwise
12 admissible in a criminal proceeding on the basis that the evidence
13 was obtained in violation of a statute, ordinance, or rule unless the
14 court finds one or more of the following:

15 (a) The statute, ordinance, or rule expressly authorizes
16 exclusion of evidence as a sanction for its violation;

17 (b) The violation was deliberate and without justification;

18 (c) There is a substantial likelihood that the reliability of the
19 evidence has been materially affected by the violation; or

20 (d) The exclusion of the evidence is required under the
21 Constitution of the United States or this state.

22 (5) A statute, ordinance, or rule shall not be construed to
23 require or authorize exclusion of evidence in a criminal proceeding
24 under circumstances in which the evidence would be admissible in
25 federal court.

26 (6) This section does not require or authorize the exclusion of
27 evidence in any criminal proceeding.

28 NEW SECTION. **Sec. 2.** This act is retroactive and applies to
29 searches and seizures conducted on, before, or after the effective
30 date of this section.

31 NEW SECTION. **Sec. 3.** If any provision of this act or its
32 application to any person or circumstance is held invalid, the
33 remainder of the act or the application of the provision to other
34 persons or circumstances is not affected.

35 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
36 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes
2 effect immediately.

--- **END** ---