

FINAL BILL REPORT

SHB 2057

C 5 L 14
Synopsis as Enacted

Brief Description: Modifying arrest without warrant provisions.

Sponsors: House Committee on Public Safety (originally sponsored by Representatives Hayes, Hurst, Klippert, Holy, Van De Wege and Hope).

House Committee on Public Safety
Senate Committee on Law & Justice

Background:

A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor offense but only when the offense was committed in the presence of the arresting officer, except for in certain numerous situations enumerated in statute. For example, any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor offense involving physical harm to any person, has the authority to arrest the person. In addition, any police officer having probable cause to believe that a person has violated certain traffic laws such as striking an unattended car has the authority to arrest that person.

In *State v. Ortega*, the Washington State Supreme Court (Court) considered the question as to whether an officer has lawful authority to arrest a gross misdemeanor suspect based only on the observations of another officer and whether an officer who directs an arrest from a remote location is an "arresting officer." In *Ortega*, a police officer positioned on the second floor of a building observed the defendant committing acts that gave the officer probable cause to believe the defendant was committing a gross misdemeanor. The officer then directed another officer by radio to arrest the defendant. The Court ruled that the arrest was unlawful because the officer who arrested the defendant was not present during the commission of the offense and because the officer who observed the defendant could not be deemed to be the arresting officer.

Summary:

A police officer is authorized to arrest a person without a warrant for committing a misdemeanor or gross misdemeanor offense when the offense is committed in the presence of a police officer, though not necessarily the arresting officer.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Votes on Final Passage:

House 93 4

Senate 48 1

Effective: June 12, 2014