

# HOUSE BILL REPORT

## SHB 2057

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### As Passed Legislature

**Title:** An act relating to arrest without warrant.

**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).

#### **Brief History:**

##### **Committee Activity:**

Public Safety: 1/14/14, 1/24/14 [DPS].

##### **Floor Activity:**

Passed House: 2/12/14, 93-4.

Passed Senate: 3/4/14, 48-1.

Passed Legislature.

#### **Brief Summary of Substitute Bill**

- Permits a police officer to arrest a person without a warrant when a misdemeanor or gross misdemeanor offense is committed in the presence of another officer.

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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Holy, Hope, Moscoso, Pettigrew, Ross and Takko.

**Staff:** Jenna Zwang (786-7290) and Yvonne Walker (786-7841).

#### **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 situations enumerated in statute.

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*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.*

In *State v. Ortega*, there was 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." Unless a statutory exception applies, an officer may arrest a misdemeanor suspect without a warrant only if the officer was present when the misdemeanor was committed. The trial court denied Ortega's motion to suppress the evidence, and he was convicted of possession of cocaine with intent to deliver. The Court of Appeals affirmed the conviction. The Washington Supreme Court (Court) reversed the Court of Appeals. The officer who arrested Ortega was not present when the gross misdemeanor occurred, and the record does not support a finding that the officer who observed the offense was an "arresting officer." The Court invited this change in the *Ortega* decision. The dissent encouraged the Legislature to consider an amendment to statute so as not to bar the use of an effective law enforcement tool.

**Summary of Substitute Bill:**

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.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill would give more resources to police officers to positively affect their quality of life. Officers routinely sit in a surveillance room and transfer probable cause to an arresting officer. This bill helps in undercover situations, where it is not appropriate for the officer who witnessed a crime to make contact immediately. This bill would bring Washington in line with other states that have a similar transfer in place, and would be good to combat low-level crimes like organized theft.

Police officers have always thought they could do a transfer of probable cause among officers, and have done so for a long time. It is often used in prostitution investigations, when it is safer to send in uniformed officers rather than someone who is undercover. Officers rely on teamwork to make arrests. It is not always possible for the officer who sees the crime to make the arrest.

This bill is also in response to the *State v. Ortega* case. The Court invited this change in the *Ortega* decision. The dissent encouraged the Legislature to consider an amendment to statute so as not to bar the use of an effective law enforcement tool.

Generally, there is no break in the chain of observation that leads to an officer's conclusion that there is probable cause to arrest. Revealing the locations of surveillance positions has a tendency to compromise police investigations and puts lives in jeopardy. This is the way police have done business for decades.

(Opposed) None.

**Persons Testifying:** Representative Hayes, prime sponsor; Tom McBride, Washington Association of Prosecuting Attorneys; Mitch Barker, Washington Association of Sheriffs and Police Chiefs; Dusty Pierpoint, Lacey Police Department; and Chris Tracy, Washington Council of Police and Sheriffs.

**Persons Signed In To Testify But Not Testifying:** None.