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HOUSE BILL 2019

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State of Washington

54th Legislature

1995 Regular Session

By Representatives Campbell, Benton, D. Schmidt, Smith, Pelesky, McMahan, McMorris, Koster, Stevens and Blanton

Read first time 02/22/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to enhancing public safety through coordination of  
2 agencies; adding a new chapter to Title 10 RCW; and declaring an  
3 emergency.

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

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature to  
6 ensure maximum cooperation between federal employees and local law  
7 enforcement authorities; to ensure that federal employees who carry out  
8 arrests, searches, and seizures in this state receive the best local  
9 knowledge and expertise available; and to prevent misadventure  
10 affecting Washington state citizens and their rights that results from  
11 lack of cooperation or communication between federal employees  
12 operating in Washington state and properly constituted local law  
13 enforcement authorities.

14 NEW SECTION. **Sec. 2.** (1) A federal employee who is not designated  
15 by Washington state law as a general authority Washington peace officer  
16 may not make an arrest, search, or seizure in this state without the  
17 written permission of the sheriff or designee of the sheriff of the  
18 county in which the arrest, search, or seizure will occur unless:

1 (a) The arrest, search, or seizure will take place on a federal  
2 enclave for which jurisdiction has been actively ceded to the United  
3 States of America by a Washington statute;

4 (b) The federal employee witnesses the commission of a crime the  
5 nature of which requires an immediate arrest;

6 (c) The arrest, search, or seizure is under the provisions of  
7 chapter 10.89 RCW;

8 (d) The intended subject of the arrest, search, or seizure is an  
9 employee of the sheriff's office or is an elected county or state  
10 officer; or

11 (e) The federal employee has probable cause to believe that the  
12 subject of the arrest, search, or seizure has close connections with  
13 the sheriff, which connections are likely to result in the subject  
14 being informed of the impending arrest, search, or seizure.

15 (2) The county sheriff or designee of the sheriff may refuse  
16 permission for any reason that the sheriff or designee considers  
17 sufficient.

18 (3) A federal employee who desires to exercise an exception under  
19 subsection (1)(d) of this section shall obtain the written permission  
20 of the Washington state attorney general for the arrest, search, or  
21 seizure unless the resulting delay in obtaining the permission would  
22 probably cause serious harm to one or more individuals or to a  
23 community or would probably cause flight of the subject of the arrest,  
24 search, or seizure in order to avoid prosecution. The attorney general  
25 may refuse the permission for any reason that the attorney general  
26 considers sufficient.

27 (4) A federal employee who desires to exercise an exception under  
28 subsection (1)(e) of this section shall obtain the written permission  
29 of the Washington state attorney general. The request for permission  
30 must include a written statement, under oath, describing the federal  
31 employee's probable cause. The attorney general may refuse the request  
32 for any reason that the attorney general considers sufficient.

33 (5)(a) A request for permission made to the county sheriff or  
34 Washington state attorney general must contain:

35 (i) The name of the subject of the arrest, search, or seizure;

36 (ii) A clear statement of probable cause for the arrest, search, or  
37 seizure or a federal arrest, search, or seizure warrant that contains  
38 a clear statement of probable cause;

1 (iii) A description of specific assets, if any, to be searched for  
2 or seized;

3 (iv) A statement of the date and time that the arrest, search, or  
4 seizure is to occur; and

5 (v) The address or location where the intended arrest, search, or  
6 seizure will be attempted.

7 (b) The request may be in letter form, either typed or handwritten,  
8 but must be countersigned with the original signature of the county  
9 sheriff or designee of the sheriff or by the Washington state attorney  
10 general, to constitute valid permission. The permission is valid for  
11 forty-eight hours after it is signed. The sheriff or attorney general  
12 shall keep a copy of the request for permission on file.

13 NEW SECTION. **Sec. 3.** (1) An arrest, search, or seizure or  
14 attempted arrest, search, or seizure in violation of section 2 of this  
15 act is unlawful, and individuals involved shall be prosecuted by the  
16 county prosecuting attorney for kidnapping if an arrest or attempted  
17 arrest occurred, for trespass if a search or attempted search occurred,  
18 for theft if a seizure or attempted seizure occurred, and for any  
19 applicable homicide offense if loss of life occurred. The individuals  
20 involved must also be charged with any other applicable criminal  
21 offenses in Title 9 or 9A RCW.

22 (2) To the extent possible, the victims' rights provisions of Title  
23 7 RCW must be extended to the victim or victims by the justice system  
24 persons and entities involved in the prosecution.

25 (3) The county prosecuting attorney has no discretion not to  
26 prosecute once a claim of violation of section 2 of this act has been  
27 made by the county sheriff or designee of the sheriff, and failure to  
28 abide by this mandate subjects the county prosecuting attorney to  
29 recall by the voters and to prosecution by the attorney general for  
30 official misconduct.

31 NEW SECTION. **Sec. 4.** Pursuant to the tenth amendment to the  
32 United States Constitution and this state's compact with the other  
33 states, the legislature declares that any federal law purporting to  
34 give federal employees the authority of a county sheriff in this state  
35 is not recognized by and is specifically rejected by this state and is  
36 declared to be invalid in this state.

1        NEW SECTION.    **Sec. 5.**    Sections 1 through 4 of this act shall  
2    constitute a new chapter in Title 10 RCW.

3        NEW SECTION.    **Sec. 6.**    If any provision of this act or its  
4    application to any person or circumstance is held invalid, the  
5    remainder of the act or the application of the provision to other  
6    persons or circumstances is not affected.

7        NEW SECTION.    **Sec. 7.**    This act is necessary for the immediate  
8    preservation of the public peace, health, or safety, or support of the  
9    state government and its existing public institutions, and shall take  
10   effect immediately.

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