
SENATE BILL 5835

State of Washington 54th Legislature 1995 Regular Session

By Senators Johnson, Smith, Roach, McCaslin, Schow, Long and Winsley

Read first time 02/08/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to restraining orders; amending RCW 26.09.050 and
2 26.10.040; 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 1993 c 209 s 1 and 1993 c 128 s 5 are
5 each reenacted and amended to read as follows:

6 A police officer having probable cause to believe that a person has
7 committed or is committing a felony shall have the authority to arrest
8 the person without a warrant. A police officer may arrest a person
9 without a warrant for committing a misdemeanor or gross misdemeanor
10 only when the offense is committed in the presence of the officer,
11 except as provided in subsections (1) through (10) of this section.

12 (1) Any police officer having probable cause to believe that a
13 person has committed or is committing a misdemeanor or gross
14 misdemeanor, involving physical harm or threats of harm to any person
15 or property or the unlawful taking of property or involving the use or
16 possession of cannabis, or involving the acquisition, possession, or
17 consumption of alcohol by a person under the age of twenty-one years
18 under RCW 66.44.270 shall have the authority to arrest the 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 that:

4 (a) An order has been issued of which the person has knowledge
5 under RCW 10.99.040(2), 10.99.050, 26.09.050, 26.09.060, 26.10.040,
6 26.44.063, chapter 26.26 RCW, or chapter 26.50 RCW restraining the
7 person and the person has violated the terms of the order restraining
8 the person from acts or threats of violence or excluding the person
9 from a residence or, in the case of an order issued under RCW
10 26.44.063, imposing any other restrictions or conditions upon the
11 person; or

12 (b) The person is eighteen years or older and within the preceding
13 four hours has assaulted that person's spouse, former spouse, or a
14 person eighteen years or older with whom the person resides or has
15 formerly resided and the officer believes: (i) A felonious assault
16 has occurred; (ii) an assault has occurred which has resulted in bodily
17 injury to the victim, whether the injury is observable by the
18 responding officer or not; or (iii) that any physical action has
19 occurred which was intended to cause another person reasonably to fear
20 imminent serious bodily injury or death. Bodily injury means physical
21 pain, illness, or an impairment of physical condition. When the
22 officer has probable cause to believe that spouses, former spouses, or
23 other persons who reside together or formerly resided together have
24 assaulted each other, the officer is not required to arrest both
25 persons. The officer shall arrest the person whom the officer believes
26 to be the primary physical aggressor. In making this determination,
27 the officer shall make every reasonable effort to consider: (i) The
28 intent to protect victims of domestic violence under RCW 10.99.010;
29 (ii) the comparative extent of injuries inflicted or serious threats
30 creating fear of physical injury; and (iii) the history of domestic
31 violence between the persons involved.

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

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

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

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

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

5 (e) RCW 46.20.342, relating to driving a motor vehicle while
6 operator's license is suspended or revoked;

7 (f) RCW 46.61.525, relating to operating a motor vehicle in a
8 negligent manner.

9 (4) A law enforcement officer investigating at the scene of a motor
10 vehicle accident may arrest the driver of a motor vehicle involved in
11 the accident if the officer has probable cause to believe that the
12 driver has committed in connection with the accident a violation of any
13 traffic law or regulation.

14 (5) Any police officer having probable cause to believe that a
15 person has committed or is committing a violation of RCW ((88.12.100))
16 88.12.025 shall have the authority to arrest the person.

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

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

26 (8) A police officer may arrest and take into custody, pending
27 release on bail, personal recognizance, or court order, a person
28 without a warrant when the officer has probable cause to believe that
29 an order has been issued of which the person has knowledge under
30 chapter 10.14 RCW and the person has violated the terms of that order.

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

34 (10) A police officer having probable cause to believe that a
35 person illegally possesses or illegally has possessed a firearm or
36 other dangerous weapon on private or public elementary or secondary
37 school premises shall have the authority to arrest the person.

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

4 (11) Except as specifically provided in subsections (2), (3), (4),
5 and (6) of this section, nothing in this section extends or otherwise
6 affects the powers of arrest prescribed in Title 46 RCW.

7 (12) No police officer may be held criminally or civilly liable for
8 making an arrest pursuant to RCW 10.31.100 (2) or (8) if the police
9 officer acts in good faith and without malice.

10 **Sec. 2.** RCW 26.09.050 and 1994 sp.s. c 7 s 451 are each amended to
11 read as follows:

12 (1) In entering a decree of dissolution of marriage, legal
13 separation, or declaration of invalidity, the court shall determine the
14 marital status of the parties, make provision for a parenting plan for
15 any minor child of the marriage, make provision for the support of any
16 child of the marriage entitled to support, consider or approve
17 provision for the maintenance of either spouse, make provision for the
18 disposition of property and liabilities of the parties, make provision
19 for the allocation of the children as federal tax exemptions, make
20 provision for any necessary continuing restraining orders including the
21 provisions contained in RCW 9.41.800, and make provision for the change
22 of name of any party.

23 (2) Restraining orders restraining the person from molesting or
24 disturbing another party or from entering a party's home shall bear the
25 legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A
26 CRIMINAL OFFENSE UNDER CHAPTER 26.09 RCW AND WILL SUBJECT A VIOLATOR TO
27 ARREST.

28 (3) The court may order that any restraining order granted under
29 this section be forwarded by the court clerk on or before the next
30 judicial day to the appropriate law enforcement agency specified in the
31 order. Upon receipt of the order, the law enforcement agency shall
32 forthwith enter the order for one year or for the period stated in the
33 order into any computer-based criminal intelligence information system
34 available in this state used by law enforcement agencies to list
35 outstanding warrants. Entry into the law enforcement information
36 system constitutes notice to all law enforcement agencies of the
37 existence of the order. The order is fully enforceable in any county
38 in the state.

1 **Sec. 3.** RCW 26.10.040 and 1994 sp.s. c 7 s 453 are each amended to
2 read as follows:

3 In entering an order under this chapter, the court shall consider,
4 approve, or make provision for:

5 (1) Child custody, visitation, and the support of any child
6 entitled to support;

7 (2) The allocation of the children as a federal tax exemption; and

8 (3) Any necessary continuing restraining orders, including the
9 provisions contained in RCW 9.41.800.

10 (a) Restraining orders restraining the person from molesting or
11 disturbing another party or from entering a party's home shall bear the
12 legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A
13 CRIMINAL OFFENSE UNDER CHAPTER 26.10 RCW AND WILL SUBJECT A VIOLATOR TO
14 ARREST.

15 (b) The court may order that any restraining order granted under
16 this section be forwarded by the court clerk on or before the next
17 judicial day to the appropriate law enforcement agency specified in the
18 order. Upon receipt of the order, the law enforcement agency shall
19 forthwith enter the order for one year or for the period stated in the
20 order into any computer-based criminal intelligence information system
21 available in this state used by law enforcement agencies to list
22 outstanding warrants. Entry into the law enforcement information
23 system constitutes notice to all law enforcement agencies of the
24 existence of the order. The order is fully enforceable in any county
25 in the state.

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