

Judiciary Committee

HB 2000

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

Brief Description: *Expanding police authority for warrantless arrests.*

Sponsors: *Representatives Delvin, Lovick and Hankins.*

Brief Summary of Bill

- *Expands police authority for warrantless arrests.*

Hearing Date: *2/22/01*

Staff: *Katy Freeman (786-7386).*

Background:

The authority of an officer to arrest a person without a warrant is defined and limited by statute. The Legislature has authorized warrantless arrests based on probable cause for all felony offenses and for specified misdemeanor and gross misdemeanor offenses.

Generally, an officer may only make a warrantless arrest for a misdemeanor when the offense is committed in the officer's presence. However, there are several exceptions that permit an officer to make a warrantless arrest for a misdemeanor that is not committed in the officer's presence. For example, an officer may make a warrantless arrest if he or she has probable cause to believe that a person has committed or is committing a misdemeanor offense that involves:

- *physical harm or the threat of physical harm to persons or property;*
- *the use or possession of marijuana;*
- *the violation of a restraining order;*
- *criminal trespass; or*
- *a number of specified traffic offenses.*

Moreover, a law enforcement officer in whose presence a traffic infraction was committed

may ask another officer to stop, detain, arrest, or issue a traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer gives the other officer the authority to take appropriate action.

An officer may make a warrantless arrest of a person committing a boating offense when the person is operating a boat: (1) in a reckless manner, or (2) while under the influence of alcohol or drugs.

A police officer who has probable cause and who acts in good faith and without malice may not be held criminally or civilly liable for arresting a person and taking him or her into custody without a warrant when:

- the person is violating certain restraining orders;*
- certain domestic violence assaults have been committed within the preceding four hours; or*
- there has been a violation of an anti-harassment order.*

Summary of Bill:

A law enforcement officer, in whose presence any misdemeanor or gross misdemeanor was committed, is authorized to ask another officer to stop, detain, arrest, or issue a citation or notice of infraction to the person who is believed to have committed the offense.

Additionally, a law enforcement officer, in whose presence a traffic offense or a boating offense was committed, is authorized to ask another officer to stop, detain, arrest, or issue a citation or notice of infraction to the person who is believed to have committed the offense.

The term boating offense– includes a number of offenses, such as:

- a person operating a vessel in a negligent manner (excessive speeds);*
- a person operating a vessel while under the influence of alcohol or drugs;*
- a person violating vessel equipment standards;*
- a person operating a vessel without floatation devices on board; and*
- an underage person operating a watercraft.*

The term traffic offense– means a gross misdemeanor, misdemeanor, or traffic infraction under the motor vehicle title, including:

- striking an unattended car;*
- operating a motor vehicle in a negligent manner;*
- driving under the influence of alcohol or drugs;*
- vehicular parking, standing, or stopping; and*
- pedestrian offenses.*

A law enforcement officer– means a general authority Washington peace officer, a limited authority Washington peace officer, a specially commissioned Washington peace officer, or a federal peace officer.

In addition to the current statutory immunities, a police officer who acts in good faith and without malice may not be held criminally or civilly liable for arresting a person and taking that person into custody without a warrant when he or she acts upon the request of a law enforcement officer in whose presence any misdemeanor, gross misdemeanor, traffic offense, or boating offense was committed.

Furthermore, a federal peace officer is immune under the same circumstances that a police officer has immunity in this section.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.