
HOUSE BILL 2941

State of Washington

66th Legislature

2020 Regular Session

By Representatives Shea, Walsh, Sutherland, McCaslin, Young, and Jenkin

Read first time 02/16/20. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to protecting the right to keep and bear arms;
2 reenacting and amending RCW 10.31.100; and repealing RCW 7.94.010,
3 7.94.020, 7.94.030, 7.94.040, 7.94.050, 7.94.060, 7.94.070, 7.94.080,
4 7.94.090, 7.94.100, 7.94.110, 7.94.120, 7.94.130, 7.94.140, 7.94.150,
5 and 7.94.900.

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

7 **Sec. 1.** RCW 10.31.100 and 2019 c 263 s 911, 2019 c 246 s 6, 2019
8 c 46 s 5013, and 2019 c 18 s 1 are each reenacted and amended to read
9 as follows:

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

17 (1) Any police officer having probable cause to believe that a
18 person has committed or is committing a misdemeanor or gross
19 misdemeanor, involving physical harm or threats of harm to any person
20 or property or the unlawful taking of property or involving the use
21 or possession of cannabis, or involving the acquisition, possession,

1 or consumption of alcohol by a person under the age of twenty-one
2 years under RCW 66.44.270, or involving criminal trespass under RCW
3 9A.52.070 or 9A.52.080, shall have the authority to arrest the
4 person.

5 (2) A police officer shall arrest and take into custody, pending
6 release on bail, personal recognizance, or court order, a person
7 without a warrant when the officer has probable cause to believe
8 that:

9 (a) An order has been issued of which the person has knowledge
10 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88,
11 10.99, 26.09, 26.10, 26.26A, 26.26B, 26.50, or 74.34 RCW restraining
12 the person and the person has violated the terms of the order
13 restraining the person from acts or threats of violence, or
14 restraining the person from going onto the grounds of or entering a
15 residence, workplace, school, or day care, or prohibiting the person
16 from knowingly coming within, or knowingly remaining within, a
17 specified distance of a location or, in the case of an order issued
18 under RCW 26.44.063, imposing any other restrictions or conditions
19 upon the person;

20 ~~(b) ((An extreme risk protection order has been issued against~~
21 ~~the person under RCW 7.94.040, the person has knowledge of the order,~~
22 ~~and the person has violated the terms of the order prohibiting the~~
23 ~~person from having in his or her custody or control, purchasing,~~
24 ~~possessing, accessing, or receiving a firearm or concealed pistol~~
25 ~~license;~~

26 ~~(e))~~ A foreign protection order, as defined in RCW 26.52.010, or
27 a Canadian domestic violence protection order, as defined in RCW
28 26.55.010, has been issued of which the person under restraint has
29 knowledge and the person under restraint has violated a provision of
30 the foreign protection order or the Canadian domestic violence
31 protection order prohibiting the person under restraint from
32 contacting or communicating with another person, or excluding the
33 person under restraint from a residence, workplace, school, or day
34 care, or prohibiting the person from knowingly coming within, or
35 knowingly remaining within, a specified distance of a location, or a
36 violation of any provision for which the foreign protection order or
37 the Canadian domestic violence protection order specifically
38 indicates that a violation will be a crime; or

39 ~~((d))~~ (c) The person is eighteen years or older and within the
40 preceding four hours has assaulted a family or household member as

1 defined in RCW 10.99.020 and the officer believes: (i) A felonious
2 assault has occurred; (ii) an assault has occurred which has resulted
3 in bodily injury to the victim, whether the injury is observable by
4 the responding officer or not; or (iii) that any physical action has
5 occurred which was intended to cause another person reasonably to
6 fear imminent serious bodily injury or death. Bodily injury means
7 physical pain, illness, or an impairment of physical condition. When
8 the officer has probable cause to believe that family or household
9 members have assaulted each other, the officer is not required to
10 arrest both persons. The officer shall arrest the person whom the
11 officer believes to be the primary physical aggressor. In making this
12 determination, the officer shall make every reasonable effort to
13 consider: (A) The intent to protect victims of domestic violence
14 under RCW 10.99.010; (B) the comparative extent of injuries inflicted
15 or serious threats creating fear of physical injury; and (C) the
16 history of domestic violence of each person involved, including
17 whether the conduct was part of an ongoing pattern of abuse.

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

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

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

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

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

29 (e) RCW 46.61.503 or 46.25.110, relating to persons having
30 alcohol or THC in their system;

31 (f) RCW 46.20.342, relating to driving a motor vehicle while
32 operator's license is suspended or revoked;

33 (g) RCW 46.61.5249, relating to operating a motor vehicle in a
34 negligent manner.

35 (4) A law enforcement officer investigating at the scene of a
36 motor vehicle accident may arrest the driver of a motor vehicle
37 involved in the accident if the officer has probable cause to believe
38 that the driver has committed in connection with the accident a
39 violation of any traffic law or regulation.

1 (5) (a) A law enforcement officer investigating at the scene of a
2 motor vessel accident may arrest the operator of a motor vessel
3 involved in the accident if the officer has probable cause to believe
4 that the operator has committed, in connection with the accident, a
5 criminal violation of chapter 79A.60 RCW.

6 (b) A law enforcement officer investigating at the scene of a
7 motor vessel accident may issue a citation for an infraction to the
8 operator of a motor vessel involved in the accident if the officer
9 has probable cause to believe that the operator has committed, in
10 connection with the accident, a violation of any boating safety law
11 of chapter 79A.60 RCW.

12 (6) Any police officer having probable cause to believe that a
13 person has committed or is committing a violation of RCW 79A.60.040
14 shall have the authority to arrest the person.

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

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

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

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

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

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

1 (12) A law enforcement officer having probable cause to believe
2 that a person has committed a violation under RCW 77.15.160(5) may
3 issue a citation for an infraction to the person in connection with
4 the violation.

5 (13) A law enforcement officer having probable cause to believe
6 that a person has committed a criminal violation under RCW 77.15.809
7 or 77.15.811 may arrest the person in connection with the violation.

8 (14) Except as specifically provided in subsections (2), (3),
9 (4), and (7) of this section, nothing in this section extends or
10 otherwise affects the powers of arrest prescribed in Title 46 RCW.

11 (15) No police officer may be held criminally or civilly liable
12 for making an arrest pursuant to subsection (2) or (9) of this
13 section if the police officer acts in good faith and without malice.

14 (16)(a) Except as provided in (b) of this subsection, a police
15 officer shall arrest and keep in custody, until release by a judicial
16 officer on bail, personal recognizance, or court order, a person
17 without a warrant when the officer has probable cause to believe that
18 the person has violated RCW 46.61.502 or 46.61.504 or an equivalent
19 local ordinance and the police officer: (i) Has knowledge that the
20 person has a prior offense as defined in RCW 46.61.5055 within ten
21 years; or (ii) has knowledge, based on a review of the information
22 available to the officer at the time of arrest, that the person is
23 charged with or is awaiting arraignment for an offense that would
24 qualify as a prior offense as defined in RCW 46.61.5055 if it were a
25 conviction.

26 (b) A police officer is not required to keep in custody a person
27 under (a) of this subsection if the person requires immediate medical
28 attention and is admitted to a hospital.

29 NEW SECTION. **Sec. 2.** The following acts or parts of acts are
30 each repealed:

31 (1) RCW 7.94.010 (Purpose—Intent) and 2019 c 246 s 1 & 2017 c 3 s
32 1 (Initiative Measure No. 1491, approved November 8, 2016);

33 (2) RCW 7.94.020 (Definitions) and 2017 c 3 s 3 (Initiative
34 Measure No. 1491, approved November 8, 2016);

35 (3) RCW 7.94.030 (Petition for order) and 2019 c 246 s 2 & 2017 c
36 3 s 4 (Initiative Measure No. 1491, approved November 8, 2016);

37 (4) RCW 7.94.040 (Hearings on petition—Grounds for order
38 issuance) and 2019 c 246 s 3 & 2017 c 3 s 5 (Initiative Measure No.
39 1491, approved November 8, 2016);

1 (5) RCW 7.94.050 (Ex parte orders) and 2017 c 3 s 6 (Initiative
2 Measure No. 1491, approved November 8, 2016);
3 (6) RCW 7.94.060 (Service of orders) and 2019 c 246 s 4 & 2017 c
4 3 s 7 (Initiative Measure No. 1491, approved November 8, 2016);
5 (7) RCW 7.94.070 (Service by publication or mail) and 2017 c 3 s
6 8 (Initiative Measure No. 1491, approved November 8, 2016);
7 (8) RCW 7.94.080 (Termination and renewal of orders) and 2017 c 3
8 s 9 (Initiative Measure No. 1491, approved November 8, 2016);
9 (9) RCW 7.94.090 (Firearms—Surrender) and 2017 c 3 s 10
10 (Initiative Measure No. 1491, approved November 8, 2016);
11 (10) RCW 7.94.100 (Firearms—Return—Disposal) and 2017 c 3 s 11
12 (Initiative Measure No. 1491, approved November 8, 2016);
13 (11) RCW 7.94.110 (Reporting of orders) and 2017 c 3 s 12
14 (Initiative Measure No. 1491, approved November 8, 2016);
15 (12) RCW 7.94.120 (Penalties) and 2017 c 3 s 13 (Initiative
16 Measure No. 1491, approved November 8, 2016);
17 (13) RCW 7.94.130 (Other authority retained) and 2017 c 3 s 14
18 (Initiative Measure No. 1491, approved November 8, 2016);
19 (14) RCW 7.94.140 (Liability) and 2017 c 3 s 15 (Initiative
20 Measure No. 1491, approved November 8, 2016);
21 (15) RCW 7.94.150 (Instructional and informational material) and
22 2019 c 246 s 5 & 2017 c 3 s 16 (Initiative Measure No. 1491, approved
23 November 8, 2016); and
24 (16) RCW 7.94.900 (Short title—2017 c 3 (Initiative Measure No.
25 1491)) and 2017 c 3 s 2 (Initiative Measure No. 1491, approved
26 November 8, 2016).

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