S-3231.1

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**SENATE BILL 5521**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senator Padden

AN ACT Relating to good faith exceptions to the exclusionary evidence rule; adding a new section to chapter 10.58 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. **Sec.**  A new section is added to chapter 10.58 RCW to read as follows:

(1) The court shall not exclude evidence that is otherwise admissible in a criminal proceeding on the basis that the evidence was obtained as a result of an unconstitutional search or seizure if the court determines that the search or seizure was carried out under circumstances in which the peace officer acted with an objectively reasonable good faith belief that his or her conduct was lawful and constitutionally permissible.

(2) Circumstances in which a peace officer acted with an objectively reasonable good faith belief that his or her conduct was lawful and constitutionally permissible include, but are not limited to, the following:

(a) Obtaining evidence pursuant to a search warrant or an arrest warrant obtained from a neutral and detached magistrate that the peace officer reasonably believes to be valid;

(b) Obtaining evidence pursuant to a warrantless search incident to an arrest for violation of a statute or ordinance that is later declared unconstitutional or otherwise invalidated; and

(c) Obtaining evidence in reliance upon a court precedent that is later overruled.

(3) A showing that a peace officer obtained evidence pursuant to, and within the scope of, a search warrant constitutes prima facie evidence that the peace officer acted with an objectively reasonable good faith belief that his or her conduct was lawful and constitutionally permissible.

(4) A court shall not exclude evidence that is otherwise admissible in a criminal proceeding on the basis that the evidence was obtained in violation of a statute, ordinance, or rule unless the court finds one or more of the following:

(a) The statute, ordinance, or rule expressly authorizes exclusion of evidence as a sanction for its violation;

(b) The violation was deliberate and without justification;

(c) There is a substantial likelihood that the reliability of the evidence has been materially affected by the violation; or

(d) The exclusion of the evidence is required under the Constitution of the United States or this state.

(5) A statute, ordinance, or rule shall not be construed to require or authorize exclusion of evidence in a criminal proceeding under circumstances in which the evidence would be admissible in federal court.

(6) This section does not require or authorize the exclusion of evidence in any criminal proceeding.

NEW SECTION. **Sec.**  This act is retroactive and applies to searches and seizures conducted on, before, or after the effective date of this section.

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

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

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