
SENATE BILL 5709

State of Washington

67th Legislature

2022 Regular Session

By Senator Padden

Prefiled 01/06/22.

1 AN ACT Relating to attenuation exceptions to the exclusionary
2 evidence rule; adding a new section to chapter 10.58 RCW; creating a
3 new section; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 10.58
6 RCW to read as follows:

7 (1) The court shall not exclude evidence that is otherwise
8 admissible in a criminal proceeding on the basis that the evidence
9 was obtained as a result of an unconstitutional search or seizure if
10 the court determines that the connection between unconstitutional
11 conduct and the evidence collected has been interrupted by an
12 intervening event or events such that the interest protected by
13 Article 1, section 7 of the Washington state Constitution would not
14 be served by suppressing the evidence.

15 (2) In making its determination, the court shall consider the
16 temporal proximity of the official misconduct and the collection of
17 evidence, the presence of intervening circumstances, and the purpose
18 and flagrancy of the official misconduct.

19 (3) Circumstances in which intervening circumstances constitute a
20 sufficient attenuation between the official misconduct and the

1 collection of evidence include, but are not limited to, the
2 following:

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

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

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

11 (4) A showing that a peace officer obtained evidence pursuant to,
12 and within the scope of, a search warrant constitutes prima facie
13 evidence that the peace officer's action was lawful and
14 constitutionally permissible.

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

17 NEW SECTION. **Sec. 2.** This act is retroactive and applies to
18 searches and seizures conducted on, before, or after the effective
19 date of this section.

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

24 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
25 preservation of the public peace, health, or safety, or support of
26 the state government and its existing public institutions, and takes
27 effect immediately.

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