
SENATE BILL 6122

State of Washington 52nd Legislature 1992 Regular Session

By Senators Sutherland, L. Smith, Bauer, Rasmussen and Gaspard

Read first time 01/16/92. Referred to Committee on Law & Justice.

1 AN ACT Relating to arrest without warrant; and amending RCW
2 10.31.100.

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

4 **Sec. 1.** RCW 10.31.100 and 1988 c 190 s 1 are each amended to read
5 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 (~~(+8)~~) (9) of this
12 section.

13 (1) Any police officer having probable cause to believe that a
14 person has committed or is committing a misdemeanor or gross

1 misdemeanor, involving physical harm or threats of harm to any person
2 or property or the unlawful taking of property or involving the use or
3 possession of cannabis, or involving the acquisition, possession, or
4 consumption of alcohol by a person under the age of twenty-one years
5 under RCW 66.44.270 shall have the authority to arrest the person.

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

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

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

1 the officer shall make every reasonable effort to consider: (i) The
2 intent to protect victims of domestic violence under RCW 10.99.010;
3 (ii) the comparative extent of injuries inflicted or serious threats
4 creating fear of physical injury; and (iii) the history of domestic
5 violence between the persons involved.

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

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

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

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

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

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

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

21 (4) A law enforcement officer investigating at the scene of a motor
22 vehicle accident may arrest the driver of a motor vehicle involved in
23 the accident if the officer has probable cause to believe that the
24 driver has committed in connection with the accident a violation of any
25 traffic law or regulation.

26 (5) Any police officer having probable cause to believe that a
27 person has committed or is committing a violation of RCW 88.02.095
28 shall have the authority to arrest the person.

29 (6) An officer may act upon the request of a law enforcement
30 officer in whose presence a traffic infraction was committed, to stop,

1 detain, arrest, or issue a notice of traffic infraction to the driver
2 who is believed to have committed the infraction. The request by the
3 witnessing officer shall give an officer the authority to take
4 appropriate action under the laws of the state of Washington.

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

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

13 (9) A police officer having probable cause to believe that a person
14 has committed or is committing a violation of RCW 9.41.280 shall have
15 the authority to arrest the person.

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

19 ~~((10))~~ (11) No police officer may be held criminally or civilly
20 liable for making an arrest pursuant to RCW 10.31.100(2) or (8) if the
21 police officer acts in good faith and without malice.