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**SUBSTITUTE SENATE BILL 5176**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senate Committee on Education (originally sponsored by Senators McAuliffe, Eide, Long, Costa, Goings, Oke, Winsley and Rasmussen)

Read first time 02/03/1999.

1 AN ACT Relating to refusals to leave school property; and amending  
2 RCW 28A.635.020 and 10.31.100.

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

4 **Sec. 1.** RCW 28A.635.020 and 1997 c 266 s 6 are each amended to  
5 read as follows:

6 (1) It shall be unlawful for any person to willfully disobey the  
7 order of the chief administrative officer of a public school district,  
8 or of an authorized designee of any such administrator, to leave any  
9 motor vehicle, building, grounds or other property which is owned,  
10 operated or controlled by the school district if the person so ordered  
11 is under the influence of alcohol or drugs, or is committing, threatens  
12 to imminently commit or incites another to imminently commit any act  
13 which would disturb or interfere with or obstruct any lawful task,  
14 function, process or procedure of the school district or any lawful  
15 task, function, process or procedure of any student, official, employee  
16 or invitee of the school district. The order of a school officer or  
17 designee acting pursuant to this subsection shall be valid if the  
18 officer or designee reasonably believes a person ordered to leave is

1 under the influence of alcohol or drugs, is committing acts, or is  
2 creating a disturbance as provided in this subsection.

3 (2) It shall be unlawful for any person to refuse to leave public  
4 property immediately adjacent to a building, grounds or property which  
5 is owned, operated or controlled by a school district when ordered to  
6 do so by a law enforcement officer if such person is engaging in  
7 conduct which creates a substantial risk of causing injury to any  
8 person, or substantial harm to property, or such conduct amounts to  
9 disorderly conduct under RCW 9A.84.030.

10 (3) Nothing in this section shall be construed to prohibit or  
11 penalize activity consisting of the lawful exercise of freedom of  
12 speech, freedom of press and the right to peaceably assemble and  
13 petition the government for a redress of grievances: PROVIDED, That  
14 such activity neither does or threatens imminently to materially  
15 disturb or interfere with or obstruct any lawful task, function,  
16 process or procedure of the school district, or any lawful task,  
17 function, process or procedure of any student, official, employee or  
18 invitee of the school district: PROVIDED FURTHER, That such activity  
19 is not conducted in violation of a prohibition or limitation lawfully  
20 imposed by the school district upon entry or use of any motor vehicle,  
21 building, grounds or other property which is owned, operated or  
22 controlled by the school district.

23 (4) A law enforcement officer may arrest and take into custody,  
24 pending release on bail, personal recognizance, or court order, a  
25 person without a warrant if the officer has probable cause to believe  
26 that the person has willfully refused to leave school grounds after  
27 being ordered to do so by a law enforcement officer who reasonably  
28 believes that the person ordered to leave is committing acts or is  
29 creating a disturbance, as prohibited by this section.

30 (5) Any person guilty of violating this section shall be deemed  
31 guilty of a gross misdemeanor punishable as provided in chapter 9A.20  
32 RCW.

33 **Sec. 2.** RCW 10.31.100 and 1997 c 66 s 10 are each amended to read  
34 as follows:

35 A police officer having probable cause to believe that a person has  
36 committed or is committing a felony shall have the authority to arrest  
37 the person without a warrant. A police officer may arrest a person  
38 without a warrant for committing a misdemeanor or gross misdemeanor

1 only when the offense is committed in the presence of the officer,  
2 except as provided in subsections (1) through (~~(+10+)~~) (11) of this  
3 section.

4 (1) Any police officer having probable cause to believe that a  
5 person has committed or is committing a misdemeanor or gross  
6 misdemeanor, involving physical harm or threats of harm to any person  
7 or property or the unlawful taking of property or involving the use or  
8 possession of cannabis, or involving the acquisition, possession, or  
9 consumption of alcohol by a person under the age of twenty-one years  
10 under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070  
11 or 9A.52.080, shall have the authority to arrest the person.

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

15 (a) An order has been issued of which the person has knowledge  
16 under RCW 10.99.040(2), 10.99.050, 26.09.050, 26.09.060, 26.10.040,  
17 26.10.115, 26.44.063, chapter 26.26 RCW, or chapter 26.50 RCW  
18 restraining the person and the person has violated the terms of the  
19 order restraining the person from acts or threats of violence or  
20 restraining the person from going onto the grounds of or entering a  
21 residence, workplace, school, or day care or, in the case of an order  
22 issued under RCW 26.44.063, imposing any other restrictions or  
23 conditions upon the person; or

24 (b) The person is sixteen years or older and within the preceding  
25 four hours has assaulted a family or household member as defined in RCW  
26 10.99.020 and the officer believes: (i) A felonious assault has  
27 occurred; (ii) an assault has occurred which has resulted in bodily  
28 injury to the victim, whether the injury is observable by the  
29 responding officer or not; or (iii) that any physical action has  
30 occurred which was intended to cause another person reasonably to fear  
31 imminent serious bodily injury or death. Bodily injury means physical  
32 pain, illness, or an impairment of physical condition. When the  
33 officer has probable cause to believe that family or household members  
34 have assaulted each other, the officer is not required to arrest both  
35 persons. The officer shall arrest the person whom the officer believes  
36 to be the primary physical aggressor. In making this determination,  
37 the officer shall make every reasonable effort to consider: (i) The  
38 intent to protect victims of domestic violence under RCW 10.99.010;  
39 (ii) the comparative extent of injuries inflicted or serious threats

1 creating fear of physical injury; and (iii) the history of domestic  
2 violence between the persons involved.

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

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

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

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

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

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

16 (f) RCW 46.61.5249, relating to operating a motor vehicle in a  
17 negligent manner.

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

23 (5) Any police officer having probable cause to believe that a  
24 person has committed or is committing a violation of RCW 88.12.025  
25 shall have the authority to arrest the person.

26 (6) An officer may act upon the request of a law enforcement  
27 officer in whose presence a traffic infraction was committed, to stop,  
28 detain, arrest, or issue a notice of traffic infraction to the driver  
29 who is believed to have committed the infraction. The request by the  
30 witnessing officer shall give an officer the authority to take  
31 appropriate action under the laws of the state of Washington.

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

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

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

4 (10) A police officer having probable cause to believe that a  
5 person illegally possesses or illegally has possessed a firearm or  
6 other dangerous weapon on private or public elementary or secondary  
7 school premises shall have the authority to arrest the person.

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

11 (11) A police officer may arrest and take into custody, pending  
12 release on bail, personal recognizance, or court order, a person  
13 without a warrant when the officer has probable cause to believe that  
14 the person has willfully refused to leave school grounds after being  
15 ordered to do so by a police officer who reasonably believes that the  
16 person ordered to leave is committing acts or is creating a  
17 disturbance, as prohibited by RCW 28A.635.020.

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

21 ~~((12))~~ (13) No police officer may be held criminally or civilly  
22 liable for making an arrest pursuant to RCW 10.31.100 (2) or (8) if the  
23 police officer acts in good faith and without malice.

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