
SENATE BILL 5176

State of Washington

56th Legislature

1999 Regular Session

By Senators McAuliffe, Eide, Long, Costa, Goings, Oke, Winsley and Rasmussen

Read first time 01/15/1999. Referred to Committee on Education.

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 shall 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 school official or a law enforcement
28 officer who reasonably believes that the person ordered to leave is
29 committing acts or is creating a disturbance, as prohibited by this
30 section.

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

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

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

1 without a warrant for committing a misdemeanor or gross misdemeanor
2 only when the offense is committed in the presence of the officer,
3 except as provided in subsections (1) through (~~(10)~~) (11) of this
4 section.

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

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

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

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

1 (ii) the comparative extent of injuries inflicted or serious threats
2 creating fear of physical injury; and (iii) the history of domestic
3 violence between the persons involved.

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

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

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

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

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

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

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

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

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

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

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

36 (8) A police officer may arrest and take into custody, pending
37 release on bail, personal recognizance, or court order, a person
38 without a warrant when the officer has probable cause to believe that

1 an order has been issued of which the person has knowledge under
2 chapter 10.14 RCW and the person has violated the terms of that order.

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

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

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

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

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

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

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