
SENATE BILL 5618

State of Washington

65th Legislature

2017 Regular Session

By Senators Darneille and Keiser

Read first time 02/01/17. Referred to Committee on Human Services,
Mental Health & Housing.

1 AN ACT Relating to arrest of sixteen and seventeen year olds for
2 domestic violence assault; and reenacting and amending RCW 10.31.100.

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

4 **Sec. 1.** RCW 10.31.100 and 2016 c 203 s 9 and 2016 c 113 s 1 are
5 each reenacted and amended to read as follows:

6 A police officer having probable cause to believe that a person
7 has committed or is committing a felony shall have the authority to
8 arrest the person without a warrant. A police officer may arrest a
9 person without a warrant for committing a misdemeanor or gross
10 misdemeanor only when the offense is committed in the presence of an
11 officer, except as provided in subsections (1) through (12) 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
15 misdemeanor, involving physical harm or threats of harm to any person
16 or property or the unlawful taking of property or involving the use
17 or possession of cannabis, or involving the acquisition, possession,
18 or consumption of alcohol by a person under the age of twenty-one
19 years under RCW 66.44.270, or involving criminal trespass under RCW
20 9A.52.070 or 9A.52.080, shall have the authority to arrest the
21 person.

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

5 (a) An order has been issued of which the person has knowledge
6 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09,
7 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the
8 person has violated the terms of the order restraining the person
9 from acts or threats of violence, or restraining the person from
10 going onto the grounds of or entering a residence, workplace, school,
11 or day care, or prohibiting the person from knowingly coming within,
12 or knowingly remaining within, a specified distance of a location or,
13 in the case of an order issued under RCW 26.44.063, imposing any
14 other restrictions or conditions upon the person; or

15 (b) A foreign protection order, as defined in RCW 26.52.010, has
16 been issued of which the person under restraint has knowledge and the
17 person under restraint has violated a provision of the foreign
18 protection order prohibiting the person under restraint from
19 contacting or communicating with another person, or excluding the
20 person under restraint from a residence, workplace, school, or day
21 care, or prohibiting the person from knowingly coming within, or
22 knowingly remaining within, a specified distance of a location, or a
23 violation of any provision for which the foreign protection order
24 specifically indicates that a violation will be a crime; or

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

1 or serious threats creating fear of physical injury; and (C) the
2 history of domestic violence of each person involved, including
3 whether the conduct was part of an ongoing pattern of abuse.

4 (3) ((A)) Any police officer shall, at the request of a parent or
5 guardian, arrest the sixteen or seventeen year old child of that
6 parent or guardian if the officer has probable cause to believe that
7 the child has assaulted a family or household member as defined in
8 RCW 10.99.020 in the preceding four hours and the officer believes:

9 (a) A felonious assault has occurred; (b) an assault has occurred
10 which has resulted in bodily injury to the victim, whether the injury
11 is observable by the responding officer or not; or (c) that any
12 physical action has occurred which was intended to cause another
13 person reasonably to fear imminent serious bodily injury or death. In
14 making the determination to arrest, the officer shall consider: (i)
15 The intent to protect victims of domestic violence under RCW
16 10.99.010; (ii) the extent of injuries inflicted or serious threats
17 creating fear of physical injury; and (iii) the history of domestic
18 violence or stalking of each person involved, including whether the
19 conduct was part of an ongoing pattern of abuse. Nothing in this
20 subsection removes a police officer's existing authority provided in
21 this section to make an arrest.

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

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

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

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

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

33 (e) RCW 46.61.503 or 46.25.110, relating to persons having
34 alcohol or THC in their system;

35 (f) RCW 46.20.342, relating to driving a motor vehicle while
36 operator's license is suspended or revoked;

37 (g) RCW 46.61.5249, relating to operating a motor vehicle in a
38 negligent manner.

39 (5) A law enforcement officer investigating at the scene of a
40 motor vehicle accident may arrest the driver of a motor vehicle

1 involved in the accident if the officer has probable cause to believe
2 that the driver has committed in connection with the accident a
3 violation of any traffic law or regulation.

4 (6)(a) A law enforcement officer investigating at the scene of a
5 motor vessel accident may arrest the operator of a motor vessel
6 involved in the accident if the officer has probable cause to believe
7 that the operator has committed, in connection with the accident, a
8 criminal violation of chapter 79A.60 RCW.

9 (b) A law enforcement officer investigating at the scene of a
10 motor vessel accident may issue a citation for an infraction to the
11 operator of a motor vessel involved in the accident if the officer
12 has probable cause to believe that the operator has committed, in
13 connection with the accident, a violation of any boating safety law
14 of chapter 79A.60 RCW.

15 (7) Any police officer having probable cause to believe that a
16 person has committed or is committing a violation of RCW 79A.60.040
17 shall have the authority to arrest the person.

18 (8) An officer may act upon the request of a law enforcement
19 officer in whose presence a traffic infraction was committed, to
20 stop, detain, arrest, or issue a notice of traffic infraction to the
21 driver who is believed to have committed the infraction. The request
22 by the witnessing officer shall give an officer the authority to take
23 appropriate action under the laws of the state of Washington.

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

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

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

36 (12) A police officer having probable cause to believe that a
37 person illegally possesses or illegally has possessed a firearm or
38 other dangerous weapon on private or public elementary or secondary
39 school premises shall have the authority to arrest the person.

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

4 (13) A law enforcement officer having probable cause to believe
5 that a person has committed a violation under RCW 77.15.160(4) may
6 issue a citation for an infraction to the person in connection with
7 the violation.

8 (14) A law enforcement officer having probable cause to believe
9 that a person has committed a criminal violation under RCW 77.15.809
10 or 77.15.811 may arrest the person in connection with the violation.

11 (15) Except as specifically provided in subsections (2), (4),
12 (5), and (8) of this section, nothing in this section extends or
13 otherwise affects the powers of arrest prescribed in Title 46 RCW.

14 (16) No police officer may be held criminally or civilly liable
15 for making an arrest pursuant to subsection (2) or (10) of this
16 section if the police officer acts in good faith and without malice.

17 (17)(a) Except as provided in (b) of this subsection, a police
18 officer shall arrest and keep in custody, until release by a judicial
19 officer on bail, personal recognizance, or court order, a person
20 without a warrant when the officer has probable cause to believe that
21 the person has violated RCW 46.61.502 or 46.61.504 or an equivalent
22 local ordinance and the police officer has knowledge that the person
23 has a prior offense as defined in RCW 46.61.5055 within ten years.

24 (b) A police officer is not required to keep in custody a person
25 under (a) of this subsection if the person requires immediate medical
26 attention and is admitted to a hospital.

27 ~~((18) A juvenile detention facility shall book into detention
28 any person under age eighteen brought to that detention facility
29 pursuant to an arrest for assaulting a family or household member as
30 defined in RCW 10.99.020.))~~

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