

SSB 5027 - S AMD 32
By Senator Dhingra

ADOPTED 03/05/2019

1 On page 11, after line 34, insert the following:

2 "Sec. 7. RCW 10.31.100 and 2017 c 336 s 3 and 2017 c 223 s 1 are
3 each reenacted and amended to read as follows:

4 A police officer having probable cause to believe that a person
5 has committed or is committing a felony shall have the authority to
6 arrest the person without a warrant. A police officer may arrest a
7 person without a warrant for committing a misdemeanor or gross
8 misdemeanor only when the offense is committed in the presence of an
9 officer, except as provided in subsections (1) through (11) of this
10 section.

11 (1) Any police officer having probable cause to believe that a
12 person has committed or is committing a misdemeanor or gross
13 misdemeanor, involving physical harm or threats of harm to any person
14 or property or the unlawful taking of property or involving the use
15 or possession of cannabis, or involving the acquisition, possession,
16 or consumption of alcohol by a person under the age of twenty-one
17 years under RCW 66.44.270, or involving criminal trespass under RCW
18 9A.52.070 or 9A.52.080, shall have the authority to arrest the
19 person.

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

24 (a) An order has been issued of which the person has knowledge
25 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09,
26 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the
27 person has violated the terms of the order restraining the person
28 from acts or threats of violence, or restraining the person from
29 going onto the grounds of or entering a residence, workplace, school,
30 or day care, or prohibiting the person from knowingly coming within,
31 or knowingly remaining within, a specified distance of a location or,

1 in the case of an order issued under RCW 26.44.063, imposing any
2 other restrictions or conditions upon the person; (~~(e)~~)

3 (b) An extreme risk protection order has been issued against the
4 person under RCW 7.94.040, the person has knowledge of the order, and
5 the person has violated the terms of the order prohibiting the person
6 from having in his or her custody or control, purchasing, possessing,
7 accessing, or receiving a firearm or concealed pistol license;

8 (c) A foreign protection order, as defined in RCW 26.52.010, has
9 been issued of which the person under restraint has knowledge and the
10 person under restraint has violated a provision of the foreign
11 protection order prohibiting the person under restraint from
12 contacting or communicating with another person, or excluding the
13 person under restraint from a residence, workplace, school, or day
14 care, or prohibiting the person from knowingly coming within, or
15 knowingly remaining within, a specified distance of a location, or a
16 violation of any provision for which the foreign protection order
17 specifically indicates that a violation will be a crime; or

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

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

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

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

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

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

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

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

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

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

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

25 (b) A law enforcement officer investigating at the scene of a
26 motor vessel accident may issue a citation for an infraction to the
27 operator of a motor vessel involved in the accident if the officer
28 has probable cause to believe that the operator has committed, in
29 connection with the accident, a violation of any boating safety law
30 of chapter 79A.60 RCW.

31 (6) Any police officer having probable cause to believe that a
32 person has committed or is committing a violation of RCW 79A.60.040
33 shall have the authority to arrest the person.

34 (7) An officer may act upon the request of a law enforcement
35 officer in whose presence a traffic infraction was committed, to
36 stop, detain, arrest, or issue a notice of traffic infraction to the
37 driver who is believed to have committed the infraction. The request
38 by the witnessing officer shall give an officer the authority to take
39 appropriate action under the laws of the state of Washington.

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

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

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

13 (11) A police officer having probable cause to believe that a
14 person illegally possesses or illegally has possessed a firearm or
15 other dangerous weapon on private or public elementary or secondary
16 school premises shall have the authority to arrest the person.

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

20 (12) A law enforcement officer having probable cause to believe
21 that a person has committed a violation under RCW 77.15.160(~~((4))~~)
22 (5) may issue a citation for an infraction to the person in
23 connection with the violation.

24 (13) A law enforcement officer having probable cause to believe
25 that a person has committed a criminal violation under RCW 77.15.809
26 or 77.15.811 may arrest the person in connection with the violation.

27 (14) Except as specifically provided in subsections (2), (3),
28 (4), and (7) of this section, nothing in this section extends or
29 otherwise affects the powers of arrest prescribed in Title 46 RCW.

30 (15) No police officer may be held criminally or civilly liable
31 for making an arrest pursuant to subsection (2) or (9) of this
32 section if the police officer acts in good faith and without malice.

33 (16)(a) Except as provided in (b) of this subsection, a police
34 officer shall arrest and keep in custody, until release by a judicial
35 officer on bail, personal recognizance, or court order, a person
36 without a warrant when the officer has probable cause to believe that
37 the person has violated RCW 46.61.502 or 46.61.504 or an equivalent
38 local ordinance and the police officer: (i) Has knowledge that the
39 person has a prior offense as defined in RCW 46.61.5055 within ten
40 years; or (ii) has knowledge, based on a review of the information

1 available to the officer at the time of arrest, that the person is
2 charged with or is awaiting arraignment for an offense that would
3 qualify as a prior offense as defined in RCW 46.61.5055 if it were a
4 conviction.

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

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8 On page 1, line 1 of the title, after "orders;" strike "and"

9 On page 1, line 2 of the title, after "7.94.150" insert "; and
10 reenacting and amending RCW 10.31.100"

EFFECT: Authorizes a police officer to arrest a person without a
warrant when the officer has probable cause to believe that the
person has violated an Extreme Risk Protection Order.

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