

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5027

Chapter 246, Laws of 2019

66th Legislature
2019 Regular Session

EXTREME RISK PROTECTION ORDERS--VARIOUS PROVISIONS

EFFECTIVE DATE: July 28, 2019

Passed by the Senate April 18, 2019
Yeas 31 Nays 18

CYRUS HABIB

President of the Senate

Passed by the House April 4, 2019
Yeas 56 Nays 37

FRANK CHOPP

Speaker of the House of Representatives

Approved May 7, 2019 9:47 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5027** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

May 13, 2019

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5027

AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By Senate Law & Justice (originally sponsored by Senators Frockt, Carlyle, Palumbo, Wellman, Pedersen, Keiser, Saldaña, Mullet, and O'Ban)

READ FIRST TIME 01/25/19.

1 AN ACT Relating to extreme risk protection orders; amending RCW
2 7.94.010, 7.94.030, 7.94.040, 7.94.060, and 7.94.150; and reenacting
3 and amending RCW 10.31.100.

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

5 **Sec. 1.** RCW 7.94.010 and 2017 c 3 s 1 are each amended to read
6 as follows:

7 (1) Chapter 3, Laws of 2017 is designed to temporarily prevent
8 individuals who are at high risk of harming themselves or others from
9 accessing firearms by allowing family, household members, and police
10 to obtain a court order when there is demonstrated evidence that the
11 person poses a significant danger, including danger as a result of
12 (~~a dangerous mental health crisis~~) threatening or violent behavior.

13 (2) Every year, over one hundred thousand people are victims of
14 gunshot wounds and more than thirty thousand of those victims lose
15 their lives. Over the last five years for which data is available,
16 one hundred sixty-four thousand eight hundred twenty-one people in
17 America were killed with firearms—an average of ninety-one deaths
18 each day.

19 (3) Studies show that individuals who engage in certain dangerous
20 behaviors are significantly more likely to commit violence toward
21 themselves or others in the near future. These behaviors, which can

1 include other acts or threats of violence, self-harm, or the abuse of
2 drugs or alcohol, are warning signs that the person may soon commit
3 an act of violence.

4 (4) Individuals who pose a danger to themselves or others often
5 exhibit signs that alert family, household members, or law
6 enforcement to the threat. Many mass shooters displayed warning signs
7 prior to their killings, but federal and state laws provided no clear
8 legal process to suspend the shooters' access to guns, even
9 temporarily.

10 (5) In enacting (~~this initiative [chapter 3, Laws of 2017]~~)
11 chapter 3, Laws of 2017, it is the purpose and intent of the people
12 to reduce gun deaths and injuries, while respecting constitutional
13 rights, by providing a court procedure for family, household members,
14 and law enforcement to obtain an order temporarily restricting a
15 person's access to firearms. Court orders are intended to be limited
16 to situations in which the person poses a significant danger of
17 harming themselves or others by possessing a firearm and include
18 standards and safeguards to protect the rights of respondents and due
19 process of law.

20 **Sec. 2.** RCW 7.94.030 and 2017 c 3 s 4 are each amended to read
21 as follows:

22 There shall exist an action known as a petition for an extreme
23 risk protection order.

24 (1) A petition for an extreme risk protection order may be filed
25 by (a) a family or household member of the respondent or (b) a law
26 enforcement officer or agency.

27 (2) A petition for an extreme risk protection order may be
28 brought against a respondent under the age of eighteen years. No
29 guardian or guardian ad litem need be appointed on behalf of a
30 respondent to an action under this chapter if such respondent is
31 sixteen years of age or older. If a guardian ad litem is appointed
32 for the petitioner or respondent, the petitioner must not be required
33 to pay any fee associated with such appointment.

34 (3) An action under this chapter must be filed in the county
35 where the petitioner resides or the county where the respondent
36 resides.

37 (~~(3)~~) (4) A petition must:

38 (a) Allege that the respondent poses a significant danger of
39 causing personal injury to self or others by having in his or her

1 custody or control, purchasing, possessing, accessing, or receiving a
2 firearm, and be accompanied by an affidavit made under oath stating
3 the specific statements, actions, or facts that give rise to a
4 reasonable fear of future dangerous acts by the respondent;

5 (b) Identify the number, types, and locations of any firearms the
6 petitioner believes to be in the respondent's current ownership,
7 possession, custody, access, or control;

8 (c) Identify whether there is a known existing protection order
9 governing the respondent, under chapter 7.90, 7.92, 10.14, 9A.46,
10 10.99, 26.50, or 26.52 RCW or under any other applicable statute; and

11 (d) Identify whether there is a pending lawsuit, complaint,
12 petition, or other action between the parties to the petition under
13 the laws of Washington.

14 (~~(4)~~) (5) The court administrator shall verify the terms of any
15 existing order governing the parties. The court may not delay
16 granting relief because of the existence of a pending action between
17 the parties or the necessity of verifying the terms of an existing
18 order. A petition for an extreme risk protection order may be granted
19 whether or not there is a pending action between the parties. Relief
20 under this chapter must not be denied or delayed on the grounds that
21 relief is available in another action.

22 (~~(5)~~) (6) If the petitioner is a law enforcement officer or
23 agency, the petitioner shall make a good faith effort to provide
24 notice to a family or household member of the respondent and to any
25 known third party who may be at risk of violence. The notice must
26 state that the petitioner intends to petition the court for an
27 extreme risk protection order or has already done so, and include
28 referrals to appropriate resources, including (~~mental~~) behavioral
29 health, domestic violence, and counseling resources. The petitioner
30 must attest in the petition to having provided such notice, or attest
31 to the steps that will be taken to provide such notice.

32 (~~(6)~~) (7) If the petition states that disclosure of the
33 petitioner's address would risk harm to the petitioner or any member
34 of the petitioner's family or household, the petitioner's address may
35 be omitted from all documents filed with the court. If the petitioner
36 has not disclosed an address under this subsection, the petitioner
37 must designate an alternative address at which the respondent may
38 serve notice of any motions. If the petitioner is a law enforcement
39 officer or agency, the address of record must be that of the law
40 enforcement agency.

1 ~~((7))~~ (8) Within ninety days of receipt of the master copy from
2 the administrative office of the courts, all court clerk's offices
3 shall make available the standardized forms, instructions, and
4 informational brochures required by RCW 7.94.150. Any assistance or
5 information provided by clerks under this section does not constitute
6 the practice of law and clerks are not responsible for incorrect
7 information contained in a petition.

8 ~~((8))~~ (9) No fees for filing or service of process may be
9 charged by a court or any public agency to petitioners seeking relief
10 under this chapter. Petitioners shall be provided the necessary
11 number of certified copies, forms, and instructional brochures free
12 of charge.

13 ~~((9))~~ (10) A person is not required to post a bond to obtain
14 relief in any proceeding under this section.

15 ~~((10))~~ (11) The superior courts of the state of Washington have
16 jurisdiction over proceedings under this chapter. The juvenile court
17 may hear a proceeding under this chapter if the respondent is under
18 the age of eighteen years. Additionally, district and municipal
19 courts have limited jurisdiction over issuance and enforcement of ex
20 parte extreme risk protection orders issued under RCW 7.94.050. The
21 district or municipal court shall set the full hearing provided for
22 in RCW 7.94.040 in superior court and transfer the case. If the
23 notice and order are not served on the respondent in time for the
24 full hearing, the issuing court has concurrent jurisdiction with the
25 superior court to extend the ex parte extreme risk protection order.

26 (12)(a) Any person restrained by an extreme risk protection order
27 against a respondent under the age of eighteen may petition the court
28 to have the court records sealed from public view at the time of
29 issuance of the full order, at any time during the life of the order,
30 or at any time after its expiration.

31 (b) The court shall seal the court records from public view if
32 there are no other active protection orders against the restrained
33 party, no pending violations of the order, and evidence of full
34 compliance with the relinquishment of firearms as ordered by the
35 extreme risk protection order.

36 (c) Nothing in this subsection changes the requirement for the
37 order to be entered into and maintained in computer-based systems as
38 required in RCW 7.94.110.

39 (13) The court shall give law enforcement priority at any extreme
40 risk protection order calendar because of the importance of immediate

1 temporary removal of firearms in situations of extreme risk and the
2 goal of minimizing the time law enforcement must otherwise wait for a
3 particular case to be called, which can hinder their other patrol and
4 supervisory duties. In the alternative, the court may allow a law
5 enforcement petitioner to participate telephonically, or allow
6 another representative from that law enforcement agency or the
7 prosecutor's office to present the information to the court if
8 personal presence of the petitioning officer is not required for
9 testimonial purposes.

10 (14) Recognizing that an extreme risk protection order may need
11 to be issued outside of normal business hours, courts shall allow law
12 enforcement petitioners to petition after-hours for an ex parte
13 extreme risk protection order using an on-call, after-hours judge, as
14 is done for approval of after-hours search warrants.

15 **Sec. 3.** RCW 7.94.040 and 2017 c 3 s 5 are each amended to read
16 as follows:

17 (1) Upon receipt of the petition, the court shall order a hearing
18 to be held not later than fourteen days from the date of the order
19 and issue a notice of hearing to the respondent for the same.

20 (a) The court may schedule a hearing by telephone pursuant to
21 local court rule, to reasonably accommodate a disability, or in
22 exceptional circumstances to protect a petitioner from potential
23 harm. The court shall require assurances of the petitioner's identity
24 before conducting a telephonic hearing.

25 (b) The court clerk shall cause a copy of the notice of hearing
26 and petition to be forwarded on or before the next judicial day to
27 the appropriate law enforcement agency for service upon the
28 respondent.

29 (c) Personal service of the notice of hearing and petition shall
30 be made upon the respondent by a law enforcement officer not less
31 than five court days prior to the hearing. Service issued under this
32 section takes precedence over the service of other documents, unless
33 the other documents are of a similar emergency nature. If timely
34 personal service cannot be made, the court shall set a new hearing
35 date and shall either require additional attempts at obtaining
36 personal service or permit service by publication or mail as provided
37 in RCW 7.94.070. The court shall not require more than two attempts
38 at obtaining personal service and shall permit service by publication
39 or mail after two attempts at obtaining personal service unless the

1 petitioner requests additional time to attempt personal service. If
2 the court issues an order permitting service by publication or mail,
3 the court shall set the hearing date not later than twenty-four days
4 from the date the order issues.

5 (d) The court may, as provided in RCW 7.94.050, issue an ex parte
6 extreme risk protection order pending the hearing ordered under this
7 subsection (1). Such ex parte order must be served concurrently with
8 the notice of hearing and petition.

9 (2) Upon hearing the matter, if the court finds by a
10 preponderance of the evidence that the respondent poses a significant
11 danger of causing personal injury to self or others by having in his
12 or her custody or control, purchasing, possessing, or receiving a
13 firearm, the court shall issue an extreme risk protection order for a
14 period of one year.

15 (3) In determining whether grounds for an extreme risk protection
16 order exist, the court may consider any relevant evidence including,
17 but not limited to, any of the following:

18 (a) A recent act or threat of violence by the respondent against
19 self or others, whether or not such violence or threat of violence
20 involves a firearm;

21 (b) A pattern of acts or threats of violence by the respondent
22 within the past twelve months including, but not limited to, acts or
23 threats of violence by the respondent against self or others;

24 (c) Any ~~((dangerous mental health issues of the respondent))~~
25 behaviors that present an imminent threat of harm to self or others;

26 (d) A violation by the respondent of a protection order or a no-
27 contact order issued under chapter 7.90, 7.92, 10.14, 9A.46, 10.99,
28 26.50, or 26.52 RCW;

29 (e) A previous or existing extreme risk protection order issued
30 against the respondent;

31 (f) A violation of a previous or existing extreme risk protection
32 order issued against the respondent;

33 (g) A conviction of the respondent for a crime that constitutes
34 domestic violence as defined in RCW 10.99.020;

35 (h) A conviction of the respondent under RCW 9A.36.080;

36 (i) The respondent's ownership, access to, or intent to possess
37 firearms;

38 ~~((i))~~ (j) The unlawful or reckless use, display, or brandishing
39 of a firearm by the respondent;

1 ~~((j))~~ (k) The history of use, attempted use, or threatened use
2 of physical force by the respondent against another person, or the
3 respondent's history of stalking another person;

4 ~~((k))~~ (l) Any prior arrest of the respondent for a felony
5 offense or violent crime;

6 ~~((l))~~ (m) Corroborated evidence of the abuse of controlled
7 substances or alcohol by the respondent; and

8 ~~((m))~~ (n) Evidence of recent acquisition of firearms by the
9 respondent.

10 (4) The court may:

11 (a) Examine under oath the petitioner, the respondent, and any
12 witnesses they may produce, or, in lieu of examination, consider
13 sworn affidavits of the petitioner, the respondent, and any witnesses
14 they may produce; and

15 (b) Ensure that a reasonable search has been conducted for
16 criminal history records related to the respondent.

17 (5) In a hearing under this chapter, the rules of evidence apply
18 to the same extent as in a domestic violence protection order
19 proceeding under chapter 26.50 RCW.

20 (6) During the hearing, the court shall consider whether a
21 ~~((mental))~~ behavioral health evaluation ~~((or—chemical—dependency~~
22 ~~evaluation))~~ is appropriate, and may order such evaluation if
23 appropriate.

24 (7) An extreme risk protection order must include:

25 (a) A statement of the grounds supporting the issuance of the
26 order;

27 (b) The date and time the order was issued;

28 (c) The date and time the order expires;

29 (d) Whether a ~~((mental))~~ behavioral health evaluation ~~((or~~
30 ~~chemical—dependency—evaluation))~~ of the respondent is required;

31 (e) The address of the court in which any responsive pleading
32 should be filed;

33 (f) A description of the requirements for relinquishment of
34 firearms under RCW 7.94.090; and

35 (g) The following statement: "To the subject of this protection
36 order: This order will last until the date and time noted above. If
37 you have not done so already, you must surrender to the (insert name
38 of local law enforcement agency) all firearms in your custody,
39 control, or possession and any concealed pistol license issued to you
40 under RCW 9.41.070 immediately. You may not have in your custody or

1 control, purchase, possess, receive, or attempt to purchase or
2 receive, a firearm while this order is in effect. You have the right
3 to request one hearing to terminate this order every twelve-month
4 period that this order is in effect, starting from the date of this
5 order and continuing through any renewals. You may seek the advice of
6 an attorney as to any matter connected with this order."

7 (8) When the court issues an extreme risk protection order, the
8 court shall inform the respondent that he or she is entitled to
9 request termination of the order in the manner prescribed by RCW
10 7.94.080. The court shall provide the respondent with a form to
11 request a termination hearing.

12 (9) If the court declines to issue an extreme risk protection
13 order, the court shall state the particular reasons for the court's
14 denial.

15 **Sec. 4.** RCW 7.94.060 and 2017 c 3 s 7 are each amended to read
16 as follows:

17 (1) An extreme risk protection order issued under RCW 7.94.040
18 must be personally served upon the respondent, except as otherwise
19 provided in this chapter.

20 (2) The law enforcement agency with jurisdiction in the area in
21 which the respondent resides shall serve the respondent personally,
22 unless the petitioner elects to have the respondent served by a
23 private party.

24 (3) If service by a law enforcement agency is to be used, the
25 clerk of the court shall cause a copy of the order issued under this
26 chapter to be forwarded on or before the next judicial day to the law
27 enforcement agency specified in the order for service upon the
28 respondent. Service of an order issued under this chapter takes
29 precedence over the service of other documents, unless the other
30 documents are of a similar emergency nature.

31 (4) If the law enforcement agency cannot complete service upon
32 the respondent within ten days, the law enforcement agency shall
33 notify the petitioner. The petitioner shall provide information
34 sufficient to permit such notification.

35 (5) If an order entered by the court recites that the respondent
36 appeared in person before the court, the necessity for further
37 service is waived and proof of service of that order is not
38 necessary.

1 (6) If the court previously entered an order allowing service of
2 the notice of hearing and petition, or an ex parte extreme risk
3 protection order, by publication or mail under RCW 7.94.070, or if
4 the court finds there are now grounds to allow such alternate
5 service, the court may permit service by publication or mail of the
6 extreme risk protection order issued under this chapter as provided
7 in RCW 7.94.070. The court order must state whether the court
8 permitted service by publication or service by mail.

9 (7)(a) When an extreme risk protection order is issued against a
10 minor under the age of eighteen, a copy of the order must be served
11 on the parent or guardian of the minor at any address where the minor
12 resides, or the department of children, youth, and families in the
13 case where the minor is the subject of a dependency or court approved
14 out-of-home placement.

15 (b) The court shall provide written notice of the legal
16 obligation to safely secure any firearm on the premises and the
17 potential for criminal prosecution if a prohibited person were to
18 obtain access to the firearm as provided in RCW 9.41.360, which shall
19 be served by law enforcement on the parent or guardian of the minor
20 at any address where the minor resides, or the department of
21 children, youth, and families in the case where the minor is the
22 subject of a dependency or court approved out-of-home placement.
23 Notice may be provided at the time the parent or guardian of the
24 respondent appears in court or may be served along with a copy of the
25 order.

26 (8) Returns of service under this chapter must be made in
27 accordance with the applicable court rules.

28 **Sec. 5.** RCW 7.94.150 and 2017 c 3 s 16 are each amended to read
29 as follows:

30 (1) The administrative office of the courts shall develop and
31 prepare instructions and informational brochures, standard petitions
32 and extreme risk protection order forms, and a court staff handbook
33 on the extreme risk protection order process. The standard petition
34 and order forms must be used after June 1, 2017, for all petitions
35 filed and orders issued under this chapter. The instructions,
36 brochures, forms, and handbook shall be prepared in consultation with
37 interested persons, including representatives of gun violence
38 prevention groups, judges, and law enforcement personnel. Materials

1 must be based on best practices and available electronically online
2 to the public.

3 (a) The instructions must be designed to assist petitioners in
4 completing the petition, and must include a sample of a standard
5 petition and order for protection forms.

6 (b) The instructions and standard petition must include a means
7 for the petitioner to identify, with only lay knowledge, the firearms
8 the respondent may own, (~~(possesses—[possess])~~) possess, receive, or
9 have in his or her custody or control. The instructions must provide
10 pictures of types of firearms that the petitioner may choose from to
11 identify the relevant firearms, or an equivalent means to allow
12 petitioners to identify firearms without requiring specific or
13 technical knowledge regarding the firearms.

14 (c) The informational brochure must describe the use of and the
15 process for obtaining, modifying, and terminating an extreme risk
16 protection order under this chapter, and provide relevant forms.

17 (d) The extreme risk protection order form must include, in a
18 conspicuous location, notice of criminal penalties resulting from
19 violation of the order, and the following statement: "You have the
20 sole responsibility to avoid or refrain from violating this order's
21 provisions. Only the court can change the order and only upon written
22 application."

23 (e) The court staff handbook must allow for the addition of a
24 community resource list by the court clerk.

25 (2) All court clerks may create a community resource list of
26 crisis intervention, (~~(mental)~~) behavioral health, (~~(substance~~
27 ~~abuse,~~)
28 interpreter, counseling, and other relevant resources
29 serving the county in which the court is located. The court may make
30 the community resource list available as part of or in addition to
31 the informational brochures described in subsection (1) of this
32 section.

33 (3) The administrative office of the courts shall distribute a
34 master copy of the petition and order forms, instructions, and
35 informational brochures to all court clerks and shall distribute a
36 master copy of the petition and order forms to all superior,
37 district, and municipal courts. Distribution of all documents shall,
38 at a minimum, be in an electronic format or formats accessible to all
courts and court clerks in the state.

1 (4) For purposes of this section, "court clerks" means court
2 administrators in courts of limited jurisdiction and elected court
3 clerks.

4 (5) The administrative office of the courts shall determine the
5 significant non-English-speaking or limited-English-speaking
6 populations in the state. The administrator shall then arrange for
7 translation of the instructions and informational brochures required
8 by this section, which shall contain a sample of the standard
9 petition and order for protection forms, into the languages spoken by
10 those significant non-English-speaking populations and shall
11 distribute a master copy of the translated instructions and
12 informational brochures to all court clerks by December 1, 2017.

13 (6) The administrative office of the courts shall update the
14 instructions, brochures, standard petition and extreme risk
15 protection order forms, and court staff handbook as necessary,
16 including when changes in the law make an update necessary.

17 (7) Consistent with the provisions of this section, the
18 administrative office of the courts shall develop and prepare:

19 (a) A standard petition and order form for an extreme risk
20 protection order sought against a respondent under eighteen years of
21 age, titled "Extreme Risk Protection Order - Respondent Under 18
22 Years";

23 (b) Pattern forms to assist in streamlining the process for those
24 persons who are eligible to seal records relating to an order under
25 (a) of this subsection, including:

26 (i) A petition and declaration the respondent can complete to
27 ensure that requirements for public sealing have been met; and

28 (ii) An order sealing the court records relating to that order;
29 and

30 (c) An informational brochure to be served on any respondent who
31 is subject to a temporary or full order under (a) of this subsection.

32 **Sec. 6.** RCW 10.31.100 and 2017 c 336 s 3 and 2017 c 223 s 1 are
33 each reenacted and amended to read as follows:

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

1 officer, except as provided in subsections (1) through (11) of this
2 section.

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

16 (a) An order has been issued of which the person has knowledge
17 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09,
18 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the
19 person has violated the terms of the order restraining the person
20 from acts or threats of violence, or restraining the person from
21 going onto the grounds of or entering a residence, workplace, school,
22 or day care, or prohibiting the person from knowingly coming within,
23 or knowingly remaining within, a specified distance of a location or,
24 in the case of an order issued under RCW 26.44.063, imposing any
25 other restrictions or conditions upon the person; ((~~or~~))

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

31 (c) A foreign protection order, as defined in RCW 26.52.010, has
32 been issued of which the person under restraint has knowledge and the
33 person under restraint has violated a provision of the foreign
34 protection order prohibiting the person under restraint from
35 contacting or communicating with another person, or excluding the
36 person under restraint from a residence, workplace, school, or day
37 care, or prohibiting the person from knowingly coming within, or
38 knowingly remaining within, a specified distance of a location, or a
39 violation of any provision for which the foreign protection order
40 specifically indicates that a violation will be a crime; or

1 (~~(e)~~) (d) The person is eighteen years or older and within the
2 preceding four hours has assaulted a family or household member as
3 defined in RCW 10.99.020 and the officer believes: (i) A felonious
4 assault has occurred; (ii) an assault has occurred which has resulted
5 in bodily injury to the victim, whether the injury is observable by
6 the responding officer or not; or (iii) that any physical action has
7 occurred which was intended to cause another person reasonably to
8 fear imminent serious bodily injury or death. Bodily injury means
9 physical pain, illness, or an impairment of physical condition. When
10 the officer has probable cause to believe that family or household
11 members have assaulted each other, the officer is not required to
12 arrest both persons. The officer shall arrest the person whom the
13 officer believes to be the primary physical aggressor. In making this
14 determination, the officer shall make every reasonable effort to
15 consider: (A) The intent to protect victims of domestic violence
16 under RCW 10.99.010; (B) the comparative extent of injuries inflicted
17 or serious threats creating fear of physical injury; and (C) the
18 history of domestic violence of each person involved, including
19 whether the conduct was part of an ongoing pattern of abuse.

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

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

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

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

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

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

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

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

37 (4) A law enforcement officer investigating at the scene of a
38 motor vehicle accident may arrest the driver of a motor vehicle
39 involved in the accident if the officer has probable cause to believe

1 that the driver has committed in connection with the accident a
2 violation of any traffic law or regulation.

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

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

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

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

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

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

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

35 (11) A police officer having probable cause to believe that a
36 person illegally possesses or illegally has possessed a firearm or
37 other dangerous weapon on private or public elementary or secondary
38 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 (12) A law enforcement officer having probable cause to believe
5 that a person has committed a violation under RCW 77.15.160(~~(+4)~~)
6 (5) may issue a citation for an infraction to the person in
7 connection with the violation.

8 (13) 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 (14) Except as specifically provided in subsections (2), (3),
12 (4), and (7) of this section, nothing in this section extends or
13 otherwise affects the powers of arrest prescribed in Title 46 RCW.

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

17 (16)(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: (i) Has knowledge that the
23 person has a prior offense as defined in RCW 46.61.5055 within ten
24 years; or (ii) has knowledge, based on a review of the information
25 available to the officer at the time of arrest, that the person is
26 charged with or is awaiting arraignment for an offense that would
27 qualify as a prior offense as defined in RCW 46.61.5055 if it were a
28 conviction.

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

Passed by the Senate April 18, 2019.

Passed by the House April 4, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

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