
HOUSE BILL 2722

State of Washington

63rd Legislature

2014 Regular Session

By Representatives Roberts and Kagi

Read first time 01/28/14. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to arrest of sixteen and seventeen year olds for
2 domestic violence assault; 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 2013 2nd sp.s. c 35 s 22 are each
5 amended to read as follows:

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

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

1 (2) Except as provided in (c) of this subsection, a police officer
2 shall arrest and take into custody, pending release on bail, personal
3 recognizance, or court order, a person without a warrant when the
4 officer has probable cause to believe 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, 26.10,
7 26.26, 26.50, or 74.34 RCW restraining the person and the person has
8 violated the terms of the order restraining the person from acts or
9 threats of violence, or restraining the person from going onto the
10 grounds of or entering a residence, workplace, school, or day care, or
11 prohibiting the person from knowingly coming within, or knowingly
12 remaining within, a specified distance of a location or, in the case of
13 an order issued under RCW 26.44.063, imposing any other restrictions or
14 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 contacting
19 or communicating with another person, or excluding the person under
20 restraint from a residence, workplace, school, or day care, or
21 prohibiting the person from knowingly coming within, or knowingly
22 remaining within, a specified distance of a location, or a violation of
23 any provision for which the foreign protection order specifically
24 indicates that a violation will be a crime; or

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

1 make every reasonable effort to consider: ~~((+i+))~~ (I) The intent to
2 protect victims of domestic violence under RCW 10.99.010; ~~((+ii+))~~ (II)
3 the comparative extent of injuries inflicted or serious threats
4 creating fear of physical injury; and ~~((+iii+))~~ (III) the history of
5 domestic violence of each person involved, including whether the
6 conduct was part of an ongoing pattern of abuse;

7 (ii) If a person is age sixteen or seventeen years and within the
8 preceding four hours has assaulted a family or household member as
9 defined in RCW 10.99.020 and the officer believes a nonfelonious
10 assault has occurred which has resulted in bodily injury to the victim,
11 whether the injury is observable by the responding officer or not, the
12 officer may take the person to a nonsecure facility that provides or
13 has access to family intervention services if, after screening by the
14 county juvenile detention facility, the staff at the detention facility
15 determines that the person may be placed in such a facility and that
16 such a facility is reasonably accessible, and the staff, in
17 coordination with law enforcement, arranges for the admission of the
18 youth to such nonsecure facility; or

19 (d) The person has violated RCW 46.61.502 or 46.61.504 or an
20 equivalent local ordinance and the police officer has knowledge that
21 the person has a prior offense as defined in RCW 46.61.5055 within ten
22 years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (13) No police officer may be held criminally or civilly liable for
12 making an arrest pursuant to subsection (2) or (9) of this section if
13 the police officer acts in good faith and without malice. No police
14 officer may be held criminally or civilly liable if the officer, in
15 good faith and without malice and pursuant to subsection (2)(c) of this
16 section, takes a person to a nonsecure facility.

--- END ---