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HOUSE BILL 2057

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State of Washington                      63rd Legislature                      2013 Regular Session

By Representatives Hayes, Hurst, Klippert, Holy, Van De Wege, and Hope

Read first time 04/25/13. Referred to Committee on Public Safety.

1            AN ACT Relating to arrest without warrant; and amending RCW  
2 10.31.100.

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

4            **Sec. 1.** RCW 10.31.100 and 2010 c 274 s 201 are each amended to  
5 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~~) an  
11 officer, except as provided in subsections (1) through (10) 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 or  
17 possession of cannabis, or involving the acquisition, possession, or  
18 consumption of alcohol by a person under the age of twenty-one years

1 under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070  
2 or 9A.52.080, shall have the authority to arrest the person.

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (5) Any police officer having probable cause to believe that a  
28 person has committed or is committing a violation of RCW 79A.60.040  
29 shall have the authority to arrest the person.

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

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

1 (8) A police officer may 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 that  
4 an order has been issued of which the person has knowledge under  
5 chapter 10.14 RCW and the person has violated the terms of that order.

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

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

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

16 (11) Except as specifically provided in subsections (2), (3), (4),  
17 and (6) of this section, nothing in this section extends or otherwise  
18 affects the powers of arrest prescribed in Title 46 RCW.

19 (12) No police officer may be held criminally or civilly liable for  
20 making an arrest pursuant to subsection (2) or (8) of this section if  
21 the police officer acts in good faith and without malice.

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