

RCW 10.31.100 Arrest without warrant. A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of an officer, except as provided in subsections (1) through (11) of this section.

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

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

(a) A domestic violence protection order, a sexual assault protection order, a stalking protection order, or a vulnerable adult protection order has been issued, of which the person has knowledge, under chapter 7.105 RCW, or an order has been issued, of which the person has knowledge, under RCW 26.44.063, or chapter 9A.40, 9A.46, 9A.88, 10.99, 26.09, 26.26A, 26.26B, or 74.34 RCW, or any of the former chapters 7.90, 7.92, and 26.50 RCW, restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of, or entering, a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, a protected party's person, or a protected party's vehicle, or requiring the person to submit to electronic monitoring, or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person;

(b) An extreme risk protection order has been issued against the person under chapter 7.105 RCW or former RCW 7.94.040, the person has knowledge of the order, and the person has violated the terms of the order prohibiting the person from having in the person's custody or control, purchasing, possessing, accessing, or receiving a firearm or concealed pistol license;

(c) A foreign protection order, as defined in RCW 26.52.010, or a Canadian domestic violence protection order, as defined in RCW 26.55.010, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order or the Canadian domestic violence protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, a protected party's person, or a protected party's vehicle, or a violation of any provision for which the foreign protection order or the Canadian domestic violence protection order specifically indicates that a violation will be a crime; or

(d) The person is eighteen years or older and within the preceding four hours has assaulted a family or household member or intimate partner as defined in RCW 10.99.020 and the officer believes:

(i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members or intimate partners have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary aggressor. In making this determination, the officer shall make every reasonable effort to consider: (A) The intent to protect victims of domestic violence under RCW 10.99.010; (B) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (C) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

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

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

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

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

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

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

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

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

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

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

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

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

(7) An officer may act upon the request of a law enforcement officer, in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request

by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

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

(9) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an antiharassment protection order has been issued of which the person has knowledge under chapter 7.105 RCW or former chapter 10.14 RCW and the person has violated the terms of that order.

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

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

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

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

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

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

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

(16)(a) Except as provided in (b) of this subsection, a police officer shall arrest and keep in custody, until release by a judicial officer on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that the person has violated RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and the police officer: (i) Has knowledge that the person has a prior offense as defined in RCW 46.61.5055 within ten years; or (ii) has knowledge, based on a review of the information available to the officer at the time of arrest, that the person is charged with or is awaiting arraignment for an offense that would qualify as a prior offense as defined in RCW 46.61.5055 if it were a conviction.

(b) A police officer is not required to keep in custody a person under (a) of this subsection if the person requires immediate medical attention and is admitted to a hospital. [2023 c 462 § 702; 2021 c 215 § 118; 2020 c 29 § 10. Prior: 2019 c 263 § 911; 2019 c 246 § 6; 2019 c 46 § 5013; 2019 c 18 § 1; prior: 2017 c 336 § 3; 2017 c 223 § 1; prior: 2016 c 203 § 9; 2016 c 113 § 1; prior: 2014 c 202 § 307; 2014 c 100 § 2; 2014 c 5 § 1; 2013 2nd sp.s. c 35 § 22; prior: 2013 c 278 § 4; 2013 c 84 § 32; 2010 c 274 § 201; 2006 c 138 § 23; 2000 c 119 § 4; 1999 c 184 § 14; 1997 c 66 § 10; 1996 c 248 § 4; prior: 1995 c 246 § 20; 1995 c 184 § 1; 1995 c 93 § 1; prior: 1993 c 209 § 1; 1993 c 128 § 5; 1988 c 190 § 1; prior: 1987 c 280 § 20; 1987 c 277 § 2; 1987

c 154 § 1; 1987 c 66 § 1; prior: 1985 c 303 § 9; 1985 c 267 § 3; 1984 c 263 § 19; 1981 c 106 § 1; 1980 c 148 § 8; 1979 ex.s. c 28 § 1; 1969 ex.s. c 198 § 1.]

Effective date—2022 c 268; 2021 c 215: See note following RCW 7.105.900.

Effective date—2020 c 29: See note following RCW 7.77.060.

Effective date—2019 c 263 §§ 901-915, 1001, and 1002: See RCW 26.55.903.

Finding—2017 c 336: See note following RCW 9.96.060.

Findings—2014 c 202: See note following RCW 77.135.010.

Intent—2010 c 274: "The legislature intends to improve the lives of persons who suffer from the adverse effects of domestic violence and to require reasonable, coordinated measures to prevent domestic violence from occurring. The legislature intends to give law enforcement and the courts better tools to identify violent perpetrators of domestic violence and hold them accountable. The legislature intends to: Increase the safety afforded to individuals who seek protection of public and private agencies involved in domestic violence prevention; improve the ability of agencies to address the needs of victims and their children and the delivery of services; upgrade the quality of treatment programs; and enhance the ability of the justice system to respond quickly and fairly to domestic violence. In order to improve the lives of persons who have, or may suffer, the effects of domestic violence the legislature intends to achieve more uniformity in the decision-making processes at public and private agencies that address domestic violence by reducing inconsistencies and duplications allowing domestic violence victims to achieve safety and stability in their lives." [2010 c 274 § 101.]

Application—2000 c 119: "The penalties prescribed in this act apply to violations of court orders which occur on or after July 1, 2000, regardless of the date the court issued the order." [2000 c 119 § 31.]

Short title—1999 c 184: See RCW 26.52.900.

Effective date—1995 c 184: "This act shall take effect January 1, 1996. Prior to that date, law enforcement agencies, prosecuting authorities, and local governments are encouraged to develop and adopt arrest and charging guidelines regarding criminal trespass." [1995 c 184 § 2.]

Effective date—1993 c 128: See RCW 9A.50.902.

Arrest procedure involving traffic violations: Chapter 46.64 RCW.

Uniform Controlled Substances Act: Chapter 69.50 RCW.