

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1550

Chapter 184, Laws of 1995

54th Legislature
1995 Regular Session

CRIMINAL TRESPASS--ARREST WITHOUT WARRANT

EFFECTIVE DATE: 1/1/96

Passed by the House March 10, 1995
Yeas 98 Nays 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Passed by the Senate April 7, 1995
Yeas 40 Nays 2

JOEL PRITCHARD

President of the Senate

Approved May 1, 1995

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1550** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN

Chief Clerk

FILED

May 1, 1995 - 11:26 a.m.

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 1550

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By Representatives Smith, Scott, Blanton, Benton, Campbell, Mielke, Huff, Lambert, Sheahan, Robertson, Carrell, McMahan, Padden, Delvin, Thompson and Kremen

Read first time 01/30/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to authority of police to arrest without a warrant;
2 reenacting and amending RCW 10.31.100; and providing an effective date.

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

4 **Sec. 1.** RCW 10.31.100 and 1993 c 209 s 1 and 1993 c 128 s 5 are
5 each reenacted and 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 (10) 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) A police officer shall 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 (a) An order has been issued of which the person has knowledge
5 under RCW 10.99.040(2), 10.99.050, 26.09.060, 26.44.063, chapter 26.26
6 RCW, or chapter 26.50 RCW restraining the person and the person has
7 violated the terms of the order restraining the person from acts or
8 threats of violence or excluding the person from a residence or, in the
9 case of an order issued under RCW 26.44.063, imposing any other
10 restrictions or conditions upon the person; or

11 (b) The person is eighteen years or older and within the preceding
12 four hours has assaulted that person's spouse, former spouse, or a
13 person eighteen years or older with whom the person resides or has
14 formerly resided and the officer believes: (i) A felonious assault
15 has occurred; (ii) an assault has occurred which has resulted in bodily
16 injury to the victim, whether the injury is observable by the
17 responding officer or not; or (iii) that any physical action has
18 occurred which was intended to cause another person reasonably to fear
19 imminent serious bodily injury or death. Bodily injury means physical
20 pain, illness, or an impairment of physical condition. When the
21 officer has probable cause to believe that spouses, former spouses, or
22 other persons who reside together or formerly resided together have
23 assaulted each other, the officer is not required to arrest both
24 persons. The officer shall arrest the person whom the officer believes
25 to be the primary physical aggressor. In making this determination,
26 the officer shall make every reasonable effort to consider: (i) The
27 intent to protect victims of domestic violence under RCW 10.99.010;
28 (ii) the comparative extent of injuries inflicted or serious threats
29 creating fear of physical injury; and (iii) the history of domestic
30 violence between the persons involved.

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

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

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

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

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

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

5 (f) RCW 46.61.525, relating to operating a motor vehicle in a
6 negligent manner.

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

12 (5) Any police officer having probable cause to believe that a
13 person has committed or is committing a violation of RCW ((88.12.100))
14 88.12.025 shall have the authority to arrest the person.

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

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

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

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

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

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

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

4 (12) No police officer may be held criminally or civilly liable for
5 making an arrest pursuant to RCW 10.31.100 (2) or (8) if the police
6 officer acts in good faith and without malice.

7 NEW SECTION. **Sec. 2.** This act shall take effect January 1, 1996.
8 Prior to that date, law enforcement agencies, prosecuting authorities,
9 and local governments are encouraged to develop and adopt arrest and
10 charging guidelines regarding criminal trespass.

Passed the House March 10, 1995.

Passed the Senate April 7, 1995.

Approved by the Governor May 1, 1995.

Filed in Office of Secretary of State May 1, 1995.