

Misdemeanor Presence Rule

Arrest Without a Warrant

- RCW 10.31.100

Felonies

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. Always. Period.

Misdemeanors and Gross Misdemeanors

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 the officer, EXCEPT FOR THE FOLLOWING SITUATIONS:

- Crime involving physical harm or threats of harm to any person or property, or
- Crime involving the unlawful taking of property, or
- Crime involving the use or possession of cannabis, or
- Crime involving the acquisition, possession, or consumption of alcohol by a person under 21 under RCW 66.44.270, or
- Criminal Trespass, or
- Violation of a court order's provisions regarding:
 - Acts or threats of violence, or
 - Going onto the grounds of or entering a residence, workplace, school, or day care, or
 - Knowingly coming within, or knowingly remaining within, a specified distance of a location, or
 - In the case of a child abuse order, any restrictions or conditions, or
 - Criminal violations of a foreign protection order, or
- DV Assault within the last 4 hours, or
- Hit and Run (RCW 46.52.010 or 46.52.020) , or
- Reckless Driving and Racing, or
- DUI and Physical Control (alcohol and/or marijuana – RCW 46.61.502, 46.61.503, 46.61.504 & 46.25.110), or
- Driving While Suspended / Revoked, or
- Negligent Driving 1st Degree, or
- Any traffic violation resulting in a traffic accident, or
- Boating Under the Influence resulting in a vessel accident, or
- Reckless Boating, or
- On the request of another officer that witnessed the traffic violation, or
- Indecent Exposure, or
- Criminal violation of a harassment order, or
- Interference with a Health Care Facility *within the last 24 hours*, or
- Possessing Dangerous Weapons on School Facilities, or
- DUI or Physical Control if officer has knowledge that the person has a prior offense as defined in 46.61.5055 within ten years.



What if a Misdemeanor or Gross Misdemeanor is not an exception?

Relax, it's still a crime. Just don't make a *physical* arrest for it. Instead, document your probable cause for the crime in a report and send the case to the prosecutor for charges.

