Initiative Measure No. 1061

FILED

JAN 2 . 2010

SECRETARY OF STATE
STATE OF WASHINGTON

AN ACT Relating to adopting the Washington state sheriff first act of 2010 and regulating arrests, searches, and seizures by federal employees; adding new sections to chapter 36.28 RCW; adding new sections to chapter 10.79 RCW; and creating a new section.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1. This act may be known and cited as the Washington state sheriff first act of 2010.

NEW SECTION. Sec. 2. The people of the state of Washington intend to ensure maximum cooperation between federal agencies and employees and local law enforcement authorities; to ensure that federal agencies and employees who carry out arrests, searches, and seizures in this state receive the best local knowledge and expertise available; and to prevent misadventure affecting Washington citizens and their constitutionally protected rights that result from lack of cooperation or communication between federal agencies and employees operating in Washington and properly constituted local law enforcement authorities.

NEW SECTION. Sec. 3. (1) The sheriff may prohibit a federal employee who is not designated by Washington law as a Washington peace officer from making an arrest, search, or seizure in this state without the written permission of the sheriff of the county in which the arrest, search, or seizure will occur unless:

(a) The arrest, search, or seizure will take place on a federal enclave for which jurisdiction has been lawfully ceded to the United States of America by Washington state;

(b) The federal employee witnesses the commission of a crime the nature of which requires an immediate arrest as authorized by law;

(c) The arrest, search, or seizure is in fresh pursuit, as described in chapters 10.89 and 10.93 RCW;

(d) The intended subject of the arrest, search, or seizure is an employee of the sheriff's office or is an elected county or state officer; or

(e) The federal employee has probable cause to believe that the subject of the arrest, search, or seizure has close connections with the sheriff to the extent that such connections are more likely than not to result in the subject being informed of the impending arrest, search, or seizure.

(2)(a) A permission request to the county sheriff or to the attorney general,

as appropriate, must contain:

(i) The name of the subject of the arrest, search, or seizure;

(ii) A clear statement of probable cause for the arrest, search, or seizure or a federal arrest, search, or seizure warrant that contains a clear statement of probable cause;

(iii) A description of specific assets, if any, to be searched for or seized;

(iv) A statement of the date and time that the arrest, search, or seizure is to be attempted; and

(v) The address or location where the intended arrest, search, or seizure is to be attempted.

(b) The request may be in letter form, either typed or handwritten, but must be countersigned with the original signature of the county sheriff or designee of the sheriff, or by the attorney general or designee of the attorney general, to constitute valid permission. The permission is valid for forty-eight hours after it is signed. The sheriff shall keep a copy of the permission request on file.

(3) The county sheriff or the attorney general, as appropriate, may refuse permission for any reason that he or she considers sufficient.

(4) Nothing in this act should be construed to hamper federal agents in fresh pursuit of imminent threats by suspected terrorists. "Suspected terrorists" for purposes of this section means natural persons for whom there is a probable cause to believe have committed or are intending to commit deliberate acts of homicide or other bodily harm to one or more other individuals or deliberate destruction to the private property of one or more other persons.

NEW SECTION. Sec. 4. (1) A federal agency or employee shall obtain the written permission of the attorney general for the arrest, search, or seizure of an employee of the sheriff's office or an elected county or state officer pursuant to section 3(1)(d) of this act unless the resulting delay in obtaining the permission would more likely than not cause serious harm to one or more individuals or to a community, or would more likely than not cause flight of the subject of the arrest, search, or seizure in order to avoid prosecution. The request for permission must include a written statement, under oath, describing the federal agency's or employee's probable cause that the elements of section 3(1)(d) of this act are met.

(2) A federal agency or employee shall obtain the written permission of the attorney general for the arrest, search, or seizure of a subject who has close connections with the sheriff pursuant to section 3(1)(e) of this act unless the resulting delay in obtaining the permission would more likely than not cause serious harm to one or more individuals or to a community, or would more likely than not cause flight of the subject of the arrest, search, or seizure in order to avoid prosecution. The request for permission must include a written statement, under oath, describing the federal agency's or employee's probable cause that the elements of section 3(1)(e) of this act are met.

NEW SECTION. Sec. 5. (1) An arrest, search, or seizure or attempted arrest,

search, or seizure in violation of the provisions of this act is unlawful, and individuals involved must be charged with any applicable criminal offenses by the prosecuting attorney, if probable cause exists that such a violation has occurred.

(2) The prosecuting attorney has no discretion not to prosecute once a claim of violation of this act has been made by the county sheriff or the attorney general, as appropriate, and supported by probable cause.

NEW SECTION. Sec. 6. Any federal law, rule, order, or other act by the federal government violating the provisions of this act is hereby declared to be invalid in this state, is not recognized by and is specifically rejected by this state, and is considered as null and void and of no effect in this state.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 8. Sections 3 and 6 of this act are each added to chapter 36.28 RCW.

NEW SECTION. Sec. 9. Sections 4 and 5 of this act are each added to chapter 10.79 RCW.

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