

Thomas Protective Service, Inc.

Legal Authority of the Security Officer



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INTRODUCTION

Security officers are unique people. You are in a highly visible profession and are most often the only watchful eye on client property long after-hours. In the ever-changing world of private security, security officers vastly outnumber police officers nationwide. You wear distinctive uniforms that identify you as security professionals and you are sometimes even armed. It is your duty as a security officer to protect client property and employees. Be ever mindful that security officers are private citizens. Therefore, you have no special powers above those enjoyed by all members of our society.

The Constitution of the United States grants private citizens the right to protect their property and businesses also have this right. In other words, you act on behalf of the customer in protecting the customer's property.

Some people think that the right to protect private property implies the right to do anything necessary. This is NOT TRUE. There are strict laws that limit the use of force when protecting our own property.

Security officers:

- **Are private citizens.**
- **Are not police officers.**
- **Have no special powers above those enjoyed by all members of society.**
- **Have the same arrest powers as those granted to all citizens.**

LEGAL TERMS

Security officers must know and understand certain terms associated with law enforcement. The most common include:

- **Crime** – The act of doing something that is forbidden by law – or not do something that is required by law.
- **Infraction** – An offense punishable by a fine but not by imprisonment. A person charged with an infraction is not entitled to a trial by jury.
- **Offense** – A general term to indicate all violations of the law.
- **Misdemeanor** – An offense less than a felony and generally punishable by fine and/or imprisonment of less than one year in a city or county jail.
- **Felony** – An offense punishable by death or imprisonment in a federal or state penitentiary or prison.

TYPES OF CRIMES

Security officers must also have general knowledge of the more frequent crimes. The distinctions of crimes vary from state to state. However, some of the most common include:

- **Arson** – The intentional damaging of property by fire or explosion.
- **Assault** – A threatened or attempted physical attack against another by a person who appears to have the ability to cause bodily harm.
- **Battery** – The act of using force against another person that results in either bodily injury or offensive touching.
- **Breach of the Peace** – Violation or disturbance of the public tranquility and order.
- **Breaking and Entering** – Entering a residence or other enclosed property through the slightest amount of force (even pushing open a door), without authorization.
- **Burglary** – Entering and unlawfully remaining in a building or structure with intent to commit a crime.
- **Disorderly Conduct** – Generally, any behavior that is contrary to the law, and more particularly, such that tends to disturb the public peace or decorum, scandalize the community, or shock the public sense of morality.
- **Disturbance of Peace** – Interruption of the peace, quiet, and good order of the neighborhood or community, particularly by unnecessary or distracting noises.
- **Drug Possession** – The crime of having one or more illegal drugs in one's possession, either for personal use, distribution, sale or otherwise.
- **Homicide** – The killing of one person by another.
- **Larceny** – Taking and removing of personal property with the intent to deprive the rightful owner use of it.

- **Loitering/Lingering** – Spending time idly; being slow in movement; standing about or moving slowly in an area at a time that would cause one to be suspect.
- **Manslaughter** – A form of homicide in which the killing is done without malice (ill-will).
- **Murder** – The illegal/unlawful taking of a human life.
- **Prostitution** – The act or practice of indulging in promiscuous sexual relations, for money.
- **Rape** – non-consensual, forcible sexual relations or other sexual activity.
- **Resisting an Officer** - Obstructing, opposing, and trying to prevent (with or without actual force) a Peace officer (Police Officer) in the execution of lawful discharge of his/her duty while making an arrest or otherwise enforcing the laws.
- **Robbery** – The taking or attempting to take something of value from another by violence or the threat of violence. Robbery can be committed against individuals, businesses, and institutions like banks.
- **Theft** – The illegal taking of another person' property without that person's freely given consent.
- **Trespassing** – To enter unlawfully upon the land of another.
- **Vandalism** – The willful or malicious destruction, damaging, or defacing of property belonging to another or to the public.

CITIZEN'S ARREST

A citizen's arrest is an arrest made by a person who is not a sworn law enforcement official. In other words, it is the detaining of an individual suspected of having committed a crime by a person who is not a certified law enforcement officer.

Remember, security officers are limited to this arrest power, the same power of arrest enjoyed by every private citizen. Citizen's arrest powers vary from state to state.



RESPONSE TO CRIME

For Security officers, the timely and accurate response to crime is crucial. As you all know, your primary duties when responding to a crime is to observe and report. It is legal to affect an arrest if a felony is being committed in your presence and the felon may escape. However, arrests should be avoided unless your life or that of another person is threatened. By following the steps below, you should be able to safely deal with most situations that may arise.

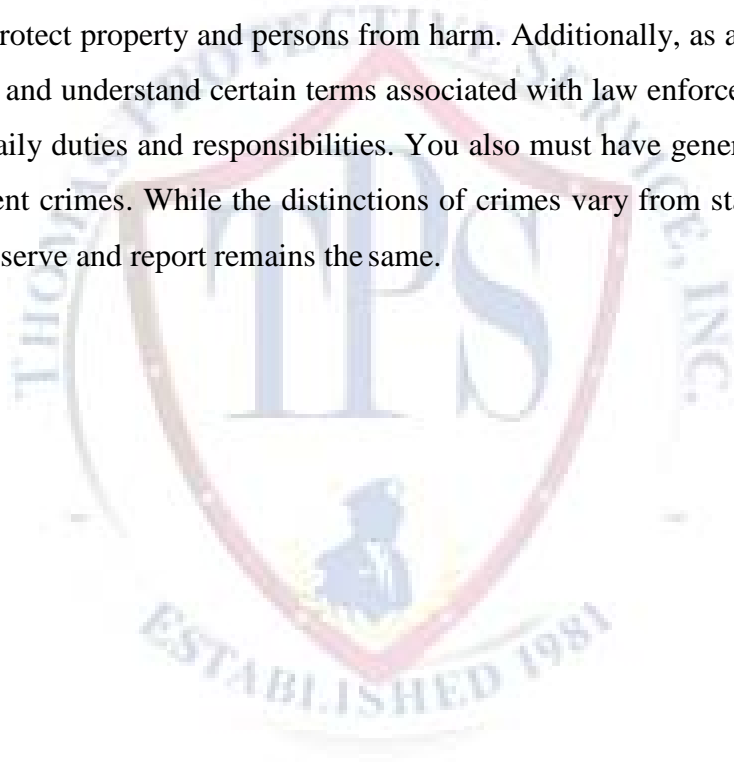
1. Call the police as soon as possible.
 - What is the offense being committed?
 - Is it a felony or misdemeanor?
 - Are you or the suspect armed?
 - What powers of arrest do you have?
 - How do you apply the situation?
2. Cooperate with the police! If you arrest a suspect, turn him/her over to the police as soon as possible. Your arrest powers end as soon as the police become involved.
3. The amount of force you use in making an arrest depends on the seriousness of the crime and the responsiveness of the arrestee. For example, if a person freely submits to your custody for arrest, there is probably no need to even touch that person. Therefore, avoid any unnecessary use of force.

LEAVE APPREHENSION AND ARREST TO THE POLICE WHENEVER POSSIBLE.

SUMMARY

The job of a Security Officer is a very important one. It carries with it certain rights and responsibilities of which you must be aware. The public may confuse you with police officers but you must have a clear understanding of the distinction between you and police officers. You have no special powers beyond those granted to private citizens.

In the performance of your duties, you act for the client in his/her constitutional guarantee of the right to protect property and persons from harm. Additionally, as a security officer, you must know and understand certain terms associated with law enforcement in order to perform your daily duties and responsibilities. You also must have general knowledge of the more frequent crimes. While the distinctions of crimes vary from state to state, your obligation to observe and report remains the same.



STATE STATUTES

ALABAMA

In Alabama, a private citizen's right to make an arrest is derived from statutory law. Pursuant to the Alabama Code of Criminal Procedure § 15-10-7, a private citizen has the authority to arrest another for any public offense:

- (1) Committed in his presence;
 - (2) Where a felony has been committed, though not in his presence, by the person arrested; or
 - (3) Where a felony has been committed and he has reasonable cause to believe that the person arrested committed it.
- (b) An arrest for a felony may be made by a private person on any day and at any time.
 - (c) A private person must, at the time of the arrest, inform the person to be arrested of the cause thereof, except when such person is in the actual commission of an offense, or arrested on pursuit.
 - (d) If he is refused admittance, after notice of his intention, and the person to be arrested has committed a felony, he may break open an outer or inner door or window of a dwelling house.
 - (e) It is the duty of any private person, having arrested another for the commission of any public offense, to take him without unnecessary delay before a judge or magistrate, or to deliver him to some one of the officers specified in section 15-10-1, who must forthwith take him before a judge or magistrate.

ALASKA

A private citizen's authority to make an arrest under Alaska law is governed by statutory law. Pursuant to the Alaska Code of Criminal Procedure § 12.25.030, a private person or a peace officer without a warrant may arrest a person

- (1) For a crime committed or attempted in the presence of the person making the arrest;
- (2) When a person has committed a felony although not in the presence of the person making the arrest;
- (3) When a felony has, in fact, been committed, and the person making the arrest has reasonable cause for believing the person to have committed it.



ARIZONA

In Arizona, a private citizen's right to make an arrest is derived from statutory law. Pursuant to the Arizona Criminal Code § 13-3884, a private person may make an arrest:

1. When the person to be arrested has in his presence committed a misdemeanor amounting to a breach of the peace, or a felony.
2. When a felony has been in fact committed and he has reasonable ground to believe that the person to be arrested has committed it.

ARKANSAS

In Arkansas, the authority of a private person to make an arrest is governed by statute. Pursuant to the Arkansas Code of Criminal Procedure, a private person has authority to make an arrest where he has reasonable grounds to believe that the person arrested has committed a felony. Ark. Code Ann. § 16-81-106(c)

A private citizen may make an arrest when the citizen believes that a felony has been committed. The requirement of probable cause is satisfied if the arresting person "reasonably suspects" another individual of having committed a felony. However, there is no similar authority to arrest for a misdemeanor.

CALIFORNIA

A private person's authority to make an arrest is derived from California's Penal Code rather than its common law. Pursuant to California Penal Code § 837, a private person has the authority to arrest another if:

- (1) A public offense is committed or attempted in the officer's presence;
- (2) The person arrested has committed a felony, although not in the officer's presence; or
- (3) A felony has been in fact committed and the officer has reasonable cause for believing the person arrested to have committed it.

COLORADO

The authority of a person to make an arrest under Colorado law is derived from statutory law. Pursuant to the Colorado Code of Criminal Procedure § 16-3-201, a person who is not a peace officer may arrest another person when any crime has been or is being committed by the arrested person in the presence of the person making the arrest.

CONNECTICUT

In Connecticut, a private citizen's right to make an arrest is derived from common law and statutory law. Pursuant to the Connecticut Penal Code § 53(a)-22(f), a private person acting on his own account is justified in using reasonable physical force upon another person when and to the extent that he reasonably believes such to be necessary to effect an arrest or to prevent the escape from custody of an arrested person whom he reasonably believes to have committed an offense and who, in fact, has committed such an offense; but he is not justified in using deadly physical force in such circumstances, except in the defense of a person as pre-scribed in section 53(a)-19 of the Connecticut Penal Code.

DELAWARE

In Delaware, a private person's authority to make an arrest without a warrant by statute is governed by the Delaware Code of Criminal Procedure § 2514. Pursuant to section 2514, the arrest of a person may be lawfully made by any peace officer or a private person without warrant, upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused shall be taken before a judge or justice of the peace with all practical speed and complaint shall be made against him under oath setting forth the ground for the arrest as in § 2513 of this title, and thereafter the accused's answer shall be heard as if the accused had been arrested on a warrant.

FLORIDA

In Florida, a private citizen's right to make an arrest is derived from common law. As part of common law, a private citizen has the right to arrest a person if;

- (a) A felony has been committed in the citizen's presence;
- (b) A felony has been committed and where the arresting citizen has probable cause to believe, and does believe, the person arrested is guilty; or
- (c) A breach of the peace has occurred.

GEORGIA

In Georgia, a private citizen's right to make an arrest is derived from statutory law. Under the Georgia Code of Criminal Procedure § 17-4-60 (GCA § 27-211), a private person may arrest an offender if the offense is committed in his presence or within his immediate knowledge. If the offense is a felony and the offender is escaping or attempting to escape, a private person may arrest him upon reasonable and probable grounds of suspicion.

HAWAII

A private citizen's right to make an arrest under Hawaiian law is governed by statute. Pursuant to Hawaii Revised Statutes § 803-3, anyone in the act of committing a crime, may be arrested by any person present, without a warrant. Haw. Rev. Stat. § 803-3.

IDAHO

In Idaho, a private citizen's right to make an arrest is derived from statutory law. Under the Idaho Code of Criminal Procedure § 19-604 (1993), a private person may arrest another;

1. Where a public offense is committed or attempted in his presence.
2. When the person arrested has committed a felony, although not in his presence.
3. When a felony has, in fact, been committed and he has reasonable cause for believing the person arrested to have committed it.

ILLINOIS

The authority to arrest by a private person under Illinois law is governed by statute. Pursuant to the Illinois Code of Criminal Procedure, § 107-3, any person may arrest another when he has reasonable grounds to believe that an offense other than an ordinance violation is being committed.

INDIANA

Indiana law governing the authority of a private citizen to make a warrantless arrest is governed by statute. Under the Indiana Code of Criminal Procedure § 35-41-3-3, a person other than a law enforcement officer is justified in using reasonable force against another person to effect his arrest or prevent his escape if a felony has been committed; and there is probable cause to believe the other person committed that felony.

IOWA

In Iowa, a private citizen's right to make an arrest is governed by statutory law. Under the Iowa Code of Criminal Procedure § 804.9, a private person may make an arrest:

1. For a public offense committed or attempted in the person's presence;
2. When a felony has been committed, and the person has reasonable ground for believing that the person to be arrested has committed it.

Additionally, under the Iowa Code of Criminal Procedure 804.10, a private person who makes or assists another private person in making a lawful arrest is justified in using any force which the person reasonably believes to be necessary to make the arrest or which the person reasonably believes to be necessary to prevent serious injury to any person. A private person who is summoned or directed by a peace officer to assist in making an arrest may use whatever force the peace officer could use under the circumstances, provided that, if the arrest is unlawful, the private person assisting the officer shall be justified as if the arrest were a lawful arrest, unless the person knows that the arrest is unlawful.

KANSAS

The authority of a private person to make an arrest under Kansas law is governed by statute. Under the Kansas Code of Criminal Procedure § 22-2403, a person who is not a law enforcement officer may arrest another person when:

- (1) A felony has been or is being committed and the person making the arrest has probable cause to believe that the arrested person is guilty thereof; or
- (2) Any crime other than a traffic infraction or a cigarette or tobacco infraction, has been or is being committed by the arrested person in the view of the person making the arrest.

KENTUCKY

The authority of a private person to make an arrest under Kentucky law is governed by statute. According to the Kentucky Penal Code § 431.005(6), a private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

LOUISIANA

The authority of a private person to make an arrest under Louisiana law is governed by statute. The Louisiana Code of Criminal Procedure, Article 214, states that a private person may make an arrest when the person has committed a felony whether in or out of his presence.

MAINE

In Maine, a private citizen's right to make an arrest is derived from statutory law. Pursuant to the Maine Criminal Code § 16, a private person shall have the authority to arrest without a warrant;

1. Any person who he has probable cause to believe has committed or is committing (a) murder; or (b) any Class A, Class B, or Class C crime.
2. Any person who, in fact, is committing in his presence and in a public place any of the Class D or Class E crimes described in §§ 207, 209, 211, 254, 255, 501, 503, 751, 806, or 1002.

MARYLAND

In Maryland, a private citizen's right to make an arrest is derived from common law rather than statutory law. A private person has authority to arrest without a warrant only when a felony is being committed in his presence or when a felony has been committed. Whether or not in his presence, and the arrestor has reasonable grounds to believe the person he arrests has committed it. (*Great Atlantic and Pacific Tea Co. v. Paul*, 261 A.2d 731 Md.).

Additionally, an individual has the authority to arrest without a warrant when a misdemeanor is being committed in his presence amounting to a breach of the peace. Therefore, all that is required in a criminal context to authorize a valid citizen's arrest in Maryland is reasonable grounds to believe that a felony has been committed and that the defendants were the responsible agents, and not that the arresting person had actual knowledge of the felony's commission (*Stevenson v. State*, 413 A.2d 1340 Md.).

MASSACHUSETTS

In Massachusetts, a private person's authority to make a lawful citizen's arrest is governed by common law. In Massachusetts, a private person may lawfully arrest one who in fact has committed a felony, but there is no valid authority for a citizen to arrest for a misdemeanor (*Commonwealth v. Lussier*, 128 N.E.2d 569). The strict requirement for a citizen's arrest in Massachusetts is that the person arrested must be shown in fact to have committed a felony. This requirement is designed to discourage frivolous arrests and to prevent the dangers of uncontrolled vigilantism and anarchistic actions.

MICHIGAN

In Michigan, a private citizen's authority to make an arrest is derived from statutory law. Under Michigan Statutes Annotated, § 28.875, a private person may make an arrest in the following situations:

- (a) For a felony committed in the private person's presence.
- (b) If the person to be arrested has committed a felony, although not in the private person's presence.
- (c) If the private person is summoned by a peace officer to assist the officer in making an arrest.
- (d) If the private person is a merchant, an agent of a merchant, an employee of a merchant, or an independent contractor providing security for a merchant of a store and has reasonable cause to believe that the person to be arrested has violated Section 356(c) or 356(d) of the Michigan Penal Code, in that store, regardless of whether the violation was committed in the presence of a private person.

MINNESOTA

In Minnesota, a private citizen's right to make an arrest is derived from statutory law. Under Minnesota Statutes, § 629.37, a private person may arrest another:

- (1) For a public offense committed or attempted in the arresting person's presence;
- (2) When the person arrested has committed a felony, although not in the arresting person's presence; or
- (3) When a felony has, in fact, been committed, and the arresting person has reasonable cause for believing the person arrested to have committed it.

MISSISSIPPI

In Mississippi, a private citizen's right to make an arrest is derived from statutory law. Under the Mississippi Code of Criminal Procedure, § 99-3-7, an officer or private person may arrest any person without warrant, for an indictable offense committed, or a breach of the peace threatened or attempted in his presence; or when a person has committed a felony, though not in his presence; or when a felony has committed, and he has reasonable ground to suspect and believe the person proposed to be arrested to have committed it; or on a charge made upon reasonable cause, of the commission of a felony by the party proposed to be arrested. And in all cases of arrest without war-rant, the person making such arrest must inform the accused of the object and cause of the arrest, except when he is in the actual commission of the offense, or is arrested on pursuit.

MISSOURI

In Missouri, a private citizen's right to make an arrest is derived from common law. In Missouri, a private citizen may make a valid arrest when it is shown that a felony has been committed and reasonable grounds exist to suspect arrested person (State v. Morris, 680 S.W.2d 315 Mo. App; State v. Gay, 629 S.W.2d 470). However, an articulable suspicion justifying a brief detention cannot support an arrest by a private citizen, since such arrest must rest upon the commission of a felony or breach of the peace, and reasonable grounds to believe the arrested person committed the offense.

MONTANA

In Montana, a private citizen's right to make an arrest is derived from statutory law. Under the Montana Code of Criminal Procedure, § 46-6-502, a private person may arrest another when;

1. A private person may arrest another when there is probable cause to believe that the person is committing or has committed an offense and the existing circumstances require the person's immediate arrest.
2. A private person making an arrest shall immediately notify the nearest available law enforcement agency or peace officer and give custody of the person arrested to the officer or agency.

NEBRASKA

Under Nebraska law, the authority of a private person to make an arrest is governed by statute. Under the Nebraska Code of Criminal Procedure § 29-402, any person not an officer may without warrant, arrest any person, if a petit larceny or a felony has been committed, and there is reasonable grounds to believe that the person arrested is guilty of such offense, and may detain him until a legal warrant can be obtained.

NEVADA

In Nevada, a private citizen's authority to make an arrest is governed by statute. Under the Nevada Code of Criminal Procedure § 171.126, a private person may arrest another;

- (1) For a public offense committed or attempted in his presence;
- (2) When the person arrested has committed a felon, although not in his presence;
- (3) When a felony has, in fact, been committed and he has reasonable cause for believing the person arrested to have committed it.

NEW HAMPSHIRE

In New Hampshire, a private citizen's authority to make an arrest is derived from common law. The state follows the general common law principle that an individual has the authority to arrest another for a felony, which has been committed in his presence, or where a felony has been committed and has reasonable cause to believe that the person arrested committed it (Moebus, 62A. 170 N.H.). In addition, an individual under sentenced for felony and unlawfully at large may be arrested and returned to imprisonment by a private person without a warrant.

However, with regard to misdemeanors, New Hampshire's law is clear that only a "peace officer" may arrest without a warrant whenever he has reasonable grounds to believe that the person to be arrested has committed a misdemeanor in his presence (N.H. Rev. Stat. Ann. § 594.10). According to statute, a "peace officer" is defined as any sheriff or deputy .sheriff, mayor or city marshal, constable, police officer or watchman, member of the National Guards acting under orders while in active state service or by the governor, or other person authorized to make arrest in a criminal case.

NEW JERSEY

In New Jersey, the authority of a private citizen to make an arrest is governed by statute. According to the New Jersey Code of Criminal Procedure § 2A:169-3, an arrest of a disorderly person without process is authorized whenever an offense is committed in his presence, any constable or police officer shall, and any other person may, apprehend without warrant or process any disorderly person, and take him before any magistrate of the county where apprehended (N.J. Rev. Stat. § 2A:169-3).

NEW MEXICO

In New Mexico, a private citizen's right to make an arrest is derived from common law. Any person may arrest another upon good faith, reasonable grounds that a felony has been or was being committed, or a breach of the peace was being committed in the person's presence (State v. Johnson, NMSC-075, 22 N.M. 696, 930 P.2d 1148). A breach of peace is considered a disturbance of public order by an act of violence, or by any act likely to produce violence, or which, by causing consternation and alarm, disturbs the peace and quiet of the community.

NEW YORK

In New York, a private citizen's right to make an arrest is governed by statute. Under New York's Criminal Procedure Law § 140.30, a person may arrest another person under the following conditions;

1. Subject to the provisions of subdivision (2), any person may arrest another person:
 - (a) For a felony when the latter has, in fact, committed such felony, and
 - (b) For any offense when the latter has, in fact, committed such offense in his presence.
2. Such an arrest if for a felony, may be made anywhere in the state. If the arrest is for an offense other than a felony, it may be made only in the county in which such offense was committed.

New York Criminal Procedure Law § 140.35 governs when and how an arrest by a citizen without a warrant should be made:

1. A person may arrest another person for an offense pursuant to Section 140.30 at any hour of any day or night.
2. Such person must inform the person whom he is arresting of the reason for such arrest unless he encounters physical resistance, flight, or other factors rendering such procedure impractical.
3. In order to affect such an arrest, such a person may use such physical force as is justifiable pursuant to subdivision 4 of Section 35.20 of the penal law. N.Y. Crim. Proc. Law § 140.35.

A person making a citizen's arrest must without necessary delay deliver or attempt to deliver the person in custody of an appropriate police officer. N.Y. Crim. Proc. Law § 140.40 (1). However, a police officer is not required to take an arrested person into custody or to take any other action prescribed on behalf of the arresting person if he has reasonable cause to believe that the arrested person did not commit the alleged offense or that the arrest was otherwise unlawful. N.Y. Crim. Proc. Law § 140.40 (4).

NORTH CAROLINA

In North Carolina, a private citizen's right to make an arrest is derived from statutory law. According to the North Carolina Statute § 15A-404, no private person may arrest another person except as provided in NC Statute § 15A-405.

However, a private person may detain another person when he has probable cause to believe that the person detained has committed in his presence:

- (1) A felony.
- (2) A breach of the peace.
- (3) A crime involving physical injury to another person, or
- (4) A crime involving theft or destruction of property.

An important conceptual change under North Carolina law is from "arrest" to "detention." The notion of a private citizen "arresting" another in certain circumstances has led persons at times to act without authority and at times to place themselves or others in unjustifiable danger. The legislature believes that a safer idea is that the private citizen may detain the offender sufficiently long enough to turn him over to a law enforcement officer. Although there may be little or no difference in the physical actions taken, it is hoped that this will be a clear and safer concept for the private citizen.

According to North Carolina Statute §15A-405, private persons may assist law-enforcement officers in effecting arrests and preventing escapes from custody when requested to do so by the officer. When so requested, a private person has the same authority to affect an arrest or prevent escape from custody as the officer making the request. He does not incur civil or criminal liability for an invalid arrest unless he knows the arrest to be invalid. Nothing in this subsection constitutes justification for willful, malicious or criminally negligent conduct by such person, which injures or endangers any person or property, nor shall it be construed to excuse or justify the use of unreasonable or excessive force.

NORTH DAKOTA

In North Dakota, a private citizen's right to make an arrest is derived from statutory law. Under the Criminal Judicial Procedure Code of North Dakota 29- 06-20, a private person may arrest another:

1. For a public offense committed or attempted in his presence.
2. When the person arrested has committed a felony, although not in his presence.
3. When a felony has, in fact, been committed, and he has reasonable ground to believe the person arrested to have committed it.

A private person making an arrest must inform the person to be arrested of the intention to arrest the person, and of the cause of the arrest, unless the person to be arrested is engaged in the commission of an offense (Criminal Judicial Procedure Code of North Dakota 29-06-21). Additionally, a private person who has arrested another for commission of a public offense, without necessary delay, shall take the person before a magistrate or deliver the person to a peace officer (Criminal Judicial Procedure Code of North Dakota 29-06-23).

OHIO

In Ohio, a private citizen's right to make an arrest is derived from statutory law. According to the Ohio Revised Code, § 2935.04, when a felony has been committed or there is reasonable ground to believe that a felony has been committed, any person without a warrant may arrest another whom he has reasonable cause to believe is guilty of the offense, and detain him until a warrant can be obtained.

Under Ohio R.C. § 2935.05, a private individual does not have authority to arrest for a misdemeanor. It is only in the case of the commission of a felony that a private person may detain the accused for a reasonable time and without unnecessary delay in order that a warrant may be issued. A private person who has made an arrest pursuant to section 2935.04 of the Revised Code or detention pursuant to section 2935.041 of the Revised Code shall forthwith take the person arrested before the most convenient judge or clerk of a court of record or before a magistrate, or deliver such person to an officer authorized to execute criminal warrants who shall, without unnecessary delay, take such person before the court or magistrate having jurisdiction of the offense. The officer may, but if he does not, the private person shall file or cause to be filed in such court or before such magistrate an affidavit stating the offense for which the person was arrested.

OKLAHOMA

In Oklahoma, the authority of a private person to make an arrest of another is governed by statute. According to the Oklahoma Code of Criminal Procedure § 22-202, a private person may arrest another:

1. For a public offense committed or attempted in his presence.
2. When the person arrested has committed a felony, although not in his presence.
3. When a felony has, in fact, been committed and he has reasonable cause for believing the person arrested to have committed it.

Under the Oklahoma Code of Criminal Procedure, § 22-203, a private person must, before making the arrest, inform the person to be arrested of the cause thereof, and require him to submit, except when he is in actual commission of the offense or when he is arrested on pursuit immediately after its commission. Unless a private person informs the person arrested of the cause thereof, the party arrested has the right to resist the arrest. A private person who has arrested another for the commission of a public offense, must, without unnecessary delay, take him before a magistrate or deliver him to a peace officer in order to effectuate a valid citizen's arrest (Oklahoma Code of Criminal Procedure, § 22-205). Furthermore, any person making an arrest must take from the person arrested all offensive weapons which he may have about his person, and must deliver them to the magistrate before whom he is taken (Oklahoma Code of Criminal Procedure, § 22-206).

OREGON

In Oregon, a private person's authority to make an arrest is governed by statute. According to the Oregon Criminal Procedure Code § 133.225, a private person may arrest another person for any crime committed in the presence of the private person if the private person has probable cause to believe the arrested person committed the crime. A private person making such an arrest shall, without unnecessary delay, take the arrested person before a magistrate or deliver the arrested person to a peace officer. In order to make the arrest, a private person may use physical force as is justifiable under Oregon Revised Statutes, § 161.255.

PENNSYLVANIA

Under Pennsylvania law, a private person's authority to make an arrest is governed by common law. Under the common law, a citizen's arrest is defined as a "privilege that prevents intentional invasion of another person's interest, which otherwise would constitute assault, battery, and false imprisonment, from being tortious and therefore, a basis for civil liability (Commonwealth v. Corley, 491 A.2d 829). The condition necessary to establish the privilege to make a citizen's arrest is that a felony has been committed and that the actor reasonably suspects that person whom he arrests has committed the felony. Furthermore, persons lacking police powers can detain an individual if they have personal knowledge of the commission of a felony (Commonwealth v. Clemmons, 479 A.2d 955).

According to statutory authority governing retail theft, store employees have the authority to stop, detain and search individuals who they reasonably suspect of retail theft (18 Pa. Cons. Stat. Ann. § 3929 d). Under Section 3929(d), a peace officer, merchant, or merchant's employee, or an agent under contract with a merchant, who has probable cause to believe that retail theft has occurred or is occurring on or about a store or other retail mercantile establishment, and who has probable cause to believe that a specific person has committed or is committing the retail theft, may detain the suspect in a reasonable manner for a reasonable time on or off the premises for all or any of the following purposes:

- (1) To require the suspect to identify himself.
- (2) To verify such verification.
- (3) To determine whether such suspect has in his possession unpurchased merchandise taken from the mercantile establishment.
- 4). to recover such merchandise and inform a peace officer or to institute a criminal proceedings against the suspect.

RHODE ISLAND

In Rhode Island, the authority of a private person to make an arrest is governed by the common law. In accordance with common law principles, Rhode Island follows the rule that where there is reasonable cause to believe that a felony has been committed and that the arrested person committed it, arrest by a private person is legal (Monteiro v. Howard, 334 F.Supp. 411-D.C. R.I.). Therefore, where a private citizen is acting upon reasonable cause to believe that an individual is committing a felony and that the individual person arrested has in fact committed such felony, an arrest by a private person is a valid citizen's arrest.

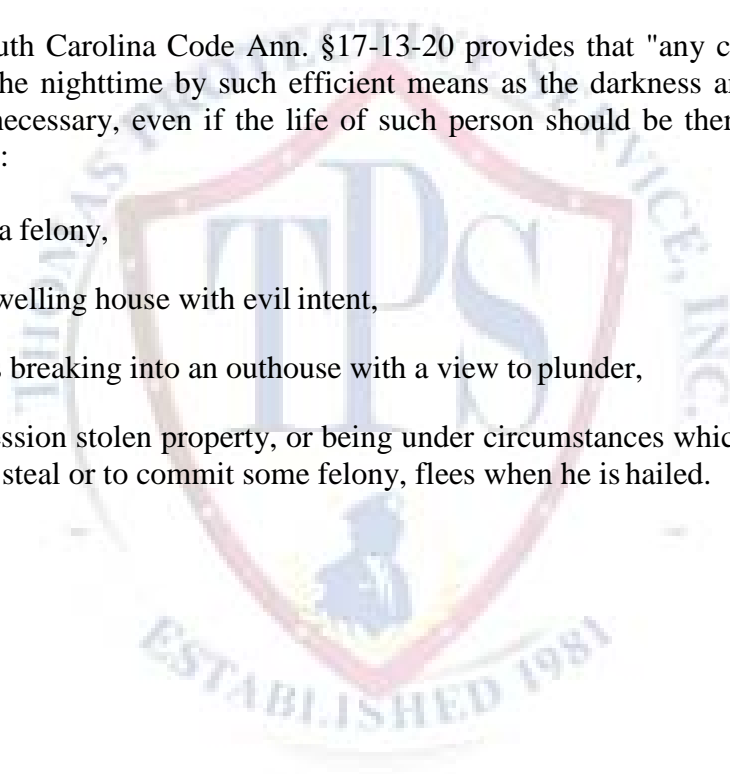
SOUTH CAROLINA

In South Carolina, a private person's authority to make an arrest is governed by statute. According to the South Carolina Code Ann. § 17-13-10, the circumstances where any person may arrest a felon or thief are as follows:

- (a) Upon view of a felony committed,
- (b) Upon certain information that a felony has been committed, or
- (c) Upon view of a larceny committed, any person may arrest a felon or thief and take him to a judge or magistrate to be dealt with according to law. S.C.

In addition, South Carolina Code Ann. §17-13-20 provides that "any citizen may arrest any person in the nighttime by such efficient means as the darkness and probability of escape render necessary, even if the life of such person should be thereby taken, when such person has:

- (a) Committed a felony,
- (b) Entered a dwelling house with evil intent,
- (c) Broken or is breaking into an outhouse with a view to plunder,
- (d) In his possession stolen property, or being under circumstances which raise suspicion of his design to steal or to commit some felony, flees when he is hailed.



SOUTH DAKOTA

In South Dakota, the authority of a private person to make an arrest is governed by statute. According to the South Dakota Codified Laws Ann. § 23A-3-3, any person may arrest another:

1. For a public offense, other than a petty offense, committed or attempted in his presence; or
2. For a felony, which has been in fact committed although not in his presence, if he has probable cause to believe that the person to be arrested committed it.

Furthermore, under South Dakota law, when arresting a person without a warrant, the "person making the arrest must inform the person to be arrested of his authority and the cause of the arrest, except when the person to be arrested is engaged in the actual commission of an offense or when he is arrested on pursuit immediately after its commission (S.D. Codified Laws Ann. §23A-3-4).

TENNESSEE

In Tennessee, a private person's authority to make an arrest is governed by statute. Pursuant to the Tennessee Code of Criminal Procedure § 40-7-109, a private person may arrest another;

- (1) For a public offense committed in his presence;
- (2) When the person arrested has committed a felony, although not in his presence; or
- (3) When a felony has been committed and he has reasonable cause to believe that the person arrested committed it.
- (4) A private person who makes an arrest of another person pursuant to the provisions of section 40-7-109, shall receive no arrest fee or compensation therefore.

A private person making an arrest shall, at the time of the arrest, inform the person arrested of the cause thereof except when he is in the actual commission of the offense or when arrested on pursuit (Tenn. Code Ann. S 40-7-111). Finally, a private person who has arrested another for public offense shall without unnecessary delay take him before a magistrate or deliver him to an officer (Tenn. Code Ann. § 40-7-114).

TEXAS

In Texas, a private person's authority to make an arrest is derived from statutory law. Pursuant to the Texas Code of Criminal Procedure Code Ann § 14.01, a police officer or any other person, may, without warrant, arrest an offender when the offense is committed in his presence or within his view, if the offense is a felony or is an offense against the public peace. The person making the arrest or the person having custody of the person arrested shall take the person arrested or have him taken without unnecessary delay, but not later than 48 hours after the person is arrested, before the magistrate who may have ordered the arrest, before some magistrate of the county where the arrest was made without an order, or, to provide more expeditiously to the person arrested the warnings described by Article 15.17 of this Code.

In addition, Texas has a statute regarding theft of personal property. Pursuant to the Texas Code of Criminal Procedure, Article 18.16, all persons have a right to prevent the consequences of theft by seizing personal property that has been stolen and bringing the suspect before a magistrate or police officer. There must be reasonable grounds to believe that the property is stolen; the seizure must be openly made and any proceedings must take place without delay (Tex. Crim. Proc. Code Ann. § 18.16).

VERMONT

In Vermont, a private person's authority to make an arrest is governed by common law. A private citizen may arrest another where a felony has been committed in his presence or a felony has been committed and the person has reasonable cause to believe that the person arrested committed it. In addition, private citizens are empowered to arrest fellow citizens for misdemeanors committed in their presence if such misdemeanor constitutes a breach of the peace (State v. Barber, 596 A.2d 237 Vt.). Therefore, private citizens may not arrest for a misdemeanor committed in their presence unless such misdemeanor constitutes a breach of the peace.

VIRGINIA

In Virginia, there is no statute governing an arrest by a private citizen. Therefore, under Virginia law, one must look to the common law for the authority of an individual to arrest another. Under the common law, a private person may arrest another without warrant in a felony case if the felony has actually been committed and he has reasonable grounds for believing that the person arrested was the one who committed it (*Moore v. Oliver*, 347 F.Supp. 1313 Va.; *Tharp v. Commonwealth*, 270 S.E.2d 752; *United States v. Mullen*, 278 F.Supp. 410).

Thus, although a private citizen has the right to arrest without a warrant one that commits a breach of the peace in his presence or the commission of a felony, such detention is only lawful until a proper officer of the law is available (*Lima v. Lawler*, 63 F.Supp. 446 D.C. Va.). Furthermore, under Virginia law, if an owner acting in the exercise of his right to protect his property has reasonable grounds to believe that another is stealing such property, he is justified in retaining the suspect for a reasonable length of time for the purpose of investigating in a reasonable manner (*Montgomery Ward & Co. v. Freeman*, 199 F.2d 720 C.A. Va.).

UTAH

In Utah, a private person's authority to arrest another is governed by statute. According to the Utah Code of Criminal Procedure § 77-7-3, a private person may arrest another;

- (1) For a public offense committed or attempted in his presence; or
- (2) When a felony has been committed and has reasonable cause to believe the person arrested has committed it.

The state of Utah also provides for a statutory authority provision for citizen's arrest based on "retail theft." According to the Utah Code of Criminal Procedure § 77-7-12, a peace officer merchant or merchant's employee servant or agent with reasonable grounds to believe that goods displayed for sale by the merchant may of been taken by a person with an intent to steal may, for the purpose of investigating the unlawful act and attempting to affect of the recovery of the goods, detain the person in a reasonable manner for a reasonable length of time. However, a determination that there was no reasonable or probable cause for a security officer to detain a shoplifting suspect will render both the officer and the department store liable for damages for common law actions of false arrest and false imprisonment.

WASHINGTON

In the State of Washington, a private person's authority to make an arrest is governed by common law and statutory law. Under the common law, a private person's authority to make an arrest is justified if there is reasonable cause to believe that a felony has been committed and that the arrested person has in fact committed it (*Jack v. Rhay*, 366 F.2d 191 9th Cir). A private person can conduct a citizen's arrest for a misdemeanor if the misdemeanor was committed in the citizen's presence and constituted a breach of the peace.

The privacy interest of individuals against unreasonable intrusions are protected in Washington by the requirement that to be a constitutionally valid arrest, such arrest must be reasonable. The arrest is reasonable only if the person making the arrest has probable cause (*State v. Bonds*, 653 P.2d 1024 Wash. 1982). Where the arrest for a felony is made by a private citizen, probable cause for such an arrest exists where facts and circumstances within citizen's knowledge and of which the citizen has reasonable trustworthy information to warrant a man of reasonable caution that the offense has been or is being committed.

The State of Washington also provides statutory authority for a private citizen to make an arrest. Under the Washington Laws of Civil and Criminal Procedure, the owner of a mercantile establishment or his employee or authorized agent, may make a warrantless arrest on "reasonable grounds" of a thief whom he has observed shoplifting even though no breach of the peace has occurred (Wash. Rev. Code Ann. § 9A.16.080, § 4.24.220).

WEST VIRGINIA

In West Virginia, the authority of a private person to make a citizen's arrest is governed by common law. Under the common law, a private citizen is authorized to arrest another who commits a misdemeanor in his presence when that misdemeanor constitutes a breach of the peace (*Allen v. Lopinsky*, 94 S.E. 369 W. Va.). In addition, a private individual may lawfully arrest another for a felony committed in his presence (*State v. Sutter*, 76 S.E. 811 W. Va.).

WISCONSIN

In Wisconsin, the authority of a private person to make an arrest is governed by statutory law and common law. Under the common law, any person present at the scene of a homicide or felony may arrest the offender without a warrant from a magistrate (Keenan v. State, 8.Wis. 132). The authority of a person not an officer to arrest for a misdemeanor committed in his presence is limited to instances where public security requires it based on acts, which involve, threaten, or incite violence.

The State of Wisconsin also provides statutory authority for actions relating to "retail theft." According to Wisconsin Statute § 943.50,

"A merchant or merchant's adult employee who has probable cause for believing that a person has violated this section ("retail theft") in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to his or her parent or guardian in the case of a minor. The detained person must be promptly informed of the purpose for the detention and be permitted to make phone calls, but he or she shall not be interrogated or searched against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Any merchant or merchant's adult employee who acts in good faith in any act authorized under this section is immune from civil or criminal liability for those acts (Wis. Stat. Ann. § 943.50).

WYOMING

In Wyoming, a private person's authority to make an arrest is governed by statute. According to Wyoming Stat. Ann. § 7-8-101, a person who is not a peace officer may arrest another for:

- (1) A felony committed in his presence;
- (2) A felony which has been committed even though not in his presence, if he has probable cause to believe the person to be arrested committed it; or
- (3) The following misdemeanors committed in his presence;
 - (a) A misdemeanor larceny offense defined by W.S. 6-3-201 or
 - (b) A misdemeanor property destruction offense defined by W.S. 6-3-201.