

An arrest by an officer without a warrant can only be made where the offense is committed in his presence and view, and at the time of its commission or in the immediate pursuit of the offender. *Marshall v. Cleaver*, 4 Penn. 450, 20 Del. 450, 56 A. 380 (1903).

A peace officer may arrest a person without warrant for an offense committed in his presence and view, for which he would have a right to make the arrest with a warrant if committed out of his presence. *Id.*

An arrest for a breach of peace cannot be legally made without a warrant, if not committed in the presence of the officer making the arrest. *State v. Crocker*, 1 Houst. Cr. Cas. 434 (1874).

4. Reasonable grounds

An officer needs no warrant to make an arrest, if he has reasonable cause to suspect a felony has been committed. *State v. Price*, 7 Boyce, 544, 30 Del. 544, 108 A. 385 (1919).

The burden is on an officer to show that there was reasonable ground for an arrest made without warrant, and, if he fails to make such showing, he will be liable for false imprisonment. *Marshall v. Cleaver*, 4 Penn. 450, 20 Del. 450, 56 A. 380 (1903).

A peace officer, such as a constable or sheriff may arrest, even without a warrant, one concerned in a breach of the peace or other crime or when he has reasonable grounds to suspect the person of such offense. *State v. Brown*, 5 Har. 505, 5 Del. 505 (1854).

5. Breach of peace

A public peace officer may arrest without a warrant any person found engaged or involved in a breach of the peace. *State v. Dennis*, 2 Hardesty, 184, 2 Marv. 433, 16 Del. 433, 43 A. 261 (1805).

6. Disorderly persons

A constable or police officer of a city may arrest at his own instance, without a warrant, one who is shouting and making a noise at a late hour of the night. *State v. Russell*, 1 Houst. Cr. Cas. 122 (1862).

7. Intoxicated persons

14 Del. Laws, c. 418, Sec. 16 (section 611 of this title), expressly authorized the arrest, without warrant, of any person found drunk or excited by liquor, and noisy, in the street, highway or other public place of the county. *Marshall v. Cleaver*, 2 Penn. 450, 20 Del. 450, 56 A. 380 (1903).

A peace officer is justified in arresting and imprisoning without warrant, one whom he finds drunk on the streets, or engaged in or threatening a breach of the peace, or who commits an assault on him without just cause. *Id.*

Where Delaware Memorial Bridge Guards, known generally to the community as Bridge Police, noticed automobile cross grass plot dividing north and south lanes of Route 13 at point where there was no legal crossover, and automobile was then driven by defendant to a parking lot immediately to south of Basin Road overpass and was stopped, and when defendant got out of automobile he appeared unsteady while on his feet, and he emitted the odor of alcohol, and he fumbled in finding his registration and license, and he admitted having some beer to drink, officers could have arrested the defendant under this section dealing with arrests for crime. *De Salvatore v. State*, 163, A. 2d 244 (1960).

8. Justification for arrest

If no felony had been committed before the arrest, it was no justification that the person arresting was an officer. *State v. Clark*, 2 Del. Cas. 210 (1804).

SEC. 1907. VALIDITY OF ARREST ON IMPROPER GROUNDS

If a lawful cause of arrest exists, the arrest is lawful even though the officer charges the wrong offense or gives a reason that does not justify the arrest.

HISTORY AND SOURCE OF LAW

DERIVATION:

48 Del. Laws, Ch. 304. Code 1935, Sec. 5343-G.

1951 AMENDMENT:

48 Del. Laws, Ch. 304, amended Code 1935 by adding these provisions as section 5343-G.