

SB 5605 - H COMM AMD

By Committee on Early Learning & Human Services

ADOPTED 03/04/2016

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 10.31.100 and 2014 c 202 s 307, 2014 c 100 s 2, and
4 2014 c 5 s 1 are each reenacted and amended to read as follows:

5 A police officer having probable cause to believe that a person
6 has committed or is committing a felony shall have the authority to
7 arrest the person without a warrant. A police officer may arrest a
8 person without a warrant for committing a misdemeanor or gross
9 misdemeanor only when the offense is committed in the presence of an
10 officer, except as provided in subsections (1) through (~~((11))~~) (12)
11 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
16 or possession of cannabis, or involving the acquisition, possession,
17 or consumption of alcohol by a person under the age of twenty-one
18 years under RCW 66.44.270, or involving criminal trespass under RCW
19 9A.52.070 or 9A.52.080, shall have the authority to arrest the
20 person.

21 (2) A police officer shall arrest and take into custody, pending
22 release on bail, personal recognizance, or court order, a person
23 without a warrant when the officer has probable cause to believe
24 that:

25 (a) An order has been issued of which the person has knowledge
26 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09,
27 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the
28 person has violated the terms of the order restraining the person
29 from acts or threats of violence, or restraining the person from
30 going onto the grounds of or entering a residence, workplace, school,
31 or day care, or prohibiting the person from knowingly coming within,

1 or knowingly remaining within, a specified distance of a location or,
2 in the case of an order issued under RCW 26.44.063, imposing any
3 other restrictions or conditions upon the person; or

4 (b) A foreign protection order, as defined in RCW 26.52.010, has
5 been issued of which the person under restraint has knowledge and the
6 person under restraint has violated a provision of the foreign
7 protection order prohibiting the person under restraint from
8 contacting or communicating with another person, or excluding the
9 person under restraint from a residence, workplace, school, or day
10 care, or prohibiting the person from knowingly coming within, or
11 knowingly remaining within, a specified distance of a location, or a
12 violation of any provision for which the foreign protection order
13 specifically indicates that a violation will be a crime; or

14 (c) The person is (~~sixteen~~) eighteen years or older and within
15 the preceding four hours has assaulted a family or household member
16 as defined in RCW 10.99.020 and the officer believes: (i) A felonious
17 assault has occurred; (ii) an assault has occurred which has resulted
18 in bodily injury to the victim, whether the injury is observable by
19 the responding officer or not; or (iii) that any physical action has
20 occurred which was intended to cause another person reasonably to
21 fear imminent serious bodily injury or death. Bodily injury means
22 physical pain, illness, or an impairment of physical condition. When
23 the officer has probable cause to believe that family or household
24 members have assaulted each other, the officer is not required to
25 arrest both persons. The officer shall arrest the person whom the
26 officer believes to be the primary physical aggressor. In making this
27 determination, the officer shall make every reasonable effort to
28 consider: (~~(i)~~) (A) The intent to protect victims of domestic
29 violence under RCW 10.99.010; (~~(ii)~~) (B) the comparative extent of
30 injuries inflicted or serious threats creating fear of physical
31 injury; and (~~(iii)~~) (C) the history of domestic violence of each
32 person involved, including whether the conduct was part of an ongoing
33 pattern of abuse.

34 (3) Any police officer shall arrest a person who is sixteen or
35 seventeen years old and within the preceding four hours has assaulted
36 a family or household member as defined in RCW 10.99.020 and that
37 person's parent or guardian requests an arrest.

38 (4) Any police officer having probable cause to believe that a
39 person has committed or is committing a violation of any of the
40 following traffic laws shall have the authority to arrest the person:

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

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

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

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

9 (e) RCW 46.61.503 or 46.25.110, relating to persons having
10 alcohol or THC in their system;

11 (f) RCW 46.20.342, relating to driving a motor vehicle while
12 operator's license is suspended or revoked;

13 (g) RCW 46.61.5249, relating to operating a motor vehicle in a
14 negligent manner.

15 (~~(4)~~) (5) A law enforcement officer investigating at the scene
16 of a motor vehicle accident may arrest the driver of a motor vehicle
17 involved in the accident if the officer has probable cause to believe
18 that the driver has committed in connection with the accident a
19 violation of any traffic law or regulation.

20 (~~(5)~~) (6)(a) A law enforcement officer investigating at the
21 scene of a motor vessel accident may arrest the operator of a motor
22 vessel involved in the accident if the officer has probable cause to
23 believe that the operator has committed, in connection with the
24 accident, a criminal violation of chapter 79A.60 RCW.

25 (b) A law enforcement officer investigating at the scene of a
26 motor vessel accident may issue a citation for an infraction to the
27 operator of a motor vessel involved in the accident if the officer
28 has probable cause to believe that the operator has committed, in
29 connection with the accident, a violation of any boating safety law
30 of chapter 79A.60 RCW.

31 (~~(6)~~) (7) Any police officer having probable cause to believe
32 that a person has committed or is committing a violation of RCW
33 79A.60.040 shall have the authority to arrest the person.

34 (~~(7)~~) (8) An officer may act upon the request of a law
35 enforcement officer in whose presence a traffic infraction was
36 committed, to stop, detain, arrest, or issue a notice of traffic
37 infraction to the driver who is believed to have committed the
38 infraction. The request by the witnessing officer shall give an
39 officer the authority to take appropriate action under the laws of
40 the state of Washington.

1 ~~((8))~~ (9) Any police officer having probable cause to believe
2 that a person has committed or is committing any act of indecent
3 exposure, as defined in RCW 9A.88.010, may arrest the person.

4 ~~((9))~~ (10) A police officer may arrest and take into custody,
5 pending release on bail, personal recognizance, or court order, a
6 person without a warrant when the officer has probable cause to
7 believe that an order has been issued of which the person has
8 knowledge under chapter 10.14 RCW and the person has violated the
9 terms of that order.

10 ~~((10))~~ (11) Any police officer having probable cause to believe
11 that a person has, within twenty-four hours of the alleged violation,
12 committed a violation of RCW 9A.50.020 may arrest such person.

13 ~~((11))~~ (12) A police officer having probable cause to believe
14 that a person illegally possesses or illegally has possessed a
15 firearm or other dangerous weapon on private or public elementary or
16 secondary school premises shall have the authority to arrest the
17 person.

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

21 ~~((12))~~ (13) A law enforcement officer having probable cause to
22 believe that a person has committed a violation under RCW
23 77.15.160(4) may issue a citation for an infraction to the person in
24 connection with the violation.

25 ~~((13))~~ (14) A law enforcement officer having probable cause to
26 believe that a person has committed a criminal violation under RCW
27 77.15.809 or 77.15.811 may arrest the person in connection with the
28 violation.

29 ~~((14))~~ (15) Except as specifically provided in subsections (2),
30 ~~((3))~~ (4), ~~((4))~~ (5), and ~~((7))~~ (8) of this section, nothing in
31 this section extends or otherwise affects the powers of arrest
32 prescribed in Title 46 RCW.

33 ~~((15))~~ (16) No police officer may be held criminally or civilly
34 liable for making an arrest pursuant to subsection (2) or ~~((9))~~
35 (10) of this section if the police officer acts in good faith and
36 without malice.

37 ~~((16))~~ (17) A police officer shall arrest and keep in custody,
38 until release by a judicial officer on bail, personal recognizance,
39 or court order, a person without a warrant when the officer has
40 probable cause to believe that the person has violated RCW 46.61.502

1 or 46.61.504 or an equivalent local ordinance and the police officer
2 has knowledge that the person has a prior offense as defined in RCW
3 46.61.5055 within ten years."

4 Correct the title.

EFFECT: The striking amendment makes the following changes to the underlying bill:

(1) Requires police officers to arrest 16 and 17 year olds who have assaulted a family or household member in the last four hours and that person's parent or guardian requests an arrest.

(2) Removes language providing officer discretion regarding whether to arrest 16 and 17 year olds for assaulting family or household members while retaining current law regarding police authority to arrest persons who have committed misdemeanors or gross misdemeanors involving physical harm or threats of harm to any person and other offenses.

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