

FINAL BILL REPORT

SB 5605

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Synopsis as Enacted

Brief Description: Concerning the arrest of sixteen and seventeen year olds for domestic violence assault.

Sponsors: Senators Darneille, Jayapal, Kohl-Welles and McAuliffe.

Senate Committee on Human Services, Mental Health & Housing
House Committee on Early Learning & Human Services

Background: A police officer must arrest and take into custody certain individuals without a warrant when the officer has probable cause to believe that the person committed specific crimes. These specific crimes include violations of a protection order, restraining order, no-contact order or foreign protection order, and persons age 16 years or older who assaulted a family or household member.

Mandatory arrest with probable cause for domestic violence assault was enacted by the Legislature in 1984 in an attempt to overcome law enforcement's traditional reluctance to arrest in cases of assaults involving domestic partners. The age of mandatory arrest was changed from age 18 to age 16 in 1995.

Assault. There are four assault categories ranging from first through fourth degree assault. First through third degree assault are felony offenses, while fourth degree assault is a gross misdemeanor. Fourth degree assault is defined as an assault not amounting to first degree, second degree, third degree, or custodial assault. Because Washington's criminal code does not define assault, the courts apply a common law definition. That common law definition includes the following:

- an attempt, with unlawful force, to inflict bodily injury upon another;
- unlawful touching with criminal intent; and
- putting another in apprehension of harm whether or not the actor intends to inflict or is capable of inflicting that harm.

A touching may be unlawful because it was not legally consented to nor otherwise privileged, and was either harmful or offensive.

Domestic Violence. Certain crimes, including assault, are designated domestic violence crimes when committed by one family or household member against another. Family or household members include spouses, former spouses, persons who have a child in common,

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adults related by blood or marriage, adults who are residing together or who resided together in the past, persons 16 years of age or older who are residing together or who resided together in the past who have or had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

Summary: The age of mandatory arrest is increased from 16 to 18 years of age for individuals whom an officer has probable cause to believe assaulted a family or household member in the preceding four hours.

A police officer must arrest a 16 or 17 year old who has assaulted a family member in the preceding four hours and the parent or guardian requests an arrest.

A juvenile detention facility must book into detention persons under age 18 brought to the detention facility pursuant to a domestic violence assault arrest.

Votes on Final Passage:

Senate	40	9	
House	55	42	(House amended)
Senate	43	5	(Senate concurred)

Effective: June 9, 2016