
Early Learning & Human Services Committee

SSB 5618

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

Sponsors: Senate Committee on Human Services, Mental Health & Housing (originally sponsored by Senators Darneille and Keiser).

Brief Summary of Substitute Bill

- Replaces the requirement that police officers arrest 16 and 17 year olds for domestic violence assault that occurred in the last four hours when the arrest is requested by a parent or guardian with a provision granting police officers discretionary arrest authority for those individuals.

Hearing Date: 3/14/17

Staff: Luke Wickham (786-7146).

Background:

Arrest Without a Warrant.

A police officer that has probable cause to believe a person has committed a felony has the authority to arrest the person without a warrant. Generally, officers may only arrest persons without a warrant for committing misdemeanor or gross misdemeanor offenses when the offense is committed in the presence of the officer.

Mandatory Arrest for Domestic Violence.

The Legislature enacted legislation in 1984 requiring that officers arrest a person when the officer has probable cause to believe that person has committed domestic violence assault within the last four hours. In 1985 the age of mandatory arrest for domestic violence was increased to age 18 and older. In 1995 the age of mandatory arrest was reduced to age 16 and older. In 2016

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the age of mandatory arrest was increased to age 18 again, but police officers are required to arrest 16 and 17 year olds for domestic violence assault when that arrest is requested by a parent or guardian.

A police officer must arrest and take into custody a person who is 18 years of age or older when the officer has probable cause to believe that the individual assaulted a family or household member within the preceding four hours and the officer believes:

- a felony assault occurred;
- an assault occurred resulting in bodily injury to the victim; or
- any physical action occurred that was intended to cause another person to reasonably fear imminent serious bodily harm or death.

In these circumstances, the officer shall arrest the person whom the officer believes to be the primary physical aggressor.

Assault.

Courts in Washington apply a common law definition of assault, which includes:

- 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.

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

There are four categories of assault ranging from Assault in the first degree, a class A felony, to Assault in the fourth degree, a gross misdemeanor.

Domestic Violence.

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

Summary of Bill:

The requirement that police officers arrest 16 and 17 year olds when the officer has probable cause to believe that the child has assaulted a family or household member in the last four hours and the arrest is requested by the child's parent or guardian is removed.

Police officers may arrest of 16 and 17 year olds when the officer has probable cause to believe that the person assaulted a family or household member in the last four hours and the officer believes that: (1) a felonious assault occurred; (2) an assault occurred resulting in bodily injury to the victim; or (3) another physical action occurred which was intended to cause another to reasonably fear imminent serious bodily injury or death.

In making the decision whether to arrest 16 and 17 year olds for domestic violence assault, police officers shall consider the intent to protect victims from domestic violence, the extent of injuries inflicted or serious threats creating fear of physical injury, and the history of domestic violence or stalking of each person involved.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.