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**Early Learning & Human Services  
Committee**

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**SB 5605**

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

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

**Brief Summary of Bill**

- Increases the age of mandatory arrest from 16 to 18 years old for domestic violence assault.
- Specifies that police officers may arrest 16 and 17 year olds for domestic violence assault and must consider certain criteria when making that decision.

**Hearing Date:** 2/23/16

**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.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

A police officer must arrest and take into custody a person who is 16 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 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.

Any police officer may arrest a 16 or 17-year-old who has assaulted a family member in the preceding four hours. In making the determination whether to arrest a 16 or 17-year-old for Domestic Violence Assault, the officer must consider:

- the intent to protect victims of domestic violence;
- the extent of injuries or threats; and
- the history of domestic violence or stalking of the parties.

**Appropriation:** None.

**Fiscal Note:** Available.

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