

CERTIFICATION OF ENROLLMENT

SENATE BILL 5605

Chapter 113, Laws of 2016

64th Legislature
2016 Regular Session

DOMESTIC VIOLENCE ASSAULT--16 AND 17 YEAR OLD CHILDREN--ARREST

EFFECTIVE DATE: 6/9/2016

Passed by the Senate March 7, 2016
Yeas 43 Nays 5

BRAD OWEN

President of the Senate

Passed by the House March 4, 2016
Yeas 55 Nays 42

FRANK CHOPP

Speaker of the House of Representatives

Approved March 31, 2016 11:25 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5605** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

April 1, 2016

**Secretary of State
State of Washington**

SENATE BILL 5605

AS AMENDED BY THE HOUSE

Passed Legislature - 2016 Regular Session

State of Washington 64th Legislature 2015 Regular Session

By Senators Darneille, Jayapal, Kohl-Welles, and McAuliffe

Read first time 01/26/15. Referred to Committee on Human Services,
Mental Health & Housing.

1 AN ACT Relating to arrest of sixteen and seventeen year olds for
2 domestic violence assault; and reenacting and amending RCW 10.31.100.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

6 A police officer having probable cause to believe that a person
7 has committed or is committing a felony shall have the authority to
8 arrest the person without a warrant. A police officer may arrest a
9 person without a warrant for committing a misdemeanor or gross
10 misdemeanor only when the offense is committed in the presence of an
11 officer, except as provided in subsections (1) through (~~(11)~~) (12)
12 of this section.

13 (1) Any police officer having probable cause to believe that a
14 person has committed or is committing a misdemeanor or gross
15 misdemeanor, involving physical harm or threats of harm to any person
16 or property or the unlawful taking of property or involving the use
17 or possession of cannabis, or involving the acquisition, possession,
18 or consumption of alcohol by a person under the age of twenty-one
19 years under RCW 66.44.270, or involving criminal trespass under RCW
20 9A.52.070 or 9A.52.080, shall have the authority to arrest the
21 person.

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

5 (a) An order has been issued of which the person has knowledge
6 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09,
7 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the
8 person has violated the terms of the order restraining the person
9 from acts or threats of violence, or restraining the person from
10 going onto the grounds of or entering a residence, workplace, school,
11 or day care, or prohibiting the person from knowingly coming within,
12 or knowingly remaining within, a specified distance of a location or,
13 in the case of an order issued under RCW 26.44.063, imposing any
14 other restrictions or conditions upon the person; or

15 (b) A foreign protection order, as defined in RCW 26.52.010, has
16 been issued of which the person under restraint has knowledge and the
17 person under restraint has violated a provision of the foreign
18 protection order prohibiting the person under restraint from
19 contacting or communicating with another person, or excluding the
20 person under restraint from a residence, workplace, school, or day
21 care, or prohibiting the person from knowingly coming within, or
22 knowingly remaining within, a specified distance of a location, or a
23 violation of any provision for which the foreign protection order
24 specifically indicates that a violation will be a crime; or

25 (c) The person is (~~sixteen~~) eighteen years or older and within
26 the preceding four hours has assaulted a family or household member
27 as defined in RCW 10.99.020 and the officer believes: (i) A felonious
28 assault has occurred; (ii) an assault has occurred which has resulted
29 in bodily injury to the victim, whether the injury is observable by
30 the responding officer or not; or (iii) that any physical action has
31 occurred which was intended to cause another person reasonably to
32 fear imminent serious bodily injury or death. Bodily injury means
33 physical pain, illness, or an impairment of physical condition. When
34 the officer has probable cause to believe that family or household
35 members have assaulted each other, the officer is not required to
36 arrest both persons. The officer shall arrest the person whom the
37 officer believes to be the primary physical aggressor. In making this
38 determination, the officer shall make every reasonable effort to
39 consider: (~~(i)~~) (A) The intent to protect victims of domestic
40 violence under RCW 10.99.010; (~~(ii)~~) (B) the comparative extent of

1 injuries inflicted or serious threats creating fear of physical
2 injury; and ~~((+iii))~~ (C) the history of domestic violence of each
3 person involved, including whether the conduct was part of an ongoing
4 pattern of abuse.

5 (3) A police officer shall, at the request of a parent or
6 guardian, arrest the sixteen or seventeen year old child of that
7 parent or guardian if the officer has probable cause to believe that
8 the child has assaulted a family or household member as defined in
9 RCW 10.99.020 in the preceding four hours. Nothing in this subsection
10 removes a police officer's existing authority provided in this
11 section to make an arrest.

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

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

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

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

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

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

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

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

29 ~~((+4))~~ (5) A law enforcement officer investigating at the scene
30 of a motor vehicle accident may arrest the driver of a motor vehicle
31 involved in the accident if the officer has probable cause to believe
32 that the driver has committed in connection with the accident a
33 violation of any traffic law or regulation.

34 ~~((+5))~~ (6)(a) A law enforcement officer investigating at the
35 scene of a motor vessel accident may arrest the operator of a motor
36 vessel involved in the accident if the officer has probable cause to
37 believe that the operator has committed, in connection with the
38 accident, a criminal violation of chapter 79A.60 RCW.

39 (b) A law enforcement officer investigating at the scene of a
40 motor vessel accident may issue a citation for an infraction to the

1 operator of a motor vessel involved in the accident if the officer
2 has probable cause to believe that the operator has committed, in
3 connection with the accident, a violation of any boating safety law
4 of chapter 79A.60 RCW.

5 ~~((+6))~~ (7) Any police officer having probable cause to believe
6 that a person has committed or is committing a violation of RCW
7 79A.60.040 shall have the authority to arrest the person.

8 ~~((+7))~~ (8) An officer may act upon the request of a law
9 enforcement officer in whose presence a traffic infraction was
10 committed, to stop, detain, arrest, or issue a notice of traffic
11 infraction to the driver who is believed to have committed the
12 infraction. The request by the witnessing officer shall give an
13 officer the authority to take appropriate action under the laws of
14 the state of Washington.

15 ~~((+8))~~ (9) Any police officer having probable cause to believe
16 that a person has committed or is committing any act of indecent
17 exposure, as defined in RCW 9A.88.010, may arrest the person.

18 ~~((+9))~~ (10) A police officer may arrest and take into custody,
19 pending release on bail, personal recognizance, or court order, a
20 person without a warrant when the officer has probable cause to
21 believe that an order has been issued of which the person has
22 knowledge under chapter 10.14 RCW and the person has violated the
23 terms of that order.

24 ~~((+10))~~ (11) Any police officer having probable cause to believe
25 that a person has, within twenty-four hours of the alleged violation,
26 committed a violation of RCW 9A.50.020 may arrest such person.

27 ~~((+11))~~ (12) A police officer having probable cause to believe
28 that a person illegally possesses or illegally has possessed a
29 firearm or other dangerous weapon on private or public elementary or
30 secondary school premises shall have the authority to arrest the
31 person.

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

35 ~~((+12))~~ (13) A law enforcement officer having probable cause to
36 believe that a person has committed a violation under RCW
37 77.15.160(4) may issue a citation for an infraction to the person in
38 connection with the violation.

39 ~~((+13))~~ (14) A law enforcement officer having probable cause to
40 believe that a person has committed a criminal violation under RCW

1 77.15.809 or 77.15.811 may arrest the person in connection with the
2 violation.

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

7 ~~((15))~~ (16) No police officer may be held criminally or civilly
8 liable for making an arrest pursuant to subsection (2) or ~~((9))~~
9 (10) of this section if the police officer acts in good faith and
10 without malice.

11 ~~((16))~~ (17) A police officer shall arrest and keep in custody,
12 until release by a judicial officer on bail, personal recognizance,
13 or court order, a person without a warrant when the officer has
14 probable cause to believe that the person has violated RCW 46.61.502
15 or 46.61.504 or an equivalent local ordinance and the police officer
16 has knowledge that the person has a prior offense as defined in RCW
17 46.61.5055 within ten years.

18 (18) A juvenile detention facility shall book into detention any
19 person under age eighteen brought to that detention facility pursuant
20 to an arrest for assaulting a family or household member as defined
21 in RCW 10.99.020.

Passed by the Senate March 7, 2016.

Passed by the House March 4, 2016.

Approved by the Governor March 31, 2016.

Filed in Office of Secretary of State April 1, 2016.