

# HOUSE BILL REPORT

## HB 1226

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**As Reported by House Committee On:**  
Early Learning & Human Services

**Title:** An act relating to arrest of sixteen and seventeen year olds for domestic violence assault.

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

**Sponsors:** Representatives Goodman, Kagi, Orwall, Van De Wege and Ortiz-Self.

**Brief History:**

**Committee Activity:**

Early Learning & Human Services: 1/27/15, 1/30/15 [DP].

**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.

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### HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

**Majority Report:** Do pass. Signed by 10 members: Representatives Kagi, Chair; Walkinshaw, Vice Chair; Walsh, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Dent, Hawkins, McCaslin, Ortiz-Self, Sawyer and Senn.

**Staff:** Luke Wickham (786-7146).

**Background:**

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

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- 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 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.

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.

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#### **Summary of Bill:**

The age of mandatory arrest is increased from 16 to 18 years of age for individuals whom a law enforcement 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 the victim;
- the extent of injuries or threats; and
- the history of domestic violence or stalking of the parties.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) There is a pretty broad consensus of support on this issue. In the early 1980s, there was a significant policy shift to require mandatory arrest for Domestic Violence Assault. At the time, many law enforcement responding to an arrest would not make an arrest. There was a prevalent philosophy that families should just work these issues out. There was a major effort to change that culture. When this happened in Washington, there was a requirement to arrest 16 year olds and older. Since this change was made, there have been major changes and a culture shift around domestic violence issues. Law enforcement is much more aware of domestic violence issues and able to respond appropriately. There may be other issues at play in domestic violence situations involving 16 and 17 year olds, more than the power dynamic that is involved in the traditional domestic violence situation. Law enforcement is in a good position to determine whether an arrest is appropriate or another intervention is appropriate.

The Washington Association of Prosecuting Attorneys is in support of this bill. There is consensus among the stakeholders to make this change. The purpose of the bill is to provide more meaningful interventions that restore family order. The original bill that was introduced last session was rather prescriptive regarding process, whereas the current bill leaves each jurisdiction to allow referrals to domestic violence treatment programs. The Washington State Coalition Against Domestic Violence is supportive of the bill and provided some of the language included in the bill.

(Opposed) None.

**Persons Testifying:** Representative Goodman, prime sponsor; and Jon Tunheim, Thurston County Prosecutor's Office and Washington Association of Prosecuting Attorneys.

**Persons Signed In To Testify But Not Testifying:** None.