

FINAL BILL REPORT

SSB 5618

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Synopsis as Enacted

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).

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 16 years of age 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.

First through third degree assault are felony offenses, while fourth degree assault is a gross misdemeanor. Washington's criminal code does not define assault. The courts apply a common law definition. That common law definition includes:

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

Certain crimes, including assault, are 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 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.

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.

In 2016, the age of mandatory arrest returned to 18 years of age or older when a family or household member is assaulted within the preceding four hours, the alleged assault is a felony, or causes bodily injury, or was a physical action intended to cause a person to reasonably fear serious bodily injury or death. Also in 2016, as an exception to the minimum age for mandatory arrest, a police officer is required to arrest a 16 or 17 year old at the parent's or guardian's request if the officer has probable cause to believe that the child has assaulted a family or household member in the preceding four hours. A juvenile detention facility is required to book any person under 18 years of age who is arrested for assaulting a family or household member.

Summary: A police officer must arrest anyone over 18 years of age who has assaulted a family or household member in the preceding four hours if the alleged assault is a felony, or causes bodily injury, or was a physical action intended to cause a person to reasonably fear serious bodily injury or death. There is no mandatory arrest requirement for domestic violence assault for persons under 18 years of age. A police officer is not required to arrest a 16 or 17 year old if a parent or guardian requests a police officer to arrest a 16 or 17 year old. Eliminating the mandatory arrest requirement for 16 and 17 year olds upon a parent's request does not affect the police officer's authority to arrest a 16 or 17 year old when permitted by other laws. A juvenile detention facility is not required to book into detention a person under age 18 who is brought to that detention facility pursuant to a domestic violence arrest.

Votes on Final Passage:

Senate	44	0	
House	91	6	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 23, 2017