

SB 5605 - H AMD TO ELHS COMM AMD (H4568.1/16) **928**

By Representative Hayes

WITHDRAWN 03/04/2016

1 On page 1 of the striking amendment, strike all material after
2 line 2 and insert the following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that the arrest of
4 sixteen and seventeen year olds for domestic violence assault is a
5 critical element in protecting victims of domestic violence and
6 providing a cooling off period for families in crisis. However, the
7 legislature further recognizes that early intervention services,
8 coupled with a cooling off period, can improve long-term outcomes for
9 juvenile offenders while protecting victims of domestic violence.
10 Connecting youth involved in domestic violence assault with
11 appropriate therapeutic and rehabilitative intervention services will
12 help prevent recidivism and promote a transition to productive,
13 responsible adult lives. For these reasons, the legislature intends
14 to encourage policies that reverse the cycles of domestic violence by
15 providing services to sixteen and seventeen year olds after domestic
16 violence assault arrest.

17 **Sec. 2.** RCW 10.31.100 and 2014 c 202 s 307 are each amended to
18 read as follows:

19 A police officer having probable cause to believe that a person
20 has committed or is committing a felony shall have the authority to
21 arrest the person without a warrant. A police officer may arrest a
22 person without a warrant for committing a misdemeanor or gross
23 misdemeanor only when the offense is committed in the presence of an
24 officer, except as provided in subsections (1) through (11) of this
25 section.

26 (1) Any police officer having probable cause to believe that a
27 person has committed or is committing a misdemeanor or gross

1 misdemeanor, involving physical harm or threats of harm to any
2 person or property or the unlawful taking of property or involving
3 the use or possession of cannabis, or involving the acquisition,
4 possession, or consumption of alcohol by a person under the age of
5 twenty-one years under RCW 66.44.270, or involving criminal trespass
6 under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest
7 the person.

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

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

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

32 (c) The person is sixteen years or older and within the
33 preceding four hours has assaulted a family or household member as
34 defined in RCW 10.99.020 and the officer believes: (i) A felonious

1 assault has occurred; (ii) an assault has occurred which has
2 resulted in bodily injury to the victim, whether the injury is
3 observable by the responding officer or not; or (iii) that any
4 physical action has occurred which was intended to cause another
5 person reasonably to fear imminent serious bodily injury or death.
6 Bodily injury means physical pain, illness, or an impairment of
7 physical condition. When the officer has probable cause to believe
8 that family or household members have assaulted each other, the
9 officer is not required to arrest both persons. The officer shall
10 arrest the person whom the officer believes to be the primary
11 physical aggressor. In making this determination, the officer shall
12 make every reasonable effort to consider: (i) The intent to protect
13 victims of domestic violence under RCW 10.99.010; (ii) the
14 comparative extent of injuries inflicted or serious threats creating
15 fear of physical injury; and (iii) the history of domestic violence
16 of each person involved, including whether the conduct was part of
17 an ongoing pattern of abuse. After arrest for domestic violence
18 assault under this section and subsequent placement in detention,
19 prosecuting agencies may enter into a diversion agreement with
20 persons sixteen and seventeen years of age requiring the juvenile to
21 engage in appropriate services that may include a family violence
22 assessment, development of a safety plan, behavioral therapy,
23 aggression replacement training, or other services designed to
24 prevent domestic violence.

25 (3) Any police officer having probable cause to believe that a
26 person has committed or is committing a violation of any of the
27 following traffic laws shall have the authority to arrest the
28 person:

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

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

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

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

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

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

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

9 (4) A law enforcement officer investigating at the scene of a
10 motor vehicle accident may arrest the driver of a motor vehicle
11 involved in the accident if the officer has probable cause to
12 believe that the driver has committed in connection with the
13 accident a violation of any traffic law or regulation.

14 (5)(a) A law enforcement officer investigating at the scene of a
15 motor vessel accident may arrest the operator of a motor vessel
16 involved in the accident if the officer has probable cause to
17 believe that the operator has committed, in connection with the
18 accident, a criminal violation of chapter 79A.60 RCW.

19 (b) A law enforcement officer investigating at the scene of a
20 motor vessel accident may issue a citation for an infraction to the
21 operator of a motor vessel involved in the accident if the officer
22 has probable cause to believe that the operator has committed, in
23 connection with the accident, a violation of any boating safety law
24 of chapter 79A.60 RCW.

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

28 (7) An officer may act upon the request of a law enforcement
29 officer in whose presence a traffic infraction was committed, to
30 stop, detain, arrest, or issue a notice of traffic infraction to the
31 driver who is believed to have committed the infraction. The request
32 by the witnessing officer shall give an officer the authority to
33 take appropriate action under the laws of the state of Washington.

34

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

4 (9) A police officer may arrest and take into custody, pending
5 release on bail, personal recognizance, or court order, a person
6 without a warrant when the officer has probable cause to believe
7 that an order has been issued of which the person has knowledge
8 under chapter 10.14 RCW and the person has violated the terms of
9 that order.

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

13 (11) A police officer having probable cause to believe that a
14 person illegally possesses or illegally has possessed a firearm or
15 other dangerous weapon on private or public elementary or secondary
16 school premises shall have the authority to arrest the person.

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

20 (12) A law enforcement officer having probable cause to believe
21 that a person has committed a violation under RCW 77.15.160(4) may
22 issue a citation for an infraction to the person in connection with
23 the violation.

24 (13) A law enforcement officer having probable cause to believe
25 that a person has committed a criminal violation under RCW 77.15.809
26 or 77.15.811 may arrest the person in connection with the violation.

27 (14) Except as specifically provided in subsections (2), (3),
28 (4), and (7) of this section, nothing in this section extends or
29 otherwise affects the powers of arrest prescribed in Title 46 RCW.

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

33 (16) A police officer shall arrest and keep in custody, until
34 release by a judicial officer on bail, personal recognizance, or

1 court order, a person without a warrant when the officer has
2 probable cause to believe that the person has violated RCW 46.61.502
3 or 46.61.504 or an equivalent local ordinance and the police officer
4 has knowledge that the person has a prior offense as defined in RCW
5 46.61.5055 within ten years.

6

7 Correct the title."

EFFECT: Makes the following changes to the striking amendment:

- Restores the age of mandatory arrest for domestic violence assault to age 16 and older.
- Specifies that prosecuting agencies may enter into diversion agreements with persons aged 16 or 17 arrested for domestic violence assault that require a youth's engagement in appropriate services.

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