

HOUSE BILL REPORT

SB 5953

As Passed House:

April 3, 2007

Title: An act relating to penalties for acts of violence by strangulation.

Brief Description: Increasing penalties for acts of domestic violence involving strangulation.

Sponsors: By Senators Eide, Stevens, Delvin, Regala, Sheldon, Benton, Marr, Shin, Rasmussen and Holmquist; by request of Attorney General.

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 3/19/07 [DP].

Floor Activity:

Passed House: 4/3/07, 97-0.

Brief Summary of Bill

- Makes Assault by strangulation automatically Assault in the second degree.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: Do pass. Signed by 7 members: Representatives O'Brien, Chair; Hurst, Vice Chair; Pearson, Ranking Minority Member; Ross, Assistant Ranking Minority Member; Ahern, Goodman and Lovick.

Staff: Jim Morishima (786-7191).

Background:

A person commits Assault if he or she: (a) attempts, with unlawful force, to inflict bodily injury upon another; (b) unlawfully touches another person with criminal intent; or (c) puts another person in apprehension of harm. *State v. Stevens*, 158 Wn.2d 304, 310 (2006). The crime is divided into four degrees depending on the manner in which it was committed or the amount of harm caused to the victim.

For example, a person is guilty of Assault in the first degree if he or she, with the intent to inflict great bodily harm:

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- assaults another with a firearm, with a deadly weapon, or by any force or means likely to produce great bodily harm or death;
- administers, exposes, or transmits to or causes to be taken by another, poison, the HIV virus, or any other destructive or noxious substance; or
- assaults another person and inflicts great bodily harm.

Assault in the first degree is a class A felony with a seriousness level of XII.

A person is guilty of Assault in the second degree if he or she, under circumstances not amounting to Assault in the first degree:

- intentionally assaults another and thereby recklessly inflicts substantial bodily harm;
- intentionally and unlawfully causes substantial bodily harm to an unborn quick child by intentionally and unlawfully inflicting any injury upon the mother of the child;
- assaults another with a deadly weapon;
- with intent to inflict bodily harm, administers to, or causes to be taken by another, poison or any other destructive or noxious substance;
- with intent to commit a felony, assaults another; or
- knowingly inflicts bodily harm that by design causes pain or agony equivalent to that produced by torture.

Assault in the second degree is a class B felony with a seriousness level of IV (the crime is a class A felony if committed with sexual motivation).

A person is guilty of Assault in the third degree if he or she, under circumstances not amounting to Assault in the first or second degree:

- assaults another with intent to prevent or resist the execution of any lawful process or mandate of any court officer or the lawful apprehension or detention of himself or another person;
- assaults one of several enumerated classes of person; e.g., law enforcement officers, fire fighters, school bus drivers;
- with criminal negligence, causes bodily harm to another person by means of a weapon or other instrument or thing likely to produce bodily harm;
- with criminal negligence, causes bodily harm accompanied by substantial pain that extends for a period sufficient to cause considerable suffering; or
- assaults a peace officer with a projectile stun gun.

Assault in the third degree is a class C felony with a seriousness level of III.

A person is guilty of Assault in the fourth degree if he or she assaults another under circumstances not amounting to Assault in the first, second, or third degrees. Assault in the fourth degree is a gross misdemeanor.

Summary of Bill:

A person is guilty of Assault in the second degree if he or she, under circumstances not amounting to Assault in the first degree, assaults another by strangulation. "Strangulation" is defined as compressing a person's neck, thereby obstructing the person's blood flow or ability

to breathe, or compressing a person's neck with the intent to obstruct the person's blood flow or ability to breathe.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill was drafted in consultation with the Attorney General and victim advocates. Assaults by strangulation can be hard to prosecute because there are often no clear injuries. Victims of strangulation can have injuries that are hard to detect, even by the victim himself or herself, such as brain damage or internal injuries. A class B felony with a seriousness level of IV is an appropriate sanction for this crime.

(Opposed) None.

Persons Testifying: Senator Eide, prime sponsor; Ruqayyah N. Sabir, Domestic Abuse Women's Network; and Chris Johnson, Office of the Attorney General.

Persons Signed In To Testify But Not Testifying: None.