

FINAL BILL REPORT

SB 5953

C 79 L 07

Synopsis as Enacted

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

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

Senate Committee on Judiciary

House Committee on Public Safety & Emergency Preparedness

Background: Under current law, assault by strangulation is difficult to prove without significant medical evidence. The act of strangulation is generally charged under domestic violence statutes, carrying the punishment of a gross misdemeanor, which is up to 365 days in jail and/or a \$5,000 fine.

In the case of *In the Matter of Personal Restraint Petition of Shawn Andress*, 147 Wn.2d 602, 56 P.3d 981 (2002), the Court held that assault cannot serve as the predicate felony for second degree felony murder under RCW 9A.32.050. In 2003, the Legislature amended RCW 9A.32.050 to specifically include assault as an applicable predicate offense. (Majority: Madsen, Alexander, Smith, Johnson, and Sanders. Dissent: Ireland, Bridge, Chambers, and Owens.)

In *State v. Bingham*, 105 Wn.2d 820, 719 P.12d 109 (1986), the Supreme Court upheld that evidence of manual strangulation alone was insufficient to show premeditation required for a first degree murder conviction. (Majority: Goodloe, Dolliver, Utter, Brachtenbach, Pearson. Dissent: Callow, Dore, Andersen, and Durham.)

Proponents believe that strangulation is an intentional, potentially lethal, form of violence that inflicts physical and psychological effects upon the victim. They further believe that the cruelty of this offense merits its categorization as a ranked felony offense.

Summary: A person may be charged with assault in the second degree when, under circumstances not amounting to assault in the first degree, he or she assaults another by strangulation. Assault in the second degree is a class B felony. This crime is a level IV felony punishable by three to nine months of confinement for a first offense. "Strangulation" is defined as compressing a person's neck, thereby obstructing the person's blood flow or ability to breathe, or doing so with the intent to obstruct the person's blood flow or ability to breathe.

Votes on Final Passage:

Senate	44	0
House	97	0

Effective: July 22, 2007