

# SENATE BILL REPORT

## SB 6697

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As Reported by Senate Committee On:  
Judiciary, February 5, 2010

**Title:** An act relating to suffocation.

**Brief Description:** Concerning suffocation.

**Sponsors:** Senators Haugen, Kline and Kohl-Welles.

**Brief History:**

**Committee Activity:** Judiciary: 2/03/10, 2/05/10 [DPS, w/oRec].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 6697 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Regala, Vice Chair; Gordon, Hargrove and Kohl-Welles.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Roach.

**Staff:** Juliana Roe (786-7438)

**Background:** Under current law, a person is guilty of assault in the second degree if that person: intentionally assaults another and recklessly inflicts substantial bodily harm; intentionally and unlawfully causes substantial bodily harm to an unborn child by intentionally and unlawfully inflicting any injury upon the mother of such child; assaults another with a deadly weapon; administers to or causes another to take poison or other noxious substance with the intent to inflict bodily harm; assaults another with the intent to commit a felony; knowingly inflicts bodily harm which causes pain or agony equivalent of that produced by torture; or assaults another by strangulation.

Assault in the second degree is a Class B felony. It is considered a most serious offense. Most serious offenses are considered three strike offenses. A person who commits three or more most serious offenses is considered a persistent offender and is subject to a sentence of life imprisonment without the possibility of parole.

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*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.*

Under current law, if a person smothers another person with a pillow, without injuring that person, the smotherer would likely be charged with assault in the fourth degree, which is a gross misdemeanor. It would not be considered assault in the second degree.

**Summary of Bill (Recommended Substitute):** Assault by suffocation is listed as one way by which a person commits assault in the second degree. Suffocation means to intentionally obstruct a person's ability to breathe by blocking or impairing intake at the nose or mouth. Assault by suffocation is excluded from the list of most serious offenses.

**EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Substitute):** Suffocation means to intentionally obstruct a person's ability to breathe by blocking or impairing intake at the nose or mouth. Assault by suffocation is excluded from the list of most serious offenses.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** CON: The portion of the bill that excludes assault by suffocation and assault by strangulation from the list of most serious offenses is the only portion of the bill that cannot be supported.

Suffocation, as a means of committing assault in the second degree, should have been included in the strangulation legislation that passed in 2007. Suffocation injures victims just as strangulation does. It is a means of terrorizing a victim. Having to charge this crime, under current law, as a misdemeanor is inadequate. This is a serious offense regardless of whether physical injury or a residual effect results. While the number of cases this would effect is small, they are still important. This needs to be taken seriously.

**Persons Testifying:** CON: Greg Banks, Island County Prosecuting Attorney.