

SENATE BILL REPORT

SHB 1188

As of March 11, 2011

Title: An act relating to suffocation and other domestic violence offenses.

Brief Description: Concerning suffocation and other domestic violence offenses.

Sponsors: House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Goodman, Kelley, Hurst, Kenney, Moscoso, Warnick, Roberts, Maxwell, Lias, Frockt, Rolfes, Sullivan, Carlyle, Finn, Hudgins, Kagi, Miloscia, Appleton, Ladenburg and Fitzgibbon).

Brief History: Passed House: 2/26/11, 97-0.

Committee Activity: Judiciary: 3/11/11.

SENATE COMMITTEE ON JUDICIARY

Staff: Lidia Mori (786-7755)

Background: One of the ways that a person commits the crime of assault in the second degree is by assaulting a person by strangulation. Strangulation means to compress a person's neck, obstructing or intending to obstruct blood flow or the ability to breathe. Assault in the second degree is a class B felony with a seriousness level of IV. If there is a finding of sexual motivation, it is a class A felony. Assault in the second degree is included in the list of crimes that fall under the definition of a most serious offense. A person who has been convicted of three most serious offenses is a persistent offender and may be sentenced to life in prison without the possibility of release.

The standard sentence range for a person convicted of a felony is based on the seriousness level of the offense and the offender score. The offender score is determined based on points for prior offenses. Generally only prior felonies are included in the offender score, but where the present conviction is for a felony domestic violence offense, one point is added to the offender score for each prior conviction for a repetitive domestic violence offense. A repetitive domestic violence offense is defined as a non-felony violation of a no-contact or protection order, non-felony domestic violence assault, harassment, or stalking.

A prior conviction washes out of an offender's score if the person spends a specific number of years in the community without being convicted of a crime. For example, a class B felony

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other than a sex offense washes out after ten years, and a class C felony other than a sex offense washes out after five years.

Summary of Bill: Assault in the second degree includes assaulting another by suffocation. Suffocation means to intentionally obstruct a person's ability to breathe by blocking or impairing intake at the nose or mouth, whether by smothering or other means.

A prior conviction for a repetitive domestic violence offense is not included in the offender score if the person has spent ten consecutive years in the community without being convicted of a crime.

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: PRO: This bill evolved from the domestic violence workgroup. Washington led the nation by addressing the problem of strangulation and adding it to the assault in the second degree statute. However, now Washington is lagging behind other states in terms of how it deals with the act of suffocation. The original House Bill 1188 did not contain language adding suffocation as a strike, and strangulation and suffocation should be removed as part of the three strikes law. Changing the title is acceptable. The violence of the act of suffocation and the terror it causes is treated as a misdemeanor now. It shouldn't be a misdemeanor. Seventeen states have passed laws including strangulation and suffocation within the same statutory provision. Victims deserve to have felony protection. It is a violent assault and a worthy strike.

CON: Suffocation be added to the assault second degree statute, but we ask that it not be a strike. This would water down the persistent offender statute. Suffocation would become yet another way for a person to become a persistent offender.

Persons Testifying: PRO: Representative Goodman, prime sponsor; David Martin, King County Prosecuting Attorney.

CON: Ted DeBrey, WA Assn. of Criminal Defense Lawyers.