
SENATE BILL 5953

State of Washington 60th Legislature 2007 Regular Session

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

Read first time 02/08/2007. Referred to Committee on Judiciary.

1 AN ACT Relating to penalties for acts of violence by strangulation;
2 amending RCW 9A.36.021 and 9A.04.110; creating a new section; and
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that assault by
6 strangulation may result in immobilization of a victim, may cause a
7 loss of consciousness, injury, or even death, and has been a factor in
8 a significant number of domestic violence related assaults and
9 fatalities. While not limited to acts of assault against an intimate
10 partner, assault by strangulation is often knowingly inflicted upon an
11 intimate partner with the intent to commit physical injury, or
12 substantial or great bodily harm. Strangulation is one of the most
13 lethal forms of domestic violence. The particular cruelty of this
14 offense and its potential effects upon a victim both physically and
15 psychologically, merit its categorization as a ranked felony offense
16 under chapter 9A.36 RCW.

17 **Sec. 2.** RCW 9A.36.021 and 2003 c 53 s 64 are each amended to read
18 as follows:

1 (1) A person is guilty of assault in the second degree if he or
2 she, under circumstances not amounting to assault in the first degree:

3 (a) Intentionally assaults another and thereby recklessly inflicts
4 substantial bodily harm; or

5 (b) Intentionally and unlawfully causes substantial bodily harm to
6 an unborn quick child by intentionally and unlawfully inflicting any
7 injury upon the mother of such child; or

8 (c) Assaults another with a deadly weapon; or

9 (d) With intent to inflict bodily harm, administers to or causes to
10 be taken by another, poison or any other destructive or noxious
11 substance; or

12 (e) With intent to commit a felony, assaults another; or

13 (f) Knowingly inflicts bodily harm which by design causes such pain
14 or agony as to be the equivalent of that produced by torture; or

15 (g) Assaults another by strangulation.

16 (2)(a) Except as provided in (b) of this subsection, assault in the
17 second degree is a class B felony.

18 (b) Assault in the second degree with a finding of sexual
19 motivation under RCW 9.94A.835 or 13.40.135 is a class A felony.

20 **Sec. 3.** RCW 9A.04.110 and 2005 c 458 s 3 are each amended to read
21 as follows:

22 In this title unless a different meaning plainly is required:

23 (1) "Acted" includes, where relevant, omitted to act;

24 (2) "Actor" includes, where relevant, a person failing to act;

25 (3) "Benefit" is any gain or advantage to the beneficiary,
26 including any gain or advantage to a third person pursuant to the
27 desire or consent of the beneficiary;

28 (4)(a) "Bodily injury," "physical injury," or "bodily harm" means
29 physical pain or injury, illness, or an impairment of physical
30 condition;

31 (b) "Substantial bodily harm" means bodily injury which involves a
32 temporary but substantial disfigurement, or which causes a temporary
33 but substantial loss or impairment of the function of any bodily part
34 or organ, or which causes a fracture of any bodily part;

35 (c) "Great bodily harm" means bodily injury which creates a
36 probability of death, or which causes significant serious permanent

1 disfigurement, or which causes a significant permanent loss or
2 impairment of the function of any bodily part or organ;

3 (5) "Building", in addition to its ordinary meaning, includes any
4 dwelling, fenced area, vehicle, railway car, cargo container, or any
5 other structure used for lodging of persons or for carrying on business
6 therein, or for the use, sale or deposit of goods; each unit of a
7 building consisting of two or more units separately secured or occupied
8 is a separate building;

9 (6) "Deadly weapon" means any explosive or loaded or unloaded
10 firearm, and shall include any other weapon, device, instrument,
11 article, or substance, including a "vehicle" as defined in this
12 section, which, under the circumstances in which it is used, attempted
13 to be used, or threatened to be used, is readily capable of causing
14 death or substantial bodily harm;

15 (7) "Dwelling" means any building or structure, though movable or
16 temporary, or a portion thereof, which is used or ordinarily used by a
17 person for lodging;

18 (8) "Government" includes any branch, subdivision, or agency of the
19 government of this state and any county, city, district, or other local
20 governmental unit;

21 (9) "Governmental function" includes any activity which a public
22 servant is legally authorized or permitted to undertake on behalf of a
23 government;

24 (10) "Indicted" and "indictment" include "informed against" and
25 "information", and "informed against" and "information" include
26 "indicted" and "indictment";

27 (11) "Judge" includes every judicial officer authorized alone or
28 with others, to hold or preside over a court;

29 (12) "Malice" and "maliciously" shall import an evil intent, wish,
30 or design to vex, annoy, or injure another person. Malice may be
31 inferred from an act done in wilful disregard of the rights of another,
32 or an act wrongfully done without just cause or excuse, or an act or
33 omission of duty betraying a wilful disregard of social duty;

34 (13) "Officer" and "public officer" means a person holding office
35 under a city, county, or state government, or the federal government
36 who performs a public function and in so doing is vested with the
37 exercise of some sovereign power of government, and includes all

1 assistants, deputies, clerks, and employees of any public officer and
2 all persons lawfully exercising or assuming to exercise any of the
3 powers or functions of a public officer;

4 (14) "Omission" means a failure to act;

5 (15) "Peace officer" means a duly appointed city, county, or state
6 law enforcement officer;

7 (16) "Pecuniary benefit" means any gain or advantage in the form of
8 money, property, commercial interest, or anything else the primary
9 significance of which is economic gain;

10 (17) "Person", "he", and "actor" include any natural person and,
11 where relevant, a corporation, joint stock association, or an
12 unincorporated association;

13 (18) "Place of work" includes but is not limited to all the lands
14 and other real property of a farm or ranch in the case of an actor who
15 owns, operates, or is employed to work on such a farm or ranch;

16 (19) "Prison" means any place designated by law for the keeping of
17 persons held in custody under process of law, or under lawful arrest,
18 including but not limited to any state correctional institution or any
19 county or city jail;

20 (20) "Prisoner" includes any person held in custody under process
21 of law, or under lawful arrest;

22 (21) "Projectile stun gun" means an electronic device that projects
23 wired probes attached to the device that emit an electrical charge and
24 that is designed and primarily employed to incapacitate a person or
25 animal;

26 (22) "Property" means anything of value, whether tangible or
27 intangible, real or personal;

28 (23) "Public servant" means any person other than a witness who
29 presently occupies the position of or has been elected, appointed, or
30 designated to become any officer or employee of government, including
31 a legislator, judge, judicial officer, juror, and any person
32 participating as an advisor, consultant, or otherwise in performing a
33 governmental function;

34 (24) "Signature" includes any memorandum, mark, or sign made with
35 intent to authenticate any instrument or writing, or the subscription
36 of any person thereto;

37 (25) "Statute" means the Constitution or an act of the legislature
38 or initiative or referendum of this state;

1 (26) "Strangulation" means to compress a person's neck, thereby
2 obstructing the person's blood flow or ability to breathe, or doing so
3 with the intent to obstruct the person's blood flow or ability to
4 breathe.

5 (27) "Threat" means to communicate, directly or indirectly the
6 intent:

7 (a) To cause bodily injury in the future to the person threatened
8 or to any other person; or

9 (b) To cause physical damage to the property of a person other than
10 the actor; or

11 (c) To subject the person threatened or any other person to
12 physical confinement or restraint; or

13 (d) To accuse any person of a crime or cause criminal charges to be
14 instituted against any person; or

15 (e) To expose a secret or publicize an asserted fact, whether true
16 or false, tending to subject any person to hatred, contempt, or
17 ridicule; or

18 (f) To reveal any information sought to be concealed by the person
19 threatened; or

20 (g) To testify or provide information or withhold testimony or
21 information with respect to another's legal claim or defense; or

22 (h) To take wrongful action as an official against anyone or
23 anything, or wrongfully withhold official action, or cause such action
24 or withholding; or

25 (i) To bring about or continue a strike, boycott, or other similar
26 collective action to obtain property which is not demanded or received
27 for the benefit of the group which the actor purports to represent; or

28 (j) To do any other act which is intended to harm substantially the
29 person threatened or another with respect to his health, safety,
30 business, financial condition, or personal relationships;

31 (~~(27)~~) (28) "Vehicle" means a "motor vehicle" as defined in the
32 vehicle and traffic laws, any aircraft, or any vessel equipped for
33 propulsion by mechanical means or by sail;

34 (~~(28)~~) (29) Words in the present tense shall include the future
35 tense; and in the masculine shall include the feminine and neuter
36 genders; and in the singular shall include the plural; and in the

1 plural shall include the singular.

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