

# HOUSE BILL REPORT

## HB 2119

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### As Passed House:

March 6, 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 Representatives Lovick, Priest, Lantz, Rodne, Upthegrove, P. Sullivan, Eddy, Ericks, Pearson, Hudgins, Kelley and Ormsby; by request of Attorney General.

### Brief History:

#### Committee Activity:

Public Safety & Emergency Preparedness: 2/26/07 [DP].

#### Floor Activity:

Passed House: 3/6/07, 96-0.

### Brief Summary of Bill

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

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### 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 persons; (e.g., law enforcement officers, firefighters, 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.

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**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.

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**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) Strangulation is a crime of violence and should be taken seriously; incidents of domestic violence involving strangulation are among the most brutal. Perpetrators use strangulation as a means of intimidation and control. Strangulation can be extremely dangerous; it can lead to unconsciousness within seconds and death within minutes. Strangulation can also lead to severe injuries that do not become apparent until well after the strangulation has occurred such as swelling or blood clots. However, many victims of strangulation have no marks or obvious injuries. Because of the lack of obvious injuries, perpetrators of strangulation often are only charged with misdemeanor-level Assault. A large number of domestic violence-related deaths are caused by strangulation. Victims of domestic violence who have been strangled are at great risk for ongoing violence and often have endured a long history of domestic violence prior to the strangulation. Victims of domestic violence who have been strangled are also more likely to be murdered than other victims of domestic violence. This bill will hold abusers accountable and send a message of support to the victims by making all assaults by strangulation a felony.

(Opposed) The statistics regarding the number of homicides are being exaggerated. This bill removes much of the prosecutor's burden with respect to proving felony-level assault. This bill does not differentiate between situations where mere accusations have been made and situations where an actual assault has occurred. A person can make accusations of strangulation with no consequences other than charges not being filed. A defendant, on the other hand, can spend a large amount of money proving his or her innocence. Protections should be put in place to prevent people from gaming the system.

**Persons Testifying:** (In support) Representative Lovick, prime sponsor; Thomas Stewart, Lakewood Police Department; David Martin, King County Prosecuting Attorneys Office; J. Matthew Lacy, M.D., King County Medical Examiner's Office; Gail Huang, Washington State Coalition Against Domestic Violence; Chief Scott Smith, Mount Lake Terrace Police Department; Chris Johnson, Office of the Attorney General; and Aaron Walls, City of Federal Way.

(Opposed) Andy Maris.

**Persons Signed In To Testify But Not Testifying:** None.