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**Community Safety, Justice, & Reentry  
Committee**

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**HB 2395**

**Brief Description:** Improving public safety by deterring assaults involving strangulation or suffocation.

**Sponsors:** Representatives Griffey, Davis, Lekanoff, Couture and Jacobsen.

**Brief Summary of Bill**

- Establishes that consent is not a defense to Assault in the second degree involving strangulation or suffocation.

**Hearing Date:** 1/23/24

**Staff:** Corey Patton (786-7388).

**Background:**

Classification of Crimes.

Crimes are classified as misdemeanors, gross misdemeanors, or class A, B, or C felonies. While there are exceptions, the classification of a crime generally determines the maximum term of confinement and fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

Classification	Maximum Confinement	Maximum Fine
Misdemeanor	90 Days	\$1,000
Gross Misdemeanor	364 Days	\$5,000
Class C Felony	5 Years	\$10,000

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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 part of the legislation nor does it constitute a statement of legislative intent.*

Class B Felony	10 Years	\$20,000
Class A Felony	Life	\$50,000

For most felony offenses, the Sentencing Reform Act determines a specific sentence range within the statutory maximum according to a sentencing grid. The sentencing grid provides a standard range of months for the sentence, based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which is based on the person's criminal history.

Assault in the Second Degree.

A person commits assault if he or she attempts to inflict bodily injury on another person with unlawful force, unlawfully touches another person with criminal intent, or puts another person in apprehension of harm. An assault may be classified as Assault in the first, second, third, or fourth degree, depending on the specific circumstances.

A person commits Assault in the second degree if he or she, under circumstances not amounting to Assault in the first degree, commits an assault in one of eight manners specified in statute. For example, Assault in the second degree includes assaulting another person by strangulation or suffocation. Assault in the second degree is a class B felony, unless it is accompanied by a finding of sexual motivation, in which case it is class A felony. In either case, Assault in the second degree is ranked at seriousness level IV.

Courts have recognized that consent may constitute a defense to a prosecution for assault under certain circumstances. For example, consent may be a defense to an assault that occurs during an athletic contest or competitive sport if the conduct of the defendant constituted foreseeable behavior in the play of the game, and the injury occurred as a byproduct of the game itself. However, courts have also held in other contexts that an individual cannot consent to an assault if the activity being consented to is against public policy or is a breach of the peace.

**Summary of Bill:**

The offense of Assault in the second degree is modified to specify that a victim's consent to being strangled or suffocated does not constitute a defense to the offense.

**Appropriation:** None.

**Fiscal Note:** Requested on January 17, 2024.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.