

HOUSE BILL REPORT

SHB 1188

As Amended by the Senate

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:

Committee Activity:

Public Safety & Emergency Preparedness: 2/2/11, 2/11/11 [DPS].

Floor Activity:

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

Senate Amended.

Passed Senate: 4/8/11, 49-0.

Brief Summary of Substitute Bill

- Includes suffocation in the definition of Assault in the second degree.
- Modifies offender scoring to "wash out" non-felony domestic violence offenses where the person has spent 10 years in the community without being convicted of a crime.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Armstrong, Goodman, Hope, Kirby, Moscoso and Ross.

Staff: Alexa Silver (786-7190).

Background:

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.

A person is guilty of Assault in the second degree if he or she assaults another 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.

The definition of "most serious offense" includes Assault in the second degree. 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 includes non-felony Assault, Harassment, Stalking, and violation of no-contact and protection orders.

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 other than a sex offense washes out after 10 years, and a class C felony other than a sex offense washes out after five years.

Summary of Substitute 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 10 consecutive years in the community without being convicted of a crime.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment defines "suffocation" to mean to block or impair a person's intake of air at the nose and mouth, whether by smothering or other means, with the intent to obstruct the person's ability to breathe. It also amends the title to "an act relating to crimes against persons involving suffocation or domestic violence."

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill was a consensus-based recommendation from the Domestic Violence Work Group.

(In support with amendment) Suffocation has presented a problem for prosecutors for years. It is a very frightening act that is often just a misdemeanor. Washington led the nation with addressing the problem of strangulation, but now lags behind other states with suffocation. Assault by strangulation and suffocation should be a strike offense. Medical evidence shows that strangulation is a risk factor for more serious crimes, including homicide. A 10-year wash-out provision is appropriate.

(In support with concerns) The wash-out provision should be shortened to five years, because these offenses are more similar to other offenses with a five-year wash-out. Creating new strikes does not solve the problem.

(Opposed) None.

Persons Testifying: (In support) Representative Goodman, prime sponsor.

(In support with amendment) David Martin, King County Prosecuting Attorney's Office; and Edwin Norton, Skagit County Prosecutor's Office.

(In support with concerns) Kim Gordon, Washington Association of Criminal Defense Lawyers and Washington Defender Association.

Persons Signed In To Testify But Not Testifying: None.