

Testimony on HB 3469

Submitted by Rachel Sowray, Deputy District Attorney for Washington County, representing the Oregon District Attorney's Association.

The Oregon District Attorney's Association supports passage of HB 3469. This bill ensures consistency in the application of factors when determining if a domestic violence assault or strangulation should be treated as an A misdemeanor or a C felony.

According to the U.S. Centers for Disease Control and Prevention, 1.5 million women are violently assaulted by an intimate partner each year in the United States.ⁱ A 2010 published case review found that 79% of victims of strangulation were strangled by an intimate partner, 38% of those reported losing consciousness, and 9% were pregnant at the time of the attack.ⁱⁱ This study also found that a "paucity of cases involved only strangulation, as most of the victims were subjected to myriad forms of blunt force trauma."ⁱⁱⁱ According to the Oregon Public Health Division, from 2003-2010, 207 people were killed in Oregon by an intimate partner.^{iv} Of these, 94% of female victims were killed by an intimate partner and 80% by a current spouse or boyfriend.^v The Oregonian noted a rise in intimate partner homicides in 2014.^{vi}

In 70-80% of intimate partner homicides, the abuser physically abused the victim before the murder^{vii}; thus, one of the primary ways to decrease intimate partner homicide is to properly identify and intervene, especially under circumstances that have been identified as high indicators of lethality. Some of the major indicators that are addressed by HB 3469 are strangulation, physical violence increasing in frequency or severity, the victim being pregnant, and threats to kill or use a weapon.^{viii} The seriousness of a crime is important to both deterring a defendant and protecting a victim and the community.

HB 3469 is meant to have the Strangulation and Assault in the Fourth Degree statutes mirror each other in which aggravating factors elevate the act from an A misdemeanor to a C felony. Lethality factors were a major part of determining when a crime is elevated from a misdemeanor to a felony in these statutes. Furthermore, the history of the assault and strangulation statutes show the Oregon Legislature has taken action over the past two decades to enact statutes that recognize and reflect concerns about aggravating factors.

In 1997, the assault in the fourth degree statute began to elevate the crime from an A misdemeanor to a C felony when either 1) the defendant had been previously convicted of assaulting the same victim, or 2) a child witnessed the assault. In 1999, the statute also included that fourth degree assault is a felony when the defendant has been previously convicted of three domestic violence assaults, regardless of the victim's identity. The statute also was clarified to more accurately define "immediate presence" of a child. The legislature enacted the strangulation statute in 2003 as a class A misdemeanor in all circumstances. In 2009, it became a felony to assault a victim knowing she is pregnant. The strangulation statute was amended in 2011 to include the current situations where the crime would be elevated from an A misdemeanor to a C felony.

In order to make these statutes have the same provisions and to consistently treat those lethality factors that the legislature has previously found as more egregious and concerning scenarios, HB 3469 must be passed.

ⁱ United States Centers for Disease Control and Prevention. (April 15, 2013). "Intimate Partner Violence During Pregnancy, A Guide for Clinicians:Screen Show and Lecture Notes."
<http://www.cdc.gov/reproductivehealth/violence/intimatepartnerviolence/sld001.htm>.

ⁱⁱ Shields, Corey, Weakley-Jones, Stewart. "Living Victims of Strangulation, a 10-Year Review of Cases in a Metropolitan Community." *The American Journal of Forensic Medicine and Pathology*. Volume 31, Number 4 (December 2010). Pages 320-325.

ⁱⁱⁱ Id, Page 320.

^{iv} Oregon Public Health Division. "Homicide in Oregon Related to Intimate Partner Violence." (2012).
https://public.health.oregon.gov/DiseasesConditions/InjuryFatalityData/Documents/IPV_related_homicide.pdf.

^v Id.

^{vi} Bernstein, Maxine. "Unusually High Number of Murder-Suicides Marked 2014 in Portland Metro Area." *The Oregonian*. (January 5, 2015).

http://www.oregonlive.com/portland/index.ssf/2015/01/2014_marked_by_high_number_of.html.

^{vii} J. Campbell, Webster, Koziol-McLain, Block, D. Campbell, Curry, Gary, McFarlane, Sachs, Sharps, Ulrich, and Wilt. "Assessing Risk Factors for Intimate Partner Homicide." *National Institute of Justice Journal*. Issue No. 250. (November 2003). Pages 14-19.

^{viii} J. Campbell, Page 17.