

Enrolled House Bill 3469

Sponsored by Representative WILLIAMSON; Representatives BARKER, BOONE, EVANS, FREDERICK, GALLEGOS, GORSEK, HACK, HELM, KENNEMER, KENY-GUYER, MCLAIN, MCLANE, OLSON, PILUSO, SPRENGER, STARK, TAYLOR, WHISNANT, Senators DEVLIN, HASS, MONNES ANDERSON

CHAPTER

AN ACT

Relating to crime; creating new provisions; and amending ORS 163.160, 163.187 and 181.433.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 163.187 is amended to read:

163.187. (1) A person commits the crime of strangulation if the person knowingly impedes the normal breathing or circulation of the blood of another person by:

- (a) Applying pressure on the throat or neck of the other person; or
- (b) Blocking the nose or mouth of the other person.

(2) Subsection (1) of this section does not apply to legitimate medical or dental procedures or good faith practices of a religious belief.

(3) Strangulation is a Class A misdemeanor.

(4) Notwithstanding subsection (3) of this section, strangulation is a Class C felony if:

(a) The crime is committed in the immediate presence of, or is witnessed by, the person's or the victim's minor child or stepchild or a minor child residing within the household of the person or the victim;

(b) The victim is under 10 years of age;

(c) During the commission of the crime, the person used, attempted to use or threatened to use a dangerous or deadly weapon, as those terms are defined in ORS 161.015, unlawfully against another;

[(d) The person has been previously convicted of violating this section or of committing an equivalent crime in another jurisdiction;]

[(e)] (d) The person has been previously convicted of violating **this section or** ORS 163.160, 163.165, 163.175, 163.185 or 163.190, or of committing an equivalent crime in another jurisdiction, and the victim in the previous conviction is the same person who is the victim of the current crime; *[or]*

[(f)] (e) The person has at least three previous convictions *[of any combination of]* **for violating this section or** ORS 163.160, 163.165, 163.175, 163.185 or 163.190 or *[of]* **for committing an** equivalent *[crimes in other jurisdictions.]* **crime in another jurisdiction, in any combination; or**

(f) The person commits the strangulation knowing that the victim is pregnant.

(5) For purposes of subsection (4)(a) of this section, a strangulation is witnessed if the strangulation is seen or directly perceived in any other manner by the child.

SECTION 2. ORS 163.160 is amended to read:

163.160. (1) A person commits the crime of assault in the fourth degree if the person:
(a) Intentionally, knowingly or recklessly causes physical injury to another; or
(b) With criminal negligence causes physical injury to another by means of a deadly weapon.
(2) Assault in the fourth degree is a Class A misdemeanor.
(3) Notwithstanding subsection (2) of this section, assault in the fourth degree is a Class C felony if the person commits the crime of assault in the fourth degree and:

[(a) The person has previously been convicted of assaulting the same victim;]

[(b) The person has previously been convicted at least three times under this section or under equivalent laws of another jurisdiction and all of the assaults involved domestic violence, as defined in ORS 135.230;]

[(c) (a) The assault is committed in the immediate presence of, or is witnessed by, the person's or the victim's minor child or stepchild or a minor child residing within the household of the person or victim; [or]

(b) The person has been previously convicted of violating this section or ORS 163.165, 163.175, 163.185, 163.187 or 163.190, or of committing an equivalent crime in another jurisdiction, and the victim in the previous conviction is the same person who is the victim of the current crime;

(c) The person has at least three previous convictions for violating this section or ORS 163.165, 163.175, 163.185, 163.187 or 163.190 or for committing an equivalent crime in another jurisdiction, in any combination; or

(d) The person commits the assault knowing that the victim is pregnant.

(4) For *[the]* purposes of subsection (3) of this section, an assault is witnessed if the assault is seen or directly perceived in any other manner by the child.

SECTION 3. (1) ORS 167.349 is added to and made a part of ORS 167.310 to 167.351.

(2) ORS 167.352, 167.360 to 167.372, 167.374, 167.376, 167.385, 167.387, 167.388 and 167.390 are added to and made a part of ORS 167.310 to 167.390.

SECTION 4. ORS 181.433 is amended to read:

181.433. (1) At the request of a humane investigation agency, the Superintendent of State Police shall commission a designated employee of the humane investigation agency as a humane special agent, if:

(a) The employee is certified, or is eligible for certification, as a police officer under the provisions of ORS 181.610 to 181.712;

(b) The superintendent determines that the employee is fit and qualified to perform the duties of a humane special agent;

(c) The humane investigation agency agrees in writing to save harmless and indemnify the State of Oregon and its officers, employees and agents from and against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission of the employee or the humane investigation agency, that relates to or results from the authority granted by the commission; and

(d) The humane investigation agency furnishes to the superintendent a copy of an insurance policy, purchased and maintained by the humane investigation agency, that the superintendent determines is sufficient to satisfy any tort claim or demand described in paragraph (c) of this subsection.

(2) Before granting a commission under this section, the superintendent may require the employee to take and subscribe to an oath of office to support the Constitution and laws of the United States and of the State of Oregon, and to honestly and faithfully perform the duties of a humane special agent.

(3) The superintendent shall suspend or revoke a commission granted under this section if the superintendent determines that:

(a) The certification of the employee as a police officer has lapsed or been revoked pursuant to ORS 181.661, 181.662 and 181.664 (1), and has not been reissued under ORS 181.664 (2);

(b) The employee has been separated from employment with the humane investigation agency;
or

(c) The employee has abused the commission.

(4) Except as otherwise provided in subsection (3) of this section, an employee of a humane investigation agency commissioned under this section holds the commission at the pleasure of the superintendent. The superintendent may suspend or revoke a commission granted under this section at any time for good cause, as determined by the superintendent. If the superintendent revokes a commission granted under this section, the employee of the humane investigation agency is entitled only to an informal opportunity to be heard by the superintendent, for the purposes of explaining any factual circumstances related to the revocation and attempting to persuade the superintendent to reverse the decision to revoke the commission.

(5) Humane special agents commissioned under this section serve at the expense of the humane investigation agency employing the agent.

(6) The superintendent may adopt rules to carry out the provisions of this section. The rules may include a description of the circumstances in which a humane special agent is prohibited from carrying a firearm while engaged in the enforcement of animal welfare laws.

(7) As used in this section:

(a) "Animal welfare laws" means:

(A) ORS [167.310 to 167.351, 167.352, 167.355, 167.360 to 167.372, 167.374, 167.376, 167.385, 167.388, 167.390] **167.310 to 167.390** and 167.426 to 167.439; and

(B) ORS 164.043, 164.045, 164.055, 164.057, 164.075, 164.345, 164.354 and 164.365, if the subject of the crime is an animal.

(b) "Humane investigation agency" means a private, nonprofit animal care agency that has maintained an animal welfare investigation department for at least five years and has had officers employed as special agents under ORS 131.805.

Passed by House April 13, 2015

Received by Governor:

Repassed by House June 18, 2015

.....M.,....., 2015

Approved:

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Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2015

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Tina Kotek, Speaker of House

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Kate Brown, Governor

Passed by Senate June 15, 2015

Filed in Office of Secretary of State:

.....M.,....., 2015

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Peter Courtney, President of Senate

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Jeanne P. Atkins, Secretary of State