

# Senate Bill 526

Sponsored by Senators MONNES ANDERSON, WINTERS, Representative PILUSO; Senators BOQUIST, DEVLIN, GELSER, KNOPP, STEINER HAYWARD, THOMSEN, Representative HUFFMAN

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies definition of "physical injury" for purposes of criminal code.

Increases penalty for crime of strangulation when committed knowing victim was pregnant. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both.

Provides that for crimes in which element is that crime was witnessed by or committed in immediate presence of minor child, minor child is victim.

Directs Oregon Criminal Justice Commission to classify certain contempt of court findings as person Class A misdemeanor under rules of commission.

## A BILL FOR AN ACT

1  
2 Relating to crime; creating new provisions; amending ORS 131.007, 161.015 and 163.187.

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

4 **SECTION 1.** ORS 161.015 is amended to read:

5 161.015. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires  
6 otherwise:

7 (1) "Dangerous weapon" means any weapon, device, instrument, material or substance which  
8 under the circumstances in which it is used, attempted to be used or threatened to be used, is  
9 readily capable of causing death or serious physical injury.

10 (2) "Deadly weapon" means any instrument, article or substance specifically designed for and  
11 presently capable of causing death or serious physical injury.

12 (3) "Deadly physical force" means physical force that under the circumstances in which it is  
13 used is readily capable of causing death or serious physical injury.

14 (4) "Peace officer" means:

15 (a) A member of the Oregon State Police;

16 (b) A sheriff, constable, marshal, municipal police officer or reserve officer as defined in ORS  
17 133.005, or a police officer commissioned by a university under ORS 352.383 or 353.125;

18 (c) An investigator of the Criminal Justice Division of the Department of Justice or investigator  
19 of a district attorney's office;

20 (d) A humane special agent as defined in ORS 181.435;

21 (e) A liquor enforcement inspector exercising authority described in ORS 471.775 (2);

22 (f) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011;  
23 and

24 (g) Any other person designated by law as a peace officer.

25 (5) "Person" means a human being and, where appropriate, a public or private corporation, an  
26 unincorporated association, a partnership, a government or a governmental instrumentality.

27 (6) "Physical force" includes, but is not limited to, the use of an electrical stun gun, tear gas  
28 or mace.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (7) “Physical injury” means **physical trauma**, impairment of physical condition or substantial  
2 pain.

3 **(8) Physical trauma” includes but is not limited to fractures, cuts, punctures, bruises,**  
4 **burns or other wounds.**

5 [(8)] (9) “Serious physical injury” means physical injury which creates a substantial risk of  
6 death or which causes serious and protracted disfigurement, protracted impairment of health or  
7 protracted loss or impairment of the function of any bodily organ.

8 [(9)] (10) “Possess” means to have physical possession or otherwise to exercise dominion or  
9 control over property.

10 [(10)] (11) “Public place” means a place to which the general public has access and includes,  
11 but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not consti-  
12 tuting rooms or apartments designed for actual residence, and highways, streets, schools, places of  
13 amusement, parks, playgrounds and premises used in connection with public passenger transporta-  
14 tion.

15 **SECTION 2.** ORS 161.015, as amended by section 46, chapter 644, Oregon Laws 2011, section  
16 17, chapter 54, Oregon Laws 2012, section 10, chapter 67, Oregon Laws 2012, and section 24, chapter  
17 180, Oregon Laws 2013, is amended to read:

18 161.015. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires  
19 otherwise:

20 (1) “Dangerous weapon” means any weapon, device, instrument, material or substance which  
21 under the circumstances in which it is used, attempted to be used or threatened to be used, is  
22 readily capable of causing death or serious physical injury.

23 (2) “Deadly weapon” means any instrument, article or substance specifically designed for and  
24 presently capable of causing death or serious physical injury.

25 (3) “Deadly physical force” means physical force that under the circumstances in which it is  
26 used is readily capable of causing death or serious physical injury.

27 (4) “Peace officer” means:

28 (a) A member of the Oregon State Police;

29 (b) A sheriff, constable, marshal, municipal police officer or reserve officer as defined in ORS  
30 133.005, or a police officer commissioned by a university under ORS 352.383 or 353.125;

31 (c) An investigator of the Criminal Justice Division of the Department of Justice or investigator  
32 of a district attorney’s office;

33 (d) A humane special agent as defined in ORS 181.435;

34 (e) A liquor enforcement inspector exercising authority described in ORS 471.775 (2); and

35 (f) Any other person designated by law as a peace officer.

36 (5) “Person” means a human being and, where appropriate, a public or private corporation, an  
37 unincorporated association, a partnership, a government or a governmental instrumentality.

38 (6) “Physical force” includes, but is not limited to, the use of an electrical stun gun, tear gas  
39 or mace.

40 (7) “Physical injury” means **physical trauma**, impairment of physical condition or substantial  
41 pain.

42 **(8) Physical trauma” includes but is not limited to fractures, cuts, punctures, bruises,**  
43 **burns or other wounds.**

44 [(8)] (9) “Serious physical injury” means physical injury which creates a substantial risk of  
45 death or which causes serious and protracted disfigurement, protracted impairment of health or

1 protracted loss or impairment of the function of any bodily organ.

2 [(9)] (10) “Possess” means to have physical possession or otherwise to exercise dominion or  
3 control over property.

4 [(10)] (11) “Public place” means a place to which the general public has access and includes,  
5 but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not consti-  
6 tuting rooms or apartments designed for actual residence, and highways, streets, schools, places of  
7 amusement, parks, playgrounds and premises used in connection with public passenger transporta-  
8 tion.

9 **SECTION 3.** ORS 163.187 is amended to read:

10 163.187. (1) A person commits the crime of strangulation if the person knowingly impedes the  
11 normal breathing or circulation of the blood of another person by:

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

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

16 (3) Strangulation is a Class A misdemeanor.

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

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

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

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

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

27 (e) The person has been previously convicted of violating ORS 163.160, 163.165, 163.175, 163.185  
28 or 163.190 or of committing an equivalent crime in another jurisdiction, and the victim in the pre-  
29 vious conviction is the same person who is the victim of the current crime; [or]

30 (f) The person has at least three previous convictions of any combination of ORS 163.160,  
31 163.165, 163.175, 163.185 or 163.190 or of equivalent crimes in other jurisdictions[.]; **or**

32 **(g) The person commits the strangulation knowing that the victim is pregnant.**

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

35 **SECTION 4.** ORS 131.007 is amended to read:

36 131.007. (1) As used in ORS 40.385, 135.230, 147.417, 147.419 and 147.421 and in ORS chapters  
37 136, 137 and 144, except as otherwise specifically provided or unless the context requires otherwise,  
38 “victim” means the person or persons who have suffered financial, social, psychological or physical  
39 harm as a result of a crime and includes[.];

40 (a) In the case of a homicide or abuse of corpse in any degree, a member of the immediate  
41 family of the decedent [*and*.];

42 (b) In the case of a minor victim, the legal guardian of the minor; **and**

43 (c) **In the case of a crime in which an element of the offense is that the crime was**  
44 **committed in the immediate presence of, or was witnessed by, a minor child, the minor**  
45 **child.**

1           (2) In no event shall the criminal defendant be considered a victim.

2           **SECTION 5. The Oregon Criminal Justice Commission shall classify contempt of court**  
3 **for violating a restraining order issued under ORS 107.700 to 107.735 that was proven beyond**  
4 **a reasonable doubt as a person Class A misdemeanor under the rules of the commission.**

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