



# Legislative Testimony

## Oregon Criminal Defense Lawyers Association

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February 26, 2018

The Honorable Representative Jeff Barker, Chair  
The Honorable Representative Jennifer Williamson, Vice-Chair  
The Honorable Representative Andy Olson, Vice-Chair  
House Committee on Judiciary, Members

RE: SB 1562

Dear Chair Barker, Vice-Chairs Williamson and Olson, and Members of the Committee:

The Oregon Criminal Defense Lawyers Association is an association of attorneys who represent juveniles and adults in delinquency, dependency, criminal prosecutions, appeals, civil commitment and post-conviction relief proceedings throughout the state of Oregon. Thank you for the opportunity to submit the following comments regarding SB 1562.

The research makes clear that strangulation is linked to further lethality when it comes to crimes of violence. We understand the seriousness of crimes of violence and domestic violence, and we are not seeking to minimize that. However, we are concerned with how this bill both expands the type of conduct considered to be “strangulation” as well as the inclusion of most incidents as felonies.

**We are concerned how the bill expands the conduct that constitutes “strangulation” to include applying pressure to someone’s chest.**

Much of the research we have read indicates that strangulation is applying pressure to one’s neck or throat. It is incredibly clear that strangulation of this type is one of the most serious types of domestic violence as applying pressure to the jugular vein and carotid artery is incredibly dangerous and can easily be lethal. We are concerned that non-strangulation acts such as pushing on one’s chest will be treated the same as the serious acts of choking by wrapping hands around one’s neck or covering one’s mouth. We respect this legislative body and do understand that determining how to classify acts is a difficult decision, but we do highlight this for your consideration.

**We are also concerned with the language making all family/household conduct a felony.**

The family/household language will, in effect, make most cases felony cases because the “family/ household member” definition<sup>1</sup> is broad. We understand the legislature’s desire to take crimes of violence, especially domestic violence crimes, seriously. We agree that it should. We do want to share that currently, defendants convicted of domestic violence charges including strangulation in Oregon are currently convicted of a serious “Class A Person Misdemeanor.”

With these convictions, they are often incarcerated in jail for up to one year, subject to a no-contact order with their victim, and placed on supervised probation with an experienced probation officer and subject to the requirement they participate in domestic violence treatment and any other treatment required by the court. If they have engaged in this behavior before, they are convicted of a “person” felony and subject to harsher penalties which include prison time for up to 5 years. It is also important to note that the crime of strangulation is often charged with other crimes, thus resulting in serious penalties in the first conviction cycle.

As this legislative body has considered recently, there are many collateral consequences associated with felony convictions, especially “person” felonies. As an organization, we are committed to seeing community resources that provide more robust victims services to victims and more robust supervision and treatment to offenders with the hope that the outcomes will be better than incarceration. We do have a concern that appropriate domestic violence treatment is not actually provided in prison, and we simply want to highlight that treatment needs to be considered when deciding to increase penalties that will result in more incarceration.

**Types of Scenario We are Specifically Concerned About includes Juveniles.**

Given the two ways this bill proposes to expand the crime of strangulation, we are concerned with the potential felonization of juveniles. As you know, juveniles in Oregon are subject to the same criminal laws as adults, often with just as serious consequences. As this legislative body also recently considered during multiple presentations last session, juveniles are simply different than adults due to the lack of developmental maturity in their brains<sup>ii</sup>. We are specifically concerned that the “chest” expansion language combined with the felonization of all contact between family and household members will result in juveniles being adjudicated for serious person felonies at a higher rate, as they often end up in the delinquency system due to conflict with family members.

Thank you for considering our concerns as you contemplate this important law.

Sincerely,

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<sup>i</sup> [ORS 135.230 \(4\)](#)

<sup>ii</sup> Steinberg, L. (2009). Adolescent development and juvenile justice. *Annual Review of Clinical Psychology*, 5, 459-85; Luciana, M. (2013). Adolescent brain development in normality and psychopathology. *Development and Psychopathology*, 25, 1325-45.

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