

**SB 1562 B STAFF MEASURE SUMMARY**

**Carrier:** Rep. Salinas, Rep. Stark

**House Committee On Judiciary**

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**Action Date:** 02/27/18  
**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)  
**Vote:** 10-0-1-0  
**Yeas:** 10 - Barker, Gorsek, Greenlick, Post, Power, Sanchez, Sprenger, Stark, Vial, Williamson  
**Exc:** 1 - Olson  
**Fiscal:** Fiscal impact issued  
**Revenue:** Has minimal revenue impact  
**Prepared By:** Whitney Perez, Counsel

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**WHAT THE MEASURE DOES:**

Adds knowingly impeding the normal breathing or circulation of another person by applying pressure to the chest of the other person to the offense of strangulation. Increases penalty for offense of strangulation when the victim is a family or household member to a Class C felony. Directs the Oregon Criminal Justice Commission to classify strangulation as a crime category 5 when the victim is a family or household member.

**ISSUES DISCUSSED:**

- Legislative history of the crime of strangulation
- Appropriate crime category ranking for this offense
- Medical effects strangulation has on the body
- Fiscal concerns

**EFFECT OF AMENDMENT:**

Directs the Oregon Criminal Justice Commission to classify strangulation convictions as a crime category 5 when the victim is a family or household member.

**BACKGROUND:**

The offense of strangulation occurs when a person knowingly impedes the normal breathing or circulation of the blood of another person by either applying pressure on the throat or neck of the other person, or blocking the nose or mouth of the other person. Strangulation is a Class A misdemeanor, subject to a maximum jail sentence of 364 days and a maximum fine of \$6,250. Strangulation is elevated to a Class C felony if any of the following factors are present: the offense is committed in the immediate presence of, or witnessed by, the person's or victim's minor child, stepchild, or a minor residing in the household of the person or the victim; the victim is under age 10; the person used, attempted to use, or threatened to use a dangerous or deadly weapon; the person has previously been convicted of strangulation, any degree of assault, or menacing against the same victim; the person has at least three prior convictions for strangulation, any degree of assault, or menacing; or the person knows that the victim is pregnant. A Class C felony has a maximum prison sentence of five years and a maximum fine of \$125,000. Strangulation as a Class C felony is a crime category 6 on the guidelines.

Senate Bill 1562-B adds applying pressure to the chest of another person as a means of committing strangulation. SB 1562-B also increases the penalty for strangulation to a Class C felony when the victim is a family or household member. Family or household members include spouses, former spouses, adult persons related by blood or marriage, persons cohabiting together, persons who have cohabited together or been involved in a sexually intimate relationship, or unmarried parents of a minor child.

**REVENUE IMPACT OF  
PROPOSED LEGISLATION**  
79th Oregon Legislative Assembly  
2018 Regular Session  
Legislative Revenue Office

**Bill Number: SB 1562 - B**

**Date: 2/27/2018**

*Only Impacts on Original or Engrossed  
Versions are Considered Official*

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This office has reviewed the proposed legislation and determined that it has

## **Minimal Revenue Impact**

**FISCAL IMPACT OF PROPOSED LEGISLATION**79th Oregon Legislative Assembly – 2018 Regular Session  
Legislative Fiscal Office**Measure: SB 1562 - B***Only Impacts on Original or Engrossed  
Versions are Considered Official*Prepared by: John Terpening  
Reviewed by: Steve Bender, John Borden, Julie Neburka  
Date: 2-27-2018**Measure Description:**

Provides that person commits crime of strangulation if person knowingly impedes normal breathing or circulation of another person by applying pressure to chest of other person.

**Government Unit(s) Affected:**

Criminal Justice Commission (CJC), Department of Corrections (DOC), Department of Justice (DOJ), District Attorneys and their Deputies (DAs), Oregon Judicial Department (OJD), Public Defense Services Commission (PDSC)

**Summary of Expenditure Impact:**

Agency -- Fund Type	2017-2019 Biennium	2019-2021 Biennium
Department of Corrections -- General Fund		
Prison Cost	\$48,137	\$230,3881
Special Payments	\$109,319	\$846,236
<b>Total Cost</b>	<b>\$157,455</b>	<b>\$1,076,617</b>

**This measure is anticipated to have a minimal fiscal impact to state agencies and does not require a referral to the Joint Committee on Ways and Means. While this measure does not require an appropriation at this time, the cumulative effect of measures with a prison population impact may require further analysis and adjustment to state agency appropriations. The Legislative Fiscal Office provides in the table above and the narrative below the potential costs to state agencies in order to provide more context of the measures fiscal impact.**

**Analysis:**

The measure expands the definition of strangulation to include conduct that impedes the normal breathing or circulation of another person by applying pressure to the chest, reclassifies the offense as a Class C felony if the victim is a family or household member and makes the felony crime in that circumstance a level 5 on the Oregon Sentencing Guideline. Currently, the crime of strangulation is a Class A misdemeanor except under certain circumstances where it is a felony level 6.

The Criminal Justice Commission (CJC) estimates that this measure may result in an additional 72 felony convictions per year. CJC reports that between 2013 and 2017 there were an average of 58 convictions per year for felony strangulation. Using the prior conviction and disposition rates, with the new Sentencing Guideline classification, CJC estimates about 18% would result in a prison sentence within the Department of Corrections facility, 35% would be sentenced under local control, and the remainder or 47% would receive a probation sentence with an average length of 24 months.

The Department of Corrections (DOC) assumes a three-month lag between the measure's effective date and the date first offenders may be received. Included in the cost estimates in the table above are funds that would be distributed to the community corrections departments of counties for the costs of probation, post-prison supervision, and local control. The estimated length of stay is assumed to be approximately 15 months in a DOC

facility. DOC notes that emergency beds are nearly at full capacity, so any significant increases to the adult population would require activation of permanent beds. However, the current estimate for this measure is low enough that DOC believes can be accommodated within the normal daily fluctuation in the emergency bed population. Therefore, the DOC cost per day estimate is the marginal rate of \$24.26. The estimated length of stay in local control is approximately 1.5 months, with an estimated 24 months of probation. The cost per day estimate for local control and probation is \$11.69 per offender.

HB 3194 (2013) requires a 10-year estimate of the fiscal impact for measures with an effect on crimes and sentencing. Using the conviction rate assumptions listed above, DOC anticipates the costs for the 2021-23 biennium to be \$1,418,056 General Fund, \$1,440,189 General Fund in 2023-25, and \$1,440,459 General Fund in 2025-27.

The Public Defense Services Commission (PDSC) notes that the cost of representation for a misdemeanor is \$423, while the cost of representation of a Class C felony is \$754. According to data provided by the Oregon Judicial Department (OJD), in 2015 there were 296 cases filed where the most serious crime charged was strangulation. PDSC assumes that 90% of those cases would now be charged as a Class C felony. Additionally, OJD data reports there were 1,009 cases in 2015 where a misdemeanor count of strangulation was included in the charges. PDSC assumes up to half of these cases may now be elevated to a felony charge. Under PDSC's assumptions, and assuming all defendants would be eligible for court-appointed counsel, the estimated cost to PDSC could be as much as \$512,500 General Fund for a biennium.

The measure is anticipated to result in additional misdemeanor and felony cases in circuit court; however, the fiscal impact of those cases is anticipated to have a minimal impact to the Judicial Department, District Attorney's and their Deputies, and the Department of Justice.

The Legislative Fiscal Office notes that these cost estimates could vary depending on the actual number of cases, charging practices, convictions, and length of sentences issued.