

## 2007 DRAFTING REQUEST

### Bill

Received: **03/19/2007**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Gundrum (608) 267-5158**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Adtl. Drafters:

Subject: **Criminal Law - homicide**  
**Criminal Law - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Gundrum@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Strangulation

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### Instructions:

See Attached

---

### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			Crime
/1	phurley 04/23/2007	csicilia 06/12/2007	nmatzke 06/12/2007	_____	lparisi 06/12/2007	sbasford 09/10/2007	
	phurley 07/18/2007	csicilia 07/23/2007	rschluet 07/23/2007	_____	cduerst 07/23/2007		

FE Sent For: **N/A**

<END>

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/1	phurley 04/23/2007	csicilia 06/12/2007	nmatzke 06/12/2007	_____	lparisi 06/12/2007		
	phurley 07/18/2007	csicilia 07/23/2007	rschluet 07/23/2007	_____	cduerst 07/23/2007		

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/?							Crime
/1	phurley 04/23/2007	csicilia 06/12/2007	natzke 06/12/2007		lparisi 06/12/2007		

FE Sent For:

1/2 yrs  
7/23  
07  
FEB 2007  
<END>

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Strangulation

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See Attached

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley	/1 cjs 4/30 07	nwn 6/12	nwn/rs 6/12			Crime

FE Sent For:

<END>

*Jordan  
Loui*

## Model Legislation for Strangulation

**Strangulation Statute**

**SECTION 1.** 940. *moham req'd.* of the statutes is created to read:

**940. : Strangulation or suffocation.**

**Criminal Offense**

(1) Whoever intentionally ~~or knowingly~~ impedes the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person is guilty of a Class H felony.

**Repeater**

(2) Whoever violates sub. (1) is guilty of a Class G felony if the actor has a previous conviction under this section or a previous conviction for a violent crime, as defined in s. 939.632 (1) (e) 1.

*input  
into 939?*

**Weapon Definition**

**SECTION 2.** 939.22 (10) of the statutes is amended to read:

"Dangerous weapon" means any firearm, whether loaded or unloaded; any device designed as a weapon and capable of producing death or great bodily harm; any electric weapon, as defined in s. 941.295 (4); any ligature or other instrumentality used on the throat, neck, nose, or mouth of another person to partially or fully impede normal breathing or circulation of blood; or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

*to repeat*

**Bodily Harm Definition**

**SECTION 3.** 939.22 (38) of the statutes is amended to read:

"Substantial bodily harm" means bodily injury that causes a laceration that requires stitches, staples, or a tissue adhesive; any fracture of a bone; a broken nose; a burn; a petechia; a temporary loss of consciousness, sight or hearing; a concussion; or a loss or fracture of a tooth.

*Violent  
crime  
includes:*

**Violent Crime Statute**

**SECTION 4.** 939.632 (1) (e) 1. of the statutes is amended to read:

Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09 (1c), 940.19 (2), (4) or (5), 940.235 940.21, 940.225 (1), (2) or (3), 940.305, 940.31, 941.20, 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.055, 948.07, 948.08, 948.085, or 948.30 (2).

**Domestic Abuse Statute**

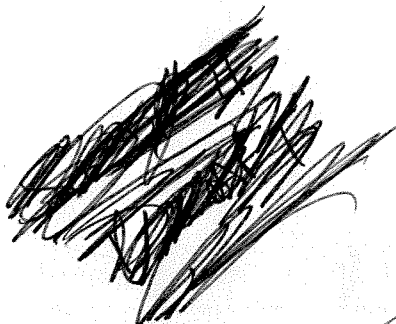
**SECTION 5.** 973.055 (1) (a) 1. of the statutes is amended to read:

The court convicts the person of a violation of a crime specified in s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.19, 940., 940.20 (1m), 940.201, 940.21, 940.225, 940.23, 940.285, 940.30, 940.305, 940.31, 940.42, 940.43, 940.44, 940.45, 940.48, 941.20, 941.30, 943.01, 943.011, 943.14, 943.15, 946.49, 947.01, 947.012 or 947.0125 or of a municipal ordinance conforming to s. 940.201, 941.20, 941.30, 943.01, 943.011, 943.14, 943.15, 946.49, 947.01, 947.012 or 947.0125; and

gjs

SAV  
xvdy

# 2007 BILL



4-23-07

Gen cat

and suffocation  
providing

1 AN ACT ...; relating to: strangulation, and creating a penalty.

### Analysis by the Legislative Reference Bureau

Under this bill, anyone who intentionally impedes the normal breathing or blood circulation of another person by applying pressure on the throat or neck, or by blocking the nose or mouth of the other person is guilty of a Class H felony, and subject to a fine not to exceed \$10,000, a prison term not to exceed 6 years, or both. If the actor has a previous conviction for this offense or for another violent offense, he or she is guilty of a Class Class G felony, and subject to a fine not to exceed \$25,000, a prison term not to exceed 10 years, or both.

Current law provides for an enhanced sentence if a person commits a crime using a dangerous weapon or if a person who is convicted of certain offenses has a previous conviction for a violent offense. The bill broadens the definition of a "dangerous weapon" to include a ligature or any other instrument used on the throat, neck, nose, or mouth of another person to impede, partially or completely, normal breathing or circulation of blood, and includes strangulation and suffocation in the definition of a "violent offense."

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

insert analysis

**BILL**

**SECTION 1**

1 SECTION 1. 940.235 of the statutes is created to read:

2 **940.235 Strangulation and suffocation.** (1) Whoever intentionally  
3 impedes the normal breathing or circulation of blood by applying pressure on the  
4 throat or neck or by blocking the nose or mouth of another person is guilty of a Class  
5 H felony.

6 (2) Whoever violates sub. (1) is guilty of a Class G felony if the actor has a  
7 previous conviction under this section or a previous conviction for a violent crime, as  
8 defined in s. 939.632 (1) (e) 1.

9 SECTION 2. 939.22 (10) of the statutes is amended to read:

10 939.22 (10) "Dangerous weapon" means any firearm, whether loaded or  
11 unloaded; any device designed as a weapon and capable of producing death or great  
12 bodily harm; any ligature or other instrumentality used on the throat, neck, nose, or  
13 mouth of another person to impede, partially or completely, normal breathing or  
14 circulation of blood; any electric weapon, as defined in s. 941.295 (4); or any other  
15 device or instrumentality which, in the manner it is used or intended to be used, is  
16 calculated or likely to produce death or great bodily harm.

History: 1971 c. 219; 1973 c. 336; 1977 c. 173; 1979 c. 89, 221; 1981 c. 79 s. 17; 1981 c. 89, 348; 1983 a. 17, 459; 1985 a. 146 s. 8; 1987 a. 332, 399; 1993 a. 98, 213, 227, 441, 486; 1995 a. 69, 436, 448; 1997 a. 143, 295; 2001 a. 109; 2003 a. 97, 223; 2005 a. 273, 277, 435; s. 13.93 (2) (c).

17 SECTION 3. 939.22 (38) of the statutes is amended to read:

18 939.22 (38) "Substantial bodily harm" means bodily injury that causes a  
19 laceration that requires stitches, staples, or a tissue adhesive; any fracture of a bone;  
20 a broken nose; a burn; a petechia; a temporary loss of consciousness, sight or hearing;  
21 a concussion; or a loss or fracture of a tooth.

History: 1971 c. 219; 1973 c. 336; 1977 c. 173; 1979 c. 89, 221; 1981 c. 79 s. 17; 1981 c. 89, 348; 1983 a. 17, 459; 1985 a. 146 s. 8; 1987 a. 332, 399; 1993 a. 98, 213, 227, 441, 486; 1995 a. 69, 436, 448; 1997 a. 143, 295; 2001 a. 109; 2003 a. 97, 223; 2005 a. 273, 277, 435; s. 13.93 (2) (c).

22 SECTION 4. 939.632 (1) (e) 1. of the statutes is amended to read:

out of order: move to next page as shown

caused by strangulation or suffocation



**BILL**

*move to here from prev. page*

1           939.632 (1) (e) 1. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09  
2           (1c), 940.19 (2), (4) or (5), 940.21, 940.225 (1), (2) or (3), 940.235, 940.305, 940.31,  
3           941.20, 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1) or (2),  
4           948.025, 948.03 (2) (a) or (c), 948.05, 948.055, 948.07, 948.08, 948.085, or 948.30 (2).

History: 1995 a. 22; 2001 a. 109; 2005 a. 277.

5           **SECTION 5.** 973.055 (1) (a) 1. of the statutes is amended to read:

6           973.055 (1) (a) 1. The court convicts the person of a violation of a crime specified  
7           in s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.19, 940.20 (1m), 940.201, 940.21,  
8           940.225, 940.23, 940.235, 940.285, 940.30, 940.305, 940.31, 940.42, 940.43, 940.44,  
9           940.45, 940.48, 941.20, 941.30, 943.01, 943.011, 943.14, 943.15, 946.49, 947.01,  
10          947.012 or 947.0125 or of a municipal ordinance conforming to s. 940.201, 941.20,  
11          941.30, 943.01, 943.011, 943.14, 943.15, 946.49, 947.01, 947.012 or 947.0125; and

History: 1979 c. 111; 1979 c. 221 s. 2202 (20); 1979 c. 355; 1981 c. 20 s. 2202 (20) (s); 1983 a. 27 s. 2202 (20); 1987 a. 27; 1989 a. 31; 1991 a. 39; 1993 a. 262, 319; 1995 a. 27, 201, 343, 353; 1997 a. 27, 35, 143; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16; 2003 a. 33, 139, 225, 326, 327.

**2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2285/lins  
PJH:.....

**INSERT ANALYSIS:**

The bill also expands the definition of "substantial bodily harm" to include a petechia that is caused by strangulation or suffocation in the definition. Finally, the bill requires a person who is convicted of a strangulation or suffocation offense that involves a person who had a restraining order against the offender, the offender's spouse or former spouse, an adult with whom the offender lives or formerly lived, or an adult with whom the offender has a child to pay a domestic abuse assessment of \$75 for each offense.

**Hurley, Peggy**

**From:** Collins, Winn S - DAIT  
**Sent:** Monday, June 18, 2007 12:08 PM  
**To:** Hurley, Peggy  
**Subject:** RE: LRB 2285 - Strangulation Bill (Petechia)

The substantial battery offense requires causation; that is to say, the defendant caused the injury so I don't believe the phrase "that results from strangulation or suffocation" is needed because any acts by the defendant that causes petechia are serious.

However, if we broaded the definition to include "a bruise, contusion, or petechia" then the phrase "that results from strangulation or suffocation" would be needed because no one is suggesting that a bruise without strangulation bumps us up to a substantial battery.

---

**From:** Hurley, Peggy [mailto:Peggy.Hurley@legis.wisconsin.gov]  
**Sent:** Monday, June 18, 2007 12:01 PM  
**To:** Collins, Winn S - DAIT  
**Cc:** Burri, Lance; jean.coopmanjansen@thedacare.org  
**Subject:** RE: LRB 2285 - Strangulation Bill (Petechia)

Thanks, Winn. I think the first definition has too many "weasel words" (i.e., "typically, commonly") that may confuse the issue. The second definition, in my opinion, is more usable. Does it need the phrase "that results from strangulation or suffocation" added, or is that to be assumed?

---

**From:** Collins, Winn S - DAIT  
**Sent:** Monday, June 18, 2007 12:00 PM  
**To:** Hurley, Peggy  
**Cc:** Burri, Lance; 'jean.coopmanjansen@thedacare.org'  
**Subject:** LRB 2285 - Strangulation Bill (Petechia)

Peggy,

I have checked in with Jean Coopman-Jansen (RN/SANE Nurse) of the Appleton Medical Center for her input into the definition of petechia. She preferred the following language:

939.22(23) "Petechia" means a tiny area of superficial bleeding in a person that typically appears as a round pinpoint sized reddish or purplish dot on a body surface, commonly observable on the skin, eye or mucous membrane of the person.

She noted that the previous definition that I sent to you (with "eyelid" now included) was medically correct as well:

939.22(23) "Petechia" means a minute reddish or purplish spot that appears on the skin, eye, eyelid or mucous membrane of a person as a result of localized hemorrhage or rupture to a blood vessel or capillary. Therefore, you should be able to fashion a definition for the term that both is medically sound and understandable to a jury that lacks medical expertise.

Thanks,

Winn

slays

2007 BILL

SA ✓

Soon  
7-17-07

Repeal cut

1 AN ACT *to amend* 939.22 (10), 939.22 (38), 939.632 (1) (e) 1. and 973.055 (1) (a)

2 1.; and *to create* 940.235 of the statutes; **relating to:** strangulation and

3 suffocation, and providing a penalty.

***Analysis by the Legislative Reference Bureau***

Under this bill, anyone who intentionally impedes the normal breathing or blood circulation of another person by applying pressure on the throat or neck, or by blocking the nose or mouth, of the other person is guilty of a Class H felony, and subject to a fine not to exceed \$10,000, a prison term not to exceed six years, or both. If the actor has a previous conviction for this offense or for another violent offense, he or she is guilty of a Class G felony, and subject to a fine not to exceed \$25,000, a prison term not to exceed 10 years, or both.

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The bill also expands the definition of "substantial bodily harm" to include a petechia that is caused by strangulation or suffocation. Finally, the bill requires a person who is convicted of a strangulation or suffocation offense that involves a person who had a restraining order against the offender, the offender's spouse or

bruise, confusion, contusion, or

**BILL**

former spouse, an adult with whom the offender lives or formerly lived, or an adult with whom the offender has a child to pay a domestic abuse assessment of \$75 for each offense.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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*Insert*  
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6           of blood; any electric weapon, as defined in s. 941.295 (4); or any other device or  
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**BILL**

1           **SECTION 4.** 940.235 of the statutes is created to read:

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14 947.012 or 947.0125 or of a municipal ordinance conforming to s. 940.201, 941.20,  
15 941.30, 943.01, 943.011, 943.14, 943.15, 946.49, 947.01, 947.012 or 947.0125; and

16

(END)

**2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2285/1ins  
PJH:cjs:nwn

**SECTION 1.** 939.22 (23) of the statutes is created to read:

939.22 (23) "Petechia" means a minute colored spot that appears on the skin, eye, eyelid, or mucous membrane of a person as a result of localized hemorrhage or rupture to a blood vessel or capillary.

**Duerst, Christina**

---

**From:** Burri, Lance

**Sent:** Monday, September 10, 2007 8:50 AM

**To:** LRB.Legal

**Subject:** Draft Review: LRB 07-2285/1 Topic: Strangulation

Please Jacket LRB 07- 2285/1 for the ASSEMBLY.