

2007 DRAFTING REQUEST**Senate Amendment (SA-SB260)**Received: **09/27/2007**Received By: **phurley**Wanted: **As time permits**

Identical to LRB:

For: **Julie Lassa (608) 266-3123**

By/Representing:

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Subject: **Criminal Law - miscellaneous**

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Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Strangulation

Instructions:

identical to a0714

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>
/?	phurley 09/27/2007	bkraft 09/28/2007					
/1			natzke 09/28/2007		sbasford 09/28/2007	sbasford 09/28/2007	

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<END>

2007 SENATE BILL 260

September 11, 2007 - Introduced by Senators LASSA, KAPANKE, KANAVAS, PLALE, DARLING, LAZICH, A. LASEE, ROESSLER, LEHMAN, SULLIVAN, OLSEN, HARSDORF, HANSEN, SCHULTZ, COWLES, RISSER and GROTHMAN, cosponsored by Representatives GUNDRUM, HRAYCHUCK, BERCEAU, GUNDERSON, SINICKI, A. OTT, HILGENBERG, PARISI, SHERIDAN, JESKEWITZ, MUSSER, MOLEPSKE, HAHN, ALBERS, SHILLING, TOWNSEND, KAUFERT, NEWCOMER, LEMAHIEU, J. OTT, MURSAU, HINTZ, TAUCHEN, HINES, BALLWEG, NERISON and STEINBRINK. Referred to Committee on Judiciary and Corrections.

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** 939.22 (23) and 940.235 of the statutes; **relating to:**
3 strangulation and 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.

Current law provides for an enhanced sentence and other penalties 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 crime. 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, breathing or circulation of blood, and includes strangulation and suffocation in the definition of a "violent crime."

The bill also expands the definition of "substantial bodily harm" to include a bruise, contusion, or 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

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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.

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:

1 **SECTION 1.** 939.22 (10) of the statutes is amended to read:

2 **939.22 (10)** “Dangerous weapon” means any firearm, whether loaded or
3 unloaded; any device designed as a weapon and capable of producing death or great
4 bodily harm; any ligature or other instrumentality used on the throat, neck, nose, or
5 mouth of another person to impede, partially or completely, breathing or circulation
6 of blood; any electric weapon, as defined in s. 941.295 (4); or any other device or
7 instrumentality which, in the manner it is used or intended to be used, is calculated
8 or likely to produce death or great bodily harm.

9 **SECTION 2.** 939.22 (23) of the statutes is created to read:

10 **939.22 (23)** “Petechia” means a minute colored spot that appears on the skin,
11 eye, eyelid, or mucous membrane of a person as a result of localized hemorrhage or
12 rupture to a blood vessel or capillary.

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

14 **939.22 (38)** “Substantial bodily harm” means bodily injury that causes a
15 laceration that requires stitches, staples, or a tissue adhesive; any fracture of a bone;
16 a broken nose; a burn; a bruise, contusion, or petechia caused by strangulation or
17 suffocation; a temporary loss of consciousness, sight or hearing; a concussion; or a
18 loss or fracture of a tooth.



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2007 Assembly Bill 499	Assembly Amendment 1
<i>Memo published: September 25, 2007</i>	<i>Contact: Don Dyke, Chief of Legal Services (266-0292)</i>

One of the provisions of Assembly Bill 499 amends the definition of “substantial bodily harm,” as it applies to the Criminal Code, by adding the following to the definition: “a bruise, contusion, or petechia caused by strangulation or suffocation.” See SEC. 3 of the bill. “Petechia” is defined in the bill as “a minute colored spot that appears on the skin, eye, eyelid, or mucus membrane of a person as a result of localized hemorrhage or rupture to a blood vessel or capillary.” See SEC. 2 of the bill.

One effect of so amending the definition of “substantial bodily harm” is that a person who, with intent to cause bodily harm, causes a bruise, contusion, or petechia by strangulation or suffocation is guilty of a Class I felony (s. 940.19 (2), Stats.), rather than a Class A misdemeanor for causing simple “bodily harm” (s. 940.19 (1), Stats.).

The amendment eliminates from the revised definition of “substantial bodily harm” reference to “a bruise or contusion” and eliminates the element “caused by strangulation or suffocation.” Thus, as amended, the proposal revises the definition of “substantial bodily harm” by adding “a petechia” (as defined). As a result, a person who, with intent to cause bodily harm, causes a petechia is guilty of a Class I felony, regardless of whether the petechia is caused by strangulation, suffocation, or other means. The amendment was recommended by the Wisconsin Department of Justice, Office of the Attorney General.

Legislative History

Assembly Amendment 1 was offered by the Assembly Committee on Judiciary and Ethics. The committee recommended adoption of the amendment by a vote of Ayes, 10; Noes, 0. The committee recommended passage of Assembly Bill 499, as amended, by a vote of Ayes, 10; Noes, 0.

DD:wu:jb;wu

2007 - 2008 LEGISLATURE

a073711
LRB0071471
CMH:bjk:wn
Stays

SENATE AMENDMENT - (B) All caps.
ASSEMBLY AMENDMENT 1,
TO 2007 ASSEMBLY BILL 499
TO 2007 SENATE BILL 260 - (B) All caps.

bh ✓

September 18, 2007 - Offered by COMMITTEE ON JUDICIARY AND ETHICS.

- 1 At the locations indicated, amend the bill as follows: ✓
- 2 1. Page 2, line 16: delete the material beginning with "a bruise." and ending ✓
- 3 with "suffocation." on line 17 and substitute "a petechia.". ✓
- 4 (END) ✓