COMMITTEE REPORT

March 14, 2018

**S. 172**

Introduced by Senators Shealy, Verdin and McLeod

S. Printed 3/14/18--S.

Read the first time January 10, 2017.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 172) to amend Article 11, Chapter 3, Title 16 of the 1976 Code, relating to miscellaneous offenses against the person, to provide that strangulation is the restricting of air flow, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Article 11, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16-3-100. (A) A person commits the offense of strangulation if he, without consent, impedes or creates a substantial risk of impeding the normal breathing or circulation of blood of another person by applying weight or pressure to the throat, neck, torso, abdomen, or shoulders of the other person, or by blocking the nose or mouth so as to restrict the breathing of the other person. Evidence of an intent to kill, or evidence of visible injury to the victim is not required to sustain a conviction under this section.

(B) A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned for not more than five years.

(C) This section does not apply if the act constituting strangulation was the result of a legitimate medical procedure or was an otherwise lawful action by law enforcement during the course of their duties.

(D) Strangulation is a lesser-included offense of attempted murder, as defined in Section 16-3-29, assault and battery of a high and aggravated nature, as defined in Section 16-3-600(B)(1), and assault and battery in the first degree as defined in Section 16-3-600(C)(1).”

SECTION 2. This act takes effect upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 10, 2018**

**State Expenditure**

This bill relates to offenses against the person by making it unlawful for an individual to strangle another person without his or her consent. Strangulation is defined as the restriction of air flow or blood circulation of a person by external pressure to the throat or neck or by blocking of the nose or mouth. A person convicted of the crime of strangulation is guilty of a felony and subject to imprisonment for not more than five years. The bill allows that an act constituting strangulation as a result of a legitimate medical procedure is an affirmative defense.

Judicial Department.  This bill creates a new criminal offense for strangulation and provides for punishment as well as an affirmative defense in cases where the act is the result of a legitimate medical procedure. A conviction for unlawful strangulation is a felony offense punishable by a sentence of up to five years imprisonment. Unlawful strangulation offenses will be heard in general sessions court and may result in juvenile proceedings in family court. As the bill creates a new offense, there is no data with which to estimate the number of additional hearings or trials that may be initiated. Also, the conduct proposed by the bill appears to fall within offenses currently covered under existing law related to murder or manslaughter, attempted murder, and assault and battery, making it difficult to estimate whether additional hearings or trials would result from the bill. Should there be an increase in caseloads, however, the department will absorb any expenditure impact within current resources.

Commission on Prosecution Coordination. The commission reports that as this bill creates a new offense, there is no data available to determine the number of additional hearings or trials that would be heard in general sessions courts. Should there be an increase in caseloads, the commission will absorb any expenditure impact on the general fund using current resources.

Commission on Indigent Defense. The commission reports that as this bill creates a new offense, there is no data available to determine the number of additional hearings or trials that would be heard in general sessions courts. Should there be an increase in caseloads, the commission will absorb any expenditure impact on the general fund using current resources.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND ARTICLE 11, CHAPTER 3, TITLE 16 OF THE 1976 CODE, RELATING TO MISCELLANEOUS OFFENSES AGAINST THE PERSON, TO PROVIDE THAT STRANGULATION IS THE RESTRICTING OF AIR FLOW OR BLOOD CIRCULATION OF A PERSON BY EXTERNAL PRESSURE TO THE THROAT OR NECK, OR THE BLOCKING OF THE NOSE OR MOUTH OF ANOTHER PERSON; TO PROVIDE THAT A PERSON WHO COMMITS THE OFFENSE OF STRANGULATION IS GUILTY OF A FELONY AND, UPON CONVICTION, MUST BE IMPRISONED FOR NOT MORE THAN FIVE YEARS; AND TO PROVIDE THAT IT IS AN AFFIRMATIVE DEFENSE IF AN ACT CONSTITUTING STRANGULATION WAS THE RESULT OF A LEGITIMATE MEDICAL PROCEDURE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 11, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16-3-1095. (A) ‘Strangulation’ is the restricting of air flow or blood circulation of a person by external pressure to the throat or neck, or the blocking of the nose or mouth of a person.

(B) A person commits the offense of strangulation if he, without consent, impedes or creates a substantial risk of impeding the normal breathing or circulation of blood by applying pressure to the throat or neck of another person, or by blocking the nose or mouth of another person.

(C) A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned for not more than five years.

(D) It is an affirmative defense under this section if an act constituting strangulation was the result of a legitimate medical procedure.”

SECTION 2. This act takes effect upon approval by the Governor.

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