

# House Bill 2940

Sponsored by Representatives GELSER, BREWER; Representatives BARKER, DEMBROW, KOTEK, MATTHEWS, OLSON, READ, SPRENGER, TOMEI (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Increases penalty for crime of strangulation to maximum of five years' imprisonment, \$125,000 fine, or both. Directs Oregon Criminal Justice Commission to classify crime of strangulation as crime category 8 on sentencing guidelines grid if defendant has previous conviction for strangulation, or otherwise as crime category 4.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to strangulation; creating new provisions; amending ORS 163.187 and 166.470; and declaring  
3 an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 163.187 is amended to read:

6 163.187. (1) A person commits the crime of strangulation if the person knowingly impedes the  
7 normal breathing or circulation of the blood of another person by:

8 (a) Applying pressure on the throat or neck of the other person; or

9 (b) Blocking the nose or mouth of the other person.

10 (2) Subsection (1) of this section does not apply to legitimate medical or dental procedures or  
11 good faith practices of a religious belief.

12 (3) Strangulation is a Class [A *misdemeanor*] **C felony**.

13 **(4)(a) The Oregon Criminal Justice Commission shall classify strangulation as crime**  
14 **category 4 of the sentencing guidelines grid of the commission.**

15 **(b) Notwithstanding paragraph (a) of this subsection, the commission shall classify**  
16 **strangulation as crime category 8 of the sentencing guidelines grid of the commission if the**  
17 **person has a previous conviction for strangulation.**

18 **(5) As used in this section, "previous conviction" means:**

19 **(a) A conviction that was entered prior to imposing sentence on the current crime, pro-**  
20 **vided that the conviction is based on a crime committed in a separate criminal episode.**

21 **(b) A conviction under Oregon law or the equivalent laws of another jurisdiction.**

22 **SECTION 2.** ORS 166.470, as amended by section 8, chapter 826, Oregon Laws 2009, is amended  
23 to read:

24 166.470. (1) Unless relief has been granted under ORS 166.274 or section 5, chapter 826, Oregon  
25 Laws 2009, or 18 U.S.C. 925(c) or the expunction laws of this state or an equivalent law of another  
26 jurisdiction, a person may not intentionally sell, deliver or otherwise transfer any firearm when the  
27 transferor knows or reasonably should know that the recipient:

28 (a) Is under 18 years of age;

29 (b) Has been convicted of a felony;

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 (c) Has any outstanding felony warrants for arrest;

2 (d) Is free on any form of pretrial release for a felony;

3 (e) Was committed to the Oregon Health Authority under ORS 426.130;

4 (f) After January 1, 1990, was found to be mentally ill and subject to an order under ORS 426.130  
5 that the person be prohibited from purchasing or possessing a firearm as a result of that mental  
6 illness;

7 (g) Has been convicted of a misdemeanor involving violence or found guilty except for insanity  
8 under ORS 161.295 of a misdemeanor involving violence within the previous four years. As used in  
9 this paragraph, "misdemeanor involving violence" means a misdemeanor **conviction for an offense**  
10 described in ORS 163.160, 163.187, 163.190, 163.195 or 166.155 (1)(b); or

11 (h) Has been found guilty except for insanity under ORS 161.295 of a felony.

12 (2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or  
13 reasonably should know is stolen.

14 (3) Subsection (1)(a) of this section does not prohibit:

15 (a) The parent or guardian, or another person with the consent of the parent or guardian, of a  
16 minor from transferring to the minor a firearm, other than a handgun; or

17 (b) The temporary transfer of any firearm to a minor for hunting, target practice or any other  
18 lawful purpose.

19 (4) Violation of this section is a Class A misdemeanor.

20 **SECTION 3.** ORS 166.470, as amended by sections 8 and 11, chapter 826, Oregon Laws 2009, is  
21 amended to read:

22 166.470. (1) Unless relief has been granted under ORS 166.274 or 18 U.S.C. 925(c) or the  
23 expunction laws of this state or an equivalent law of another jurisdiction, a person may not inten-  
24 tionally sell, deliver or otherwise transfer any firearm when the transferor knows or reasonably  
25 should know that the recipient:

26 (a) Is under 18 years of age;

27 (b) Has been convicted of a felony;

28 (c) Has any outstanding felony warrants for arrest;

29 (d) Is free on any form of pretrial release for a felony;

30 (e) Was committed to the Oregon Health Authority under ORS 426.130;

31 (f) After January 1, 1990, was found to be mentally ill and subject to an order under ORS 426.130  
32 that the person be prohibited from purchasing or possessing a firearm as a result of that mental  
33 illness;

34 (g) Has been convicted of a misdemeanor involving violence or found guilty except for insanity  
35 under ORS 161.295 of a misdemeanor involving violence within the previous four years. As used in  
36 this paragraph, "misdemeanor involving violence" means a misdemeanor **conviction for an offense**  
37 described in ORS 163.160, 163.187, 163.190, 163.195 or 166.155 (1)(b); or

38 (h) Has been found guilty except for insanity under ORS 161.295 of a felony.

39 (2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or  
40 reasonably should know is stolen.

41 (3) Subsection (1)(a) of this section does not prohibit:

42 (a) The parent or guardian, or another person with the consent of the parent or guardian, of a  
43 minor from transferring to the minor a firearm, other than a handgun; or

44 (b) The temporary transfer of any firearm to a minor for hunting, target practice or any other  
45 lawful purpose.

1 (4) Violation of this section is a Class A misdemeanor.

2 **SECTION 4. The amendments to ORS 163.187 by section 1 of this 2011 Act apply to con-**  
3 **duct occurring on or after the effective date of this 2011 Act.**

4 **SECTION 5. This 2011 Act being necessary for the immediate preservation of the public**  
5 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
6 **on its passage.**

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