

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO  
SENATE BILL 1562**

1 On page 1 of the printed bill, line 2, after “provisions;” delete the rest  
2 of the line and insert “and amending ORS 163.187, 423.478 and 423.525.”.

3 Delete lines 4 through 28 and delete page 2 and insert:

4 **“SECTION 1.** ORS 163.187 is amended to read:

5 “163.187. (1) A person commits the crime of strangulation if the person  
6 knowingly impedes the normal breathing or circulation of the blood of an-  
7 other person by:

8 “(a) Applying pressure on the throat, [*or*] neck **or chest** of the other  
9 person; or

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

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

13 “(3) Strangulation is a Class A misdemeanor.

14 “(4) Notwithstanding subsection (3) of this section, strangulation is a  
15 Class C felony if:

16 “(a) The crime is committed in the immediate presence of, or is witnessed  
17 by, the person’s or the victim’s minor child or stepchild or a minor child  
18 residing within the household of the person or the victim;

19 “(b) The victim is under 10 years of age;

20 “(c) During the commission of the crime, the person used, attempted to  
21 use or threatened to use a dangerous or deadly weapon, as those terms are

1 defined in ORS 161.015, unlawfully against another;

2 “(d) The person has been previously convicted of violating this section  
3 or ORS 163.160, 163.165, 163.175, 163.185 or 163.190, or of committing an  
4 equivalent crime in another jurisdiction[, *and the victim in the previous con-*  
5 *viction is the same person who is the victim of the current crime*]; **or**

6 “[*(e) The person has at least three previous convictions for violating this*  
7 *section or ORS 163.160, 163.165, 163.175, 163.185 or 163.190 or for committing*  
8 *an equivalent crime in another jurisdiction, in any combination; or*]

9 “[*(f)*] **(e)** The person commits the strangulation knowing that the victim  
10 is pregnant.

11 “(5) For purposes of subsection (4)(a) of this section, a strangulation is  
12 witnessed if the strangulation is seen or directly perceived in any other  
13 manner by the child.

14 “**(6) Notwithstanding ORS 137.540 (8), when a person is convicted of**  
15 **misdemeanor strangulation, the court shall order that any probation**  
16 **sentence be actively supervised by the supervisory authority as defined**  
17 **in ORS 144.087.**

18 “**SECTION 2.** ORS 423.478 is amended to read:

19 “423.478. (1) The Department of Corrections shall:

20 “(a) Operate prisons for offenders sentenced to terms of incarceration for  
21 more than 12 months;

22 “(b) Provide central information and data services sufficient to:

23 “(A) Allow tracking of offenders; and

24 “(B) Permit analysis of correlations between sanctions, supervision, ser-  
25 vices and programs, and future criminal conduct; and

26 “(c) Provide interstate compact administration and jail inspections.

27 “(2) Subject to ORS 423.483, [*the*] **a** county, in partnership with the de-  
28 partment, shall assume responsibility for community-based supervision,  
29 sanctions and services for offenders convicted of felonies, **strangulation**  
30 **misdemeanors** or designated drug-related misdemeanors who are:

1       “(a) On parole;  
2       “(b) On probation;  
3       “(c) On post-prison supervision;  
4       “(d) Sentenced, on or after January 1, 1997, to 12 months or less incar-  
5       ceration;

6       “(e) Sanctioned, on or after January 1, 1997, by a court or the State Board  
7       of Parole and Post-Prison Supervision to 12 months or less incarceration for  
8       violation of a condition of parole, probation or post-prison supervision; or

9       “(f) On conditional release under ORS 420A.206.

10       “(3) Notwithstanding the fact that the court has sentenced a person to a  
11       term of incarceration, when an offender is committed to the custody of the  
12       supervisory authority of a county under ORS 137.124 (2) or (4), the supervi-  
13       sory authority may execute the sentence by imposing sanctions other than  
14       incarceration if deemed appropriate by the supervisory authority. If the su-  
15       pervisory authority releases a person from custody under this subsection and  
16       the person is required to report as a sex offender under ORS 163A.010, the  
17       supervisory authority, as a condition of release, shall order the person to  
18       report to the Department of State Police, a city police department or a  
19       county sheriff’s office or to the supervising agency, if any:

20       “(a) When the person is released;

21       “(b) Within 10 days of a change of residence;

22       “(c) Once each year within 10 days of the person’s birth date;

23       “(d) Within 10 days of the first day the person works at, carries on a  
24       vocation at or attends an institution of higher education; and

25       “(e) Within 10 days of a change in work, vocation or attendance status  
26       at an institution of higher education.

27       “(4) As used in this section:

28       “(a) ‘Attends,’ ‘institution of higher education,’ ‘works’ and ‘carries on a  
29       vocation’ have the meanings given those terms in ORS 163A.005.

30       “(b) ‘Designated drug-related misdemeanor’ means:

1 “(A) Unlawful possession of a Schedule I controlled substance under ORS  
2 475.752 (3)(a);

3 “(B) Unlawful possession of a Schedule II controlled substance under ORS  
4 475.752 (3)(b);

5 “(C) Unlawful possession of methadone under ORS 475.824 (2)(a);

6 “(D) Unlawful possession of oxycodone under ORS 475.834 (2)(a);

7 “(E) Unlawful possession of heroin under ORS 475.854 (2)(a);

8 “(F) Unlawful possession of 3,4-methylenedioxymethamphetamine under  
9 ORS 475.874 (2)(a);

10 “(G) Unlawful possession of cocaine under ORS 475.884 (2)(a); or

11 “(H) Unlawful possession of methamphetamine under ORS 475.894 (2)(a).

12 “(c) ‘**Strangulation misdemeanor**’ means strangulation under ORS  
13 **163.187 (3).**

14 “**SECTION 3.** ORS 423.525 is amended to read:

15 “423.525. (1) A county, group of counties or intergovernmental corrections  
16 entity shall apply to the Director of the Department of Corrections in a  
17 manner and form prescribed by the director for funding made available under  
18 ORS 423.500 to 423.560. The application shall include a community cor-  
19 rections plan. The Department of Corrections shall provide consultation and  
20 technical assistance to counties to aid in the development and implementa-  
21 tion of community corrections plans.

22 “(2)(a) From July 1, 1995, until June 30, 1999, a county, group of counties  
23 or intergovernmental corrections entity may make application requesting  
24 funding for the construction, acquisition, expansion or remodeling of  
25 correctional facilities to serve the county, group of counties or intergovern-  
26 mental corrections entity. The department shall review the application for  
27 funding of correctional facilities in accordance with criteria that consider  
28 design, cost, capacity, need, operating efficiency and viability based on the  
29 county’s, group of counties’ or intergovernmental corrections entity’s ability  
30 to provide for ongoing operations.

1       “(b)(A) If the application is approved, the department shall present the  
2 application with a request to finance the facility with financing agreements  
3 to the State Treasurer and the Director of the Oregon Department of Ad-  
4 ministrative Services. Except as otherwise provided in subparagraph (B) of  
5 this paragraph, upon approval of the request by the State Treasurer and the  
6 Director of the Oregon Department of Administrative Services, the facility  
7 may be financed with financing agreements, and certificates of participation  
8 issued pursuant thereto, as provided in ORS 283.085 to 283.092. All decisions  
9 approving or denying applications and requests for financing under this  
10 section are final. No such decision is subject to judicial review of any kind.

11       “(B) If requests to finance county correctional facility projects are sub-  
12 mitted after February 22, 1996, and the requests have not been approved by  
13 the department on the date a session of the Legislative Assembly convenes,  
14 the requests are also subject to the approval of the Legislative Assembly.

15       “(c) After approval but prior to the solicitation of bids or proposals for  
16 the construction of a project, the county, group of counties or intergovern-  
17 mental corrections entity and the department shall enter into a written  
18 agreement that determines the procedures, and the parties responsible, for  
19 the awarding of contracts and the administration of the construction project  
20 for the approved correctional facility. If the parties are unable to agree on  
21 the terms of the written agreement, the Governor shall decide the terms of  
22 the agreement. The Governor’s decision is final.

23       “(d) After approval of a construction project, the administration of the  
24 project shall be conducted as provided in the agreement required by para-  
25 graph (c) of this subsection. The agreement must require at a minimum that  
26 the county, group of counties or intergovernmental corrections entity shall  
27 submit to the department any change order or alteration of the design of the  
28 project that, singly or in the aggregate, reduces the capacity of the  
29 correctional facility or materially changes the services or functions of the  
30 project. The change order or alteration is not effective until approved by the

1 department. In reviewing the change order or alteration, the department  
2 shall consider whether the implementation of the change order or alteration  
3 will have any material adverse impact on the parties to any financing  
4 agreements or the holders of any certificates of participation issued to fund  
5 county correctional facilities under this section. In making its decision, the  
6 department may rely on the opinions of the Department of Justice, bond  
7 counsel or professional financial advisers.

8 “(3) Notwithstanding ORS 283.085, for purposes of this section, ‘financing  
9 agreement’ means a lease purchase agreement, an installment sale agreement,  
10 a loan agreement or any other agreement to finance a correctional facility  
11 described in this section, or to refinance a previously executed financing  
12 agreement for the financing of a correctional facility. The state is not re-  
13 quired to own or operate a correctional facility in order to finance it under  
14 ORS 283.085 to 283.092 and this section. The state, an intergovernmental  
15 corrections entity, county or group of counties may enter into any agree-  
16 ments, including, but not limited to, leases and subleases, that are reasonably  
17 necessary or generally accepted by the financial community for purposes of  
18 acquiring or securing financing as authorized by this section. In financing  
19 county correctional facilities under this section, ‘property rights’ as used in  
20 ORS 283.085 includes leasehold mortgages of the state’s rights under leases  
21 of correctional facilities from counties.

22 “(4) Notwithstanding any other provision of state law, county charter or  
23 ordinance, a county may convey or lease to the State of Oregon, acting by  
24 and through the Department of Corrections, title to interests in, or a lease  
25 of, any real property, facilities or personal property owned by the county for  
26 the purpose of financing the construction, acquisition, expansion or remodel-  
27 ing of a correctional facility. Upon the payment of all principal and inter-  
28 est on, or upon any other satisfaction of, the financing agreement used to  
29 finance the construction, acquisition, expansion or remodeling of a  
30 correctional facility, the state shall reconvey its interest in, or terminate and

1 surrender its leasehold of, the property or facilities, including the financed  
2 construction, acquisition, expansion or remodeling, to the county. In addi-  
3 tion to any authority granted by ORS 283.089, for the purposes of obtaining  
4 financing, the state may enter into agreements under which the state may  
5 grant to trustees or lenders leases, subleases and other security interests in  
6 county property conveyed or leased to the state under this subsection and  
7 in the property or facilities financed by financing agreements.

8 “(5) In connection with the financing of correctional facilities, the Di-  
9 rector of the Oregon Department of Administrative Services may bill the  
10 Department of Corrections, and the Department of Corrections shall pay the  
11 amounts billed, in the same manner as provided in ORS 283.089. As required  
12 by ORS 283.091, the Department of Corrections and the Oregon Department  
13 of Administrative Services shall include in the Governor’s budget all  
14 amounts that will be due in each fiscal period under financing agreements  
15 for correctional facilities. Amounts payable by the state under a financing  
16 agreement for the construction, acquisition, expansion or remodeling of a  
17 correctional facility are limited to available funds as defined in ORS 283.085,  
18 and no lender, trustee, certificate holder or county has any claim or recourse  
19 against any funds of the state other than available funds.

20 “(6) The director shall adopt rules that may be necessary for the admin-  
21 istration, evaluation and implementation of ORS 423.500 to 423.560. The  
22 standards shall be sufficiently flexible to foster the development of new and  
23 improved supervision or rehabilitative practices and maximize local control.

24 “(7) When a county assumes responsibility under ORS 423.500 to 423.560  
25 for correctional services previously provided by the department, the county  
26 and the department shall enter into an intergovernmental agreement that  
27 includes a local community corrections plan consisting of program de-  
28 scriptions, budget allocation, performance objectives and methods of evalu-  
29 ating each correctional service to be provided by the county. The  
30 performance objectives must include in dominant part reducing future crim-

1 inal conduct. The methods of evaluating services must include, to the extent  
2 of available information systems resources, the collection and analysis of  
3 data sufficient to determine the apparent effect of the services on future  
4 criminal conduct.

5 “(8) All community corrections plans shall comply with rules adopted  
6 pursuant to ORS 423.500 to 423.560, and shall include but need not be limited  
7 to an outline of the basic structure and the supervision, services and local  
8 sanctions to be applied to offenders convicted of felonies, **strangulation**  
9 **misdemeanors** and designated drug-related misdemeanors who are:

10 “(a) On parole;

11 “(b) On probation;

12 “(c) On post-prison supervision;

13 “(d) Sentenced, on or after January 1, 1997, to 12 months or less incar-  
14 ceration;

15 “(e) Sanctioned, on or after January 1, 1997, by a court or the State Board  
16 of Parole and Post-Prison Supervision to 12 months or less incarceration for  
17 a violation of a condition of parole, probation or post-prison supervision; and

18 “(f) On conditional release under ORS 420A.206.

19 “(9) All community corrections plans shall designate a community cor-  
20 rections manager of the county or counties and shall provide that the ad-  
21 ministration of community corrections under ORS 423.500 to 423.560 shall be  
22 under such manager.

23 “(10) No amendment to or modification of a county-approved community  
24 corrections plan shall be placed in effect without prior notice to the director  
25 for purposes of statewide data collection and reporting.

26 “(11) The obligation of the state to provide funding and the scheduling for  
27 providing funding of a project approved under this section is dependent upon  
28 the ability of the state to access public security markets to sell financing  
29 agreements.

30 “(12) No later than January 1 of each odd-numbered year, the Department

1 of Corrections shall:

2 “(a) Evaluate the community corrections policy established in ORS  
3 423.475, 423.478, 423.483 and 423.500 to 423.560; and

4 “(b) Assess the effectiveness of local revocation options.

5 “(13) As used in this section, ‘designated drug-related misdemeanor’ [*has*  
6 *the meaning given that term*] **and ‘strangulation misdemeanor’ have the**  
7 **meaning given those terms** in ORS 423.478.

8 **“SECTION 4. The amendments to 163.187, 423.478 and 423.525 by**  
9 **sections 1 to 3 of this 2018 Act apply to offenses committed on or after**  
10 **the effective date of this 2018 Act.”.**

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