

CHAPTER 183

(SB 70)

AN ACT relating to strangulation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

(1) *A person is guilty of strangulation in the first degree when the person, without consent, intentionally impedes the normal breathing or circulation of the blood of another person by:*

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

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

(2) *Strangulation in the first degree is a Class C felony.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

(1) *A person is guilty of strangulation in the second degree when the person, without consent, wantonly impedes the normal breathing or circulation of the blood of another person by:*

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

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

(2) *Strangulation in the second degree is a Class D felony.*

➔Section 3. KRS 403.720 is amended to read as follows:

As used in KRS 403.715 to 403.785:

(1) "Domestic violence and abuse" means physical injury, serious physical injury, stalking, sexual abuse, *strangulation*, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, *strangulation*, or assault between family members or members of an unmarried couple;

(2) "Family member" means a spouse, including a former spouse, a grandparent, a grandchild, a parent, a child, a stepchild, or any other person living in the same household as a child if the child is the alleged victim;

(3) "Foreign protective order" means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 that was issued on the basis of domestic violence and abuse;

(4) "Global positioning monitoring system" means a system that electronically determines a person's location through a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;

(5) "Member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together;

(6) "Order of protection" means an emergency protective order or a domestic violence order and includes a foreign protective order;~~and~~

(7) *"Strangulation" refers to conduct prohibited by Sections 1 and 2 of this Act; and*

(8) "Substantial violation" means criminal conduct which involves actual or threatened harm to the person, family, or property of an individual protected by an order of protection.

➔Section 4. KRS 456.010 is amended to read as follows:

As used in this chapter:

(1) "Dating relationship" means a relationship between individuals who have or have had a relationship of a romantic or intimate nature. It does not include a casual acquaintanceship or ordinary fraternization in a business or social context. The following factors may be considered in addition to any other relevant factors in determining whether the relationship is or was of a romantic or intimate nature:

- (a) Declarations of romantic interest;
 - (b) The relationship was characterized by the expectation of affection;
 - (c) Attendance at social outings together as a couple;
 - (d) The frequency and type of interaction between the persons, including whether the persons have been involved together over time and on a continuous basis during the course of the relationship;
 - (e) The length and recency of the relationship; and
 - (f) Other indications of a substantial connection that would lead a reasonable person to understand that a dating relationship existed;
- (2) "Dating violence and abuse" means physical injury, serious physical injury, stalking, sexual assault, ***strangulation***, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, ***strangulation***, or assault occurring between persons who are or have been in a dating relationship;
- (3) "Foreign protective order" means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 which was not issued on the basis of domestic violence and abuse;
- (4) "Global positioning monitoring system" means a system that electronically determines a person's location through a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;
- (5) "Order of protection" means any interpersonal protective order, including those issued on a temporary basis, and includes a foreign protective order;
- (6) "Sexual assault" refers to conduct prohibited as any degree of rape, sodomy, or sexual abuse under KRS Chapter 510 or incest under KRS 530.020;
- (7) "Stalking" refers to conduct prohibited as stalking under KRS 508.140 or 508.150;
- (8) ***"Strangulation" refers to conduct prohibited by Sections 1 and 2 of this Act;*** and
- ~~(9)~~ (8) "Substantial violation" means criminal conduct which involves actual or threatened harm to the person, family, or property of an individual protected by an order of protection.

➔Section 5. KRS 456.020 is amended to read as follows:

- (1) This chapter shall be interpreted to:
- (a) Allow victims to obtain effective, short-term protection against further wrongful conduct in order that their lives may be as secure and as uninterrupted as possible;
 - (b) Expand the ability of law enforcement officers to effectively respond to further wrongful conduct so as to prevent future incidents and to provide assistance to the victims;
 - (c) Provide peace officers with the authority to immediately apprehend and charge for violation of an order of protection any person whom the officer has probable cause to believe has violated an order of protection and to provide courts with the authority to conduct contempt of court proceedings for these violations;
 - (d) Provide for the collection of data concerning incidents of dating violence and abuse, sexual assault, ***strangulation***, and stalking in order to develop a comprehensive analysis of the numbers and causes of such incidents; and
 - (e) Supplement and not repeal or supplant any duties, responsibilities, services, or penalties under KRS Chapters 209, 209A, and 620.
- (2) Nothing in this chapter is intended to trigger the application of the provisions of 18 U.S.C. sec. 922(g) as to an interpersonal protective order issued on the basis of the existence of a current or previous dating relationship.

Signed by Governor March 26, 2019.