



# Colorado Legislative Council Staff

Room 029 State Capitol, Denver, CO 80203-1784  
(303) 866-3521 • FAX: 866-3855 • TDD: 866-3472  
[www.colorado.gov/lcs](http://www.colorado.gov/lcs)  
E-mail: [lcs.ga@state.co.us](mailto:lcs.ga@state.co.us)

---

## MEMORANDUM

March 8, 2016

**TO:** Interested Persons  
**FROM:** Conrad Imel, Research Analyst, 303-866-2756  
**SUBJECT:** Nonfatal Strangulation as a Felony Offense

### Summary

This memorandum provides information on Colorado law related to nonfatal strangulation and information on the laws in states in which nonfatal strangulation is a felony. While Colorado statutes do not specifically address strangulation, other criminal statutes may apply. This memorandum also provides information on the 30 states identified by staff that explicitly designate strangulation as a felony.

### Colorado Law

Colorado state law does not specifically address strangulation. Such action would likely violate other criminal statutes. For example, first degree assault occurs when a person, with intent to cause serious bodily injury, causes serious bodily injury to any person by means of a deadly weapon.<sup>1</sup> Second and third degree assault occurs depending on the level of harm intended or caused.<sup>2</sup> First and second degree assaults are felonies; third degree assault is a class 1 misdemeanor and an extraordinary risk crime subject to enhanced penalties. Additionally, staff was unable to identify any municipal codes in Colorado that specifically prohibit strangulation.

### States Where Nonfatal Strangulation is a Felony

Table 1, below, provides information on laws in 30 states identified by staff where nonfatal strangulation as an assault is a felony. The table does not include nonfatal strangulation during the commission of a separate offense, such as attempted murder or manslaughter, sexual assault, or robbery.

---

<sup>1</sup> Section 18-3-202, C.R.S.

<sup>2</sup> Sections 18-3-203 (second degree assault) and 18-3-204 (third degree assault), C.R.S.

Many states include a definition of strangulation. Definitions generally include language concerning impeding the blood circulation or respiration of another person by knowingly, intentionally, and unlawfully applying pressure to the neck of such person resulting in bodily injury. Some states also include explicit exemptions for medical procedures or for those providing medical assistance.

**Table 1**  
**State Laws Concerning Assault by Strangulation with Felony Penalties**

State	Citation	Description	Penalty
Alabama	Ala. Code § 13A-6-138.	<p>Domestic violence by strangulation or suffocation occurs if a person commits an assault with intent to cause physical harm, or commits the crime of menacing, by strangling or suffocating, or attempts to strangle or suffocate, a spouse, former spouse, parent, stepparent, child, stepchild, person with whom the defendant has a child in common, or person with whom the defendant has or had a dating or engagement relationship within ten months preceding the event. Domestic violence by strangulation or suffocation is a class B felony.</p> <p>Effective January 1, 2016, a person commits the crime of domestic violence by strangulation or suffocation, a class B felony, if he or she commits assault with intent to cause physical harm, or commits the crime of menacing, by strangulation or suffocation or attempted strangulation or suffocation against a domestic violence victim, as the term is defined in Alabama code section 13A-6-139.1.</p>	Imprisonment for 2 to 20 years and a maximum fine of \$30,000.
Arizona	Ariz. Rev. Stat. § 13-1204 (B).	<p>Aggravated assault occurs when a person restricts the breathing or blood flow of another by applying pressure to the throat or neck or by obstructing the nose and mouth either manually or through the use of an instrument and one of the following occurs:</p> <ul style="list-style-type: none"> <li>• the person causes serious physical injury to another;</li> <li>• the person uses a deadly weapon or dangerous instrument;</li> <li>• the person commits the assault by any means of force that causes temporary but substantial disfigurement, temporary but substantial loss or impairment of any body organ or part, or a fracture of any body part;</li> <li>• the person commits the assault while the victim is bound or otherwise physically restrained or while the victim's capacity to resist is substantially impaired;</li> <li>• the person commits the assault after entering the private home of another with the intent to commit the assault; or</li> <li>• the person is eighteen years of age or older and commits the assault on a minor under fifteen years of age.</li> </ul> <p>Aggravated assault under these circumstances is a class 4 felony.</p>	<p>Imprisonment for one and one-half to three years.</p> <p>The presumed term of imprisonment for class 4 felonies is two and one-half years.</p>
California	Cal. Penal Code § 273.5.	<p>Infliction of an injury resulting in a traumatic condition (defined to include injuries resulting from strangulation) upon certain victims is guilty of a felony punishable by imprisonment, fine, or both.</p> <p>The statute applies to the following victims: a spouse or former spouse; cohabitant or former cohabitant; fiancé or fiancée; someone with whom the offender has, or previously had, an engagement or dating relationship; or the mother or father of the offender's child.</p>	Imprisonment in the state prison for two to four years, imprisonment in a county jail for up to one year, a fine of up to \$6,000, or both fine and imprisonment.

**Table 1 (Cont.)  
State Laws Concerning Assault by Strangulation with Felony Penalties**

State	Citation	Description	Penalty
Connecticut	Conn. Gen. Stat. §§ 53a-64aa and 53a-64bb.	Second degree strangulation is a class D felony. Strangulation becomes first degree strangulation when in the commission of strangulation, the perpetrator uses or attempts to use a dangerous instrument, causes serious physical injury to such other person, or has previously been convicted of strangulation. First degree strangulation is a class C felony.	Class C felonies are punishable by imprisonment for one to ten years and a fine of up to \$10,000.  Class D felonies are punishable by imprisonment for up to five years and a fine of up to \$5,000.
Delaware	Del. Code tit. 11, § 607.	Strangulation is a class E felony, but is enhanced to a class D felony if the perpetrator used or attempted to use a dangerous instrument or a deadly weapon while committing the offense, caused serious physical injury to the victim while committing the offense, or has been previously convicted of strangulation.	Class D felonies are punishable by up to eight years of imprisonment.  Class E felonies are punishable by up to five years imprisonment.  In addition, the court may impose such fines and penalties as it deems appropriate.
Florida	Fla. Stat. § 784.041 (2).	Domestic battery by strangulation occurs when a person knowingly and intentionally, against the will of another, impedes the normal breathing or circulation of the blood of a family or household member, or of a person with whom he or she is in a dating relationship, so as to create a risk of or cause great bodily harm by applying pressure on the throat or neck, or by blocking the nose or mouth, of the other person. Domestic battery by strangulation is a third degree felony.	Imprisonment for up to five years and a fine of up to \$5,000.
Hawaii	Haw. Rev. Stat. § 709-906 (8).	Abuse of a family or household member is a class C felony when the physical abuse consists of intentionally or knowingly impeding the normal breathing or circulation of the blood of the family or household member by applying pressure on the throat or the neck.	Imprisonment for up to five years and a fine of up to \$10,000.
Idaho	Idaho Code Ann. § 18-923.	If a person chokes or attempts to strangle a household member, or a person with whom he or she has or had a dating relationship, the person commits a felony punishable by incarceration for up to 15 years. No injuries are required to prove attempted strangulation. The prosecution is not required to show that the defendant intended to kill or injure the victim. The only intent required is the intent to choke or attempt to strangle.	Incarceration for up to 15 years.
Illinois	720 Ill. Comp. Stat. §§ 5/12-3.05 and 5/12-3.3.	Strangling another individual is aggravated battery, which is generally a class 3 felony. Strangling is a class 1 felony if the person used or attempted to use a dangerous instrument while committing the offense, the person caused great bodily harm or permanent disability or disfigurement to the victim, or the person has been previously convicted of battery by strangulation.  Aggravated domestic battery occurs when a person strangles another person while committing domestic battery. Aggravated domestic battery is a class 2 felony.	Terms of imprisonment for felonies are as follows: <ul style="list-style-type: none"> <li>• class 1: 4 to 15 years;</li> <li>• class 2: 3 to 7 years;</li> <li>• class 3: 2 to 5 years.</li> </ul> All felonies are subject to a maximum \$25,000 fine.

**Table 1 (Cont.)  
State Laws Concerning Assault by Strangulation with Felony Penalties**

State	Citation	Description	Penalty
Indiana	Ind. Code § 35-42-2-9.	Strangulation is a level 6 felony.	Imprisonment for between six months and two and one-half years, and a maximum \$10,000 fine.
Louisiana	La. Rev. Stat. Ann. § 14:35.3 (L).	Domestic abuse battery involving strangulation is punishable by imprisonment at hard labor for up to three years.	Imprisonment at hard labor for up to three years.
Maine	Me. Rev. Stat. Ann. tit. 17-A, § 208.	Strangulation that causes bodily injury is aggravated assault, which is a class B crime.	Class B crimes are punishable by up to ten years in prison and a maximum \$20,000 fine.
Massachusetts	Mass. Gen. Laws ch. 265, § 15D.	Strangling or suffocating another person is punishable by imprisonment for a maximum of five years in state prison or up to two and one-half years in the house of correction, or by a fine of not more than \$5,000, or by both fine and imprisonment.	Imprisonment for a maximum of five years in state prison or up to two and one-half years in the house of correction, and a fine of up to \$5,000.
Michigan	Mich. Comp. Law. § 750.84.	Assaulting another person by strangulation or suffocation is a felony punishable by imprisonment for a maximum of ten years, a fine of up to \$5,000, or both.	Imprisonment for a maximum of ten years, a fine of up to \$5,000, or both.
Minnesota	Minn Stat. § 609.2247.	Unless a greater penalty is provided elsewhere, strangling a family or household member is a felony punishable by imprisonment for not more than three years, a maximum \$5,000 fine, or both.	Imprisonment for not more than three years, a maximum \$5,000 fine, or both.
Mississippi	Miss. Code Ann. § 97-3-7 (4).	Aggravated domestic violence occurs when a person strangles, or attempts to strangle, another person who is: <ul style="list-style-type: none"> <li>• a current or former spouse, or a child of that person;</li> <li>• a person living as a spouse or who formerly lived as a spouse with the defendant or a child of that person;</li> <li>• a parent, grandparent, child, grandchild, or someone similarly situated to the defendant;</li> <li>• a person who has a current or former dating relationship with the defendant; or</li> <li>• a person with whom the defendant has had a biological or legally adopted child.</li> </ul>	Imprisonment for 2 to 20 years.
Missouri	Mo. Rev. Stat. § 565.073.	Strangulation of a family or household member, including any child who is a member of the family or household, is second degree domestic assault, which is a class C felony.  Effective Jan. 1, 2017, second degree domestic assault is a class D felony.	Class C felonies are punishable by imprisonment for up to seven years and a fine of up to \$10,000.  Effective January 1, 2017, Class D felonies are punishable by imprisonment for up to seven years and a fine of up to \$10,000.

**Table 1 (Cont.)  
State Laws Concerning Assault by Strangulation with Felony Penalties**

State	Citation	Description	Penalty
Nebraska	Neb. Rev. Stat. § 28-310.01.	Strangulation is a class IIIA felony, but is enhanced to a class IIA felony if the perpetrator used or attempted to use a dangerous instrument or a deadly weapon while committing the offense, caused serious physical injury to the victim while committing the offense, or has been previously convicted of strangulation.	Class IIA felonies are punishable by imprisonment for up to 20 years.  Class IIIA felonies are punishable by three years imprisonment and nine to eighteen months post-release supervision, or a maximum \$10,000 fine, or both.
Nevada	Nev. Rev. Stat. §§ 200.481 (2)(b) and 200.485 (2).	Battery committed by strangulation is a category C felony. Domestic violence (as defined in Nev. Rev. Stat. § 33.018) committed by strangulation is a category C felony.	Imprisonment for one to five years and a maximum fine of \$10,000.
New Hampshire	N.H. Rev. Stat. Ann. § 631:2.	Second degree assault includes purposely or knowingly strangling another person. Second degree assault is a class B felony.	Imprisonment for up to seven years and a maximum \$4,000 fine.
New York	N.Y. Penal Law §§ 121.12 and 121.13.	Strangulation in the second degree occurs when a person commits the crime of criminal obstruction of breathing or blood circulation, as defined in statute, and thereby causes stupor, loss of consciousness for any period of time, or any other physical injury or impairment. Strangulation in the second degree is a class D felony.  If the strangulation causes serious physical injury to such other person, it is strangulation in the first degree, a class C felony.	Class C felonies are punishable by imprisonment for 1 to 15 years and a fine of up to \$5,000.  Class D felonies are punishable by imprisonment for one to seven years and a fine of up to \$5,000.
North Carolina	N.C. Gen. Stat. § 14-32.4.	Unless the conduct is covered under some other provision of law providing greater punishment, any person who assaults another person and inflicts physical injury by strangulation is guilty of a class H felony.	Imprisonment for 5 to 17 months, determined by state sentencing guidelines, and a fine in an amount that is at the discretion of the court.
Oklahoma	Okla. Stat. Ann. tit. 21, § 644 (J).	Domestic abuse by strangulation is punishable by imprisonment for one to three years and a maximum fine of \$3,000. A second or subsequent conviction is punishable by imprisonment for three to ten years and a fine of up to \$20,000.	Imprisonment for one to three years and a maximum fine of \$3,000.
Oregon	Or. Rev. Stat. § 163.187.	Strangulation is generally a misdemeanor, but it is a class C felony if the crime is committed under certain circumstances, such as when it is committed in the presence of related minor children, the perpetrator has previously violated the strangulation statute, the perpetrator has previously been convicted of assault or menacing against the same victim, or the perpetrator has three prior assault or menacing convictions.  Effective January 1, 2016, strangulation of a pregnant woman is a class C felony.	Imprisonment for up to five years and a maximum fine of \$125,000.
Rhode Island	R.I. Gen. Laws § 11-5-2.3.	Assault or battery, or both, by strangulation, on a family or household member is punishable by imprisonment for a maximum of ten years.	Imprisonment for a maximum of ten years.
Tennessee	Tenn. Code Ann. § 39-13-102.	Assault that involves strangulation or attempted strangulation is a class C felony.	Imprisonment for 3 to 15 years and a maximum fine of \$10,000.

**Table 1 (Cont.)  
State Laws Concerning Assault by Strangulation with Felony Penalties**

State	Citation	Description	Penalty
Virginia	Va. Code Ann. § 18.2-51.6.	Strangulation is a class 6 felony.	Imprisonment for one to five years, confinement in jail for up to 12 months, a fine of not more than \$2,500, either or both.
Washington	Wash. Rev. Code § 9A.36.021.	Assault by strangulation or suffocation is second degree assault, which is a class B felony.	Imprisonment for up to ten years and a maximum fine of \$20,000.
Wisconsin	Wis. Stat. § 940.235.	Whoever intentionally impedes the normal breathing or circulation of blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person is guilty of a class H felony. It is a class G felony if the perpetrator has a previous strangulation conviction or a previous conviction for a violent crime.	Class G felonies are punishable by imprisonment for up to ten years and a fine of up to \$25,000.  Class H felonies are punishable by imprisonment for up to six years and a fine of up to \$10,000.
Wyoming	Wyo. Stat. § 6-2-509.	Strangulation of a household member is a felony punishable by a maximum prison sentence of five years.	Imprisonment up to five years. Courts may impose fines of up to \$10,000 on felonies.

Source: Legislative Council Staff.