

DC VOLUNTEER LAWYERS PROJECT

A voice for victims and children in the DC metro area since 2008

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Testimony of Robyn Swanson, Supervising Attorney

DC Volunteer Lawyers Project

Before the Committee on the Judiciary and Public Safety of the District of Columbia

**B25-0479 - Addressing Crime through Targeted Interventions and Violence Enforcement
("ACTIVE") Amendment Act of 2023**

Thank you to the Committee for the opportunity to provide testimony today. My name is Robyn Swanson, and I am a Supervising Attorney at the DC Volunteer Lawyers Project. DCVLP is a non-profit organization that was established in 2008 to provide comprehensive, pro bono legal assistance to domestic violence victims, including victims of dating violence, sexual assault, stalking, and gender-based violence. In 2022, we provided legal representation to 741 survivors of domestic violence in civil protection order and family law cases. DCVLP attorneys also provide free legal advice and brief services to survivors through our various legal clinics throughout the District of Columbia.

I am here today to support the provisions in the proposed ACTIVE bill concerning strangulation. Before I turn to those provisions, however, I want to make clear DCVLP's view, on behalf of domestic violence survivors, that criminal-legal approaches alone are insufficient to address the problems of domestic violence in our city, and to meet the varied needs of survivors. Every survivor is a unique individual. While some want to engage in the criminal justice system, others do not. DCVLP supports violence reduction programs that are grounded in a public health perspective and aim to tackle the root causes of violence by ensuring that support and services are available for all who need them.

That being said, strangulation is one of the most serious and lethal forms of domestic violence, and we believe the District of Columbia's criminal code should reflect that. In 2021, the American Academy of Neurology issued the following position statement: "The medical literature and the cumulative experience of neurologists clearly indicate that restricting cerebral blood flow or oxygen delivery, even briefly, can cause permanent injury to the brain, including stroke, cognitive impairment, and even death. Unconsciousness resulting from such maneuvers is a manifestation of catastrophic global brain dysfunction."

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Every strangulation incident has the potential to end in death. And sadly, many do. 10 percent of violent deaths in the United States are attributable to strangulation. According to DC's Domestic Violence Fatality Review Board, 13% of the domestic violence homicides that took place in DC between 2014 and 2018 were caused by strangulation.

Nonfatal incidents are equally alarming because strangulation is a key predictor of future lethality and serious harm. Cutting off oxygen to the brain, even for a short time, can cause brain damage and possibly life-threatening injuries. The data is sobering: if you are strangled even once by an intimate partner you are 750% more likely to be killed by that partner. Those who are killed have usually been strangled multiple times.

Yet strangulation incidents continue to be missed and misunderstood, in part because in half of all incidents, there is no evidence of visible external injury. Without physical evidence, there is a tendency to treat strangulation as a minor incident. This is a mistake. Relying on external visible injury as a proxy for the seriousness of the injury simply does not work. According to a 2016 study published in the Journal of Forensic and Legal Medicine, even when the incident results in death, 40 percent of the victims have no visible external injuries

An alarming number of DCVLP's clients have been strangled. In just the last six months, 36 of the 178 civil protection order cases we've taken for full representation, or 20 percent, involved strangulation. That's 36 women who are at a dramatically increased risk of fatality at the hands of their intimate partner.

On behalf of our clients, we support efforts to hold abusers who strangle their intimate partners criminally accountable in ways that are sensible and proportional. Until recently, DC was one of the only jurisdictions in the country that did not classify strangulation as a felony offense. 48 states have passed laws that make strangulation and suffocation a felony in some way shape or form, either by a standalone law, by adding strangulation/suffocation to an existing law, or by redefining serious bodily injury.

DCVLP applauds the temporary emergency legislation passed by the Council to address that gap. That legislation provides for increased penalties for strangulation offenses that caused the victim to sustain serious bodily injury, where the person was under a stay away or no contact order at the time of the offense, or the person was convicted of an intrafamily offense within 5 years of the incident. But the temporary legislation expires in January 2024. It is time to make some of these crucial protections for domestic violence survivors permanent.

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For these reasons, DCVLP supports permanently changing the definition of “significant bodily injury” so that it will encompass injuries due to strangulation, which often are not visible. The new definition will allow strangulation to be charged as a felony. Crucially, the new definition will also allow victims of strangulation to access an intimate partner violence Sexual Assault Nurse Examiner (SANE) exam or CT scan.

DCVLP also supports adding strangulation to the list of offenses that constitute a crime of violence. This change will allow courts to more easily detain, prior to trial, offenders who present a high risk of serious harm or death to survivors. DCVLP encourages the use of lethality scores as part of the pretrial services agency’s assessment of risk.

DCVLP also encourages the Committee to include language in the ACTIVE bill to require law enforcement officers who respond to a strangulation incident to refer survivors to DC SAFE or to contact DC SAFE for a lethality assessment. We believe MPD officers should also receive training in trauma-informed interviewing; in investigating strangulation incidents, particularly when there are no externally visible signs of injury; and in identifying the predominant physical aggressor.

The District of Columbia has been behind the curve on this important issue. As of 2022, only Massachusetts, Maryland and Texas required law enforcement officers to be trained on the identification, investigation, and documentation of non-fatal strangulation and suffocation cases. Adding training requirements to the proposed legislation presents an opportunity for DC to be a national leader in providing real options to survivors of strangulation who seek criminal-legal options to protect themselves from future harm by their abusers.

Reducing domestic violence requires a multifaceted and holistic approach that includes education, jobs, and training. The ACTIVE bill is not a complete solution to addressing the root causes of strangulation, one of the most lethal forms of domestic violence. But it is an important piece of the puzzle. Strangulation is too serious an offense for these protections not to be made permanent.

Thank you for your time today.