

# § 13A-6-138 Strangulation or suffocation

*Knowing the Elements*

**A person commits the crime of domestic violence by strangulation or suffocation if he or she commits an assault with intent to cause **physical harm** OR commits the crime of **menacing** pursuant to Section 13A-6-23, by strangulation or suffocation **or attempted** strangulation or suffocation**

# Physical harm

Thomas v. State,  
214 So. 3d 1211  
(Ala. Crim. App. 2015)

(Unpublished Memorandum  
Dissent – but other reasons...not this...)

- “Physical harm” necessary for domestic violence by strangulation is not defined by statute, but it is a broad term that includes any measure of physical harm, whether slight or serious.
- (Some definitions consider “pain” as harm.)

# Menacing Definition

Ala. Code § 13A-6-23

- (a) A person commits the crime of menacing if, by physical action, he intentionally places or **attempts** to place another person in fear of imminent serious physical injury.

# Lethality of DVSS



**Best Indicator of Lethality is Strangulation and Suffocation**



**One Episode**



**700X more likely to be a victim of attempted homicide**



**800X more likely to be a victim of a homicide at the hands of an offender.**