



Australian Capital Territory

Crimes (Protection of Frontline Community Service Providers) Amendment Act 2020

A2020-18

An Act to amend the *Crimes Act 1900*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2019-617

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 Name of Act

This Act is the *Crimes (Protection of Frontline Community Service Providers) Amendment Act 2020*.

2 Commencement

This Act commences on the 14th day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

3 Legislation amended

This Act amends the *Crimes Act 1900*.

**4 Offences against Act—application of Criminal Code etc
Section 7A, note 1**

insert

- s 26A (Assault of frontline community service provider)
- s 29A (Driving motor vehicle at police)
- s 29B (Damaging police vehicle)

5 New sections 26A and 26B

insert

26A Assault of frontline community service provider

- (1) A person commits an offence if—
- the person assaults another person; and
 - the other person is a frontline community service provider; and
 - the person knows, or is reckless about whether, the other person is a frontline community service provider; and

- (d) the assault is committed—
 - (i) when the frontline community service provider is exercising a function given to the person as a frontline community service provider; or
 - (ii) as a consequence of, or in retaliation for, action taken by the person in exercising a function as a frontline community service provider; or
 - (iii) because the person is a frontline community service provider.

Maximum penalty: imprisonment for 2 years.

- (2) For subsection (1) (c), it is presumed, unless there is evidence to the contrary, that the defendant knew that the person was a frontline community service provider if—
 - (a) the person identified themselves as a frontline community service provider; or
 - (b) the fact that the person was a frontline community service provider was reasonably apparent, having regard to all of the circumstances, including the conduct and manner of the frontline community service provider.

Examples—par (b)

- 1 the frontline community service provider was in uniform
 - 2 the frontline community service provider was in an emergency vehicle
- (3) The defendant has an evidential burden in relation to evidence to the contrary mentioned in subsection (2).
 - (4) For subsection (1) (d) (i) and (ii)—
 - (a) strict liability applies to the circumstance that the frontline community service provider was exercising a function as a frontline community service provider; and

(b) it does not matter if the frontline community service provider was off duty when exercising a function as a frontline community service provider.

(5) In this section:

corrections worker means a corrections officer, or an interstate escort officer, exercising a function under the *Corrections Management Act 2007*.

frontline community service provider means—

- (a) a police officer; or
- (b) a protective service officer; or
- (c) a corrections worker; or
- (d) a member of an emergency service.

interstate escort officer means a person mentioned in the *Corrections Management Act 2007*, section 213.

member, of an emergency service—

- (a) see the *Emergencies Act 2004*, dictionary; and
- (b) includes—
 - (i) a person operating in the ACT in accordance with a cooperative arrangement under the *Emergencies Act 2004*, section 176; and
 - (ii) a person employed by the ACT Emergency Services Agency; and
 - (iii) a volunteer assisting the ACT Emergency Services Agency.

protective service officer means a person in relation to whom a declaration under the *Australian Federal Police Act 1979* (Cwlth), section 40EA is in force.

**26B Assault of frontline community service provider—
alternative verdict**

- (1) This section applies if, in a prosecution for an offence against section 26A, the trier of fact is not satisfied that the defendant committed the offence but is satisfied beyond reasonable doubt that the defendant committed an offence against section 26 (Common assault).
- (2) The trier of fact may find the defendant guilty of the offence against section 26 but only if the defendant has been given procedural fairness in relation to that finding of guilt.

6 New sections 29A and 29B

insert

29A Driving motor vehicle at police

- (1) A person commits an offence if—
 - (a) the person drives a motor vehicle near or at a police officer; and
 - (b) the person knows, or is reckless about whether, the police officer is a police officer; and
 - (c) the police officer is exercising a function given to the officer as a police officer; and
 - (d) the person—
 - (i) intends to risk the police officer’s safety by that conduct;
or
 - (ii) is reckless about risking the police officer’s safety by that conduct.

Maximum penalty: imprisonment for 15 years.

- (2) Strict liability applies to subsection (1) (c).

- (3) For subsection (1) (b), it is presumed, unless there is evidence to the contrary, that the defendant knew that the police officer was a police officer if—
- (a) the officer identified themselves as a police officer; or
 - (b) the officer was inside a vehicle that stated “police” on the outside of the vehicle; or
 - (c) the officer was inside a vehicle and it was reasonably apparent that the vehicle was being used, or was ordinarily used, by a police officer in the exercise of the officer’s functions; or
 - (d) the fact that the police officer was a police officer was reasonably apparent, having regard to all of the circumstances, including the conduct and manner of the police officer.

Example—par (c)

the vehicle was an unmarked car displaying a flashing blue or red light (whether or not it was displaying other lights) or was using a siren

- (4) The defendant has an evidential burden in relation to evidence to the contrary mentioned in subsection (3).
- (5) A person may be guilty of an offence against this section regardless of whether the person’s driving injured the police officer.

29B Damaging police vehicle

- (1) A person commits an offence if—
- (a) the person drives a motor vehicle and causes damage to a police vehicle by that conduct; and
 - (b) the person knows, or is reckless about whether, the damaged vehicle is a police vehicle; and
 - (c) the person intends to cause, or is reckless about causing, damage to the police vehicle.

Maximum penalty: imprisonment for 5 years.

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- (2) For subsection (1) (b), it is presumed, unless there is evidence to the contrary, that the defendant knew that the damaged vehicle was a police vehicle if—
- (a) the vehicle stated “police” on the outside of the vehicle; or
 - (b) the fact that the vehicle was a police vehicle was reasonably apparent, having regard to all of the circumstances, including the manner in which it was being driven.

Example—par (b)

the vehicle was an unmarked car displaying a flashing blue or red light (whether or not it was displaying other lights) or was using a siren

- (3) The defendant has an evidential burden in relation to evidence to the contrary mentioned in subsection (2).
- (4) A person may be guilty of an offence against this section regardless of whether the damaged vehicle was occupied by a police officer.
- (5) In this section:

police vehicle means a motor vehicle that is being used, or is ordinarily used, by a police officer in the exercise of the officer’s functions.

7 New section 442B

insert

442B Review of operation of offences against frontline community service providers

- (1) The Minister must review the operation of the following provisions no later than 2 years after the day they commence:
 - (a) section 26A (Assault of frontline community service provider);
 - (b) section 26B (Assault of frontline community service provider—alternative verdict);

- (c) section 29A (Driving motor vehicle at police);
- (d) section 29B (Damaging police vehicle).
- (2) The Minister must present a report of the review to the Legislative Assembly within 12 months after the day the review is started.
- (3) This section expires 3 years after the day it commences.

8 Dictionary, note 2

insert

- corrections officer
- function

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 22 October 2019.

2 Notification

Notified under the [Legislation Act](#) on 27 May 2020.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Crimes (Protection of Frontline Community Service Providers) Amendment Bill 2020, which originated in the Legislative Assembly as the Crimes (Protection of Police, Firefighters and Paramedics) Amendment Bill 2019 and was passed by the Assembly on 21 May 2020.

Clerk of the Legislative Assembly

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