

2012

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Zed Seselja)

Crimes (Offences Against Police) Amendment Bill 2012

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(As presented)

(Mr Zed Seselja)

Crimes (Offences Against Police) Amendment Bill 2012

A Bill for

An Act to amend the *Crimes Act 1900*

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

J2011-607

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

- 1 **1 Name of Act**
- 2 This Act is the *Crimes (Offences Against Police) Amendment*
3 *Act 2012*.
- 4 **2 Commencement**
- 5 This Act commences on the day after its notification day.
- 6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see Legislation Act, s 75 (1)).
- 8 **3 Legislation amended**
- 9 This Act amends the *Crimes Act 1900*.
- 10 **4 New section 9A**
- 11 *in part 2, insert*
- 12 **9A Definitions—pt 2**
- 13 In this part:
- 14 *aggravated offence* means an aggravated offence against a pregnant
15 woman or an aggravated offence against a police officer.
- 16 *aggravated offence against a police officer*—see section 48C.
- 17 *aggravated offence against a pregnant woman*—see section 48A.
- 18 *fault element*—see the Criminal Code, section 17.
- 19 **5 Manslaughter**
20 **Section 15, note**
- 21 *substitute*
- 22 *Note* Section 48A (Aggravated offences—offences against pregnant women)
23 and s 48C (Aggravated offences—offences against police officers)
24 make provision in relation to aggravated offences against this section.

1 **6 Intentionally inflicting grievous bodily harm**
2 **Section 19, note**

3 *substitute*

4 *Note* Section 48A (Aggravated offences—offences against pregnant women)
5 and s 48C (Aggravated offences—offences against police officers)
6 make provision in relation to aggravated offences against this section.

7 **7 Recklessly inflicting grievous bodily harm**
8 **Section 20, note**

9 *substitute*

10 *Note* Section 48A (Aggravated offences—offences against pregnant women)
11 and s 48C (Aggravated offences—offences against police officers)
12 make provision in relation to aggravated offences against this section.

13 **8 Wounding**
14 **Section 21, note**

15 *substitute*

16 *Note* Section 48A (Aggravated offences—offences against pregnant women)
17 and s 48C (Aggravated offences—offences against police officers)
18 make provision in relation to aggravated offences against this section.

19 **9 Assault with intent to commit other offence**
20 **New section 22 (2) and note**

21 *insert*

22 (2) However, for an aggravated offence against a police officer, the
23 maximum penalty is imprisonment for 7 years.

24 *Note* Section 48C (Aggravated offences—offences against police officers)
25 makes provision in relation to aggravated offences against this section.

1 **10** **Inflicting actual bodily harm**
2 **Section 23, note**

3 *substitute*

4 *Note* Section 48A (Aggravated offences—offences against pregnant women)
5 and s 48C (Aggravated offences—offences against police officers)
6 make provision in relation to aggravated offences against this section.

7 **11** **Assault occasioning actual bodily harm**
8 **Section 24, note**

9 *substitute*

10 *Note* Section 48A (Aggravated offences—offences against pregnant women)
11 and s 48C (Aggravated offences—offences against police officers)
12 make provision in relation to aggravated offences against this section.

13 **12** **Causing grievous bodily harm**
14 **New section 25 (2) and note**

15 *insert*

16 (2) However, for an aggravated offence against a police officer, the
17 maximum penalty is imprisonment for 7 years.

18 *Note* Section 48C (Aggravated offences—offences against police officers)
19 makes provision in relation to aggravated offences against this section.

20 **13** **Common assault**
21 **New section 26 (2) and note**

22 *insert*

23 (2) However, for an aggravated offence against a police officer, the
24 maximum penalty is imprisonment for 3 years.

25 *Note* Section 48C (Aggravated offences—offences against police officers)
26 makes provision in relation to aggravated offences against this section.

1 **14 Threat to kill**
2 **New section 30 (2) and note**

3 *insert*

- 4 (2) However, for an aggravated offence against a police officer, the
5 maximum penalty is imprisonment for 13 years.

6 *Note* Section 48C (Aggravated offences—offences against police officers)
7 makes provision in relation to aggravated offences against this section.

8 **15 Threat to inflict grievous bodily harm**
9 **New section 31 (2) and note**

10 *insert*

- 11 (2) However, for an aggravated offence against a police officer, the
12 maximum penalty is imprisonment for 7 years.

13 *Note* Section 48C (Aggravated offences—offences against police officers)
14 makes provision in relation to aggravated offences against this section.

15 **16 Possession of object with intent to kill etc**
16 **New section 33 (2) and note**

17 *insert*

- 18 (2) However, for an aggravated offence against a police officer, the
19 maximum penalty is imprisonment for 7 years.

20 *Note* Section 48C (Aggravated offences—offences against police officers)
21 makes provision in relation to aggravated offences against this section.

22 **17 Forcible confinement**
23 **New section 34 (2) and note**

24 *insert*

- 25 (2) However, for an aggravated offence against a police officer, the
26 maximum penalty is imprisonment for 13 years.

27 *Note* Section 48C (Aggravated offences—offences against police officers)
28 makes provision in relation to aggravated offences against this section.

1 **18 Stalking**
2 **Section 35 (1), penalty**

3 *substitute*

4 Maximum penalty:

5 (a) for an aggravated offence against a police officer—

6 (i) imprisonment for 7 years if—

7 (A) the offence involved a contravention of an
8 injunction or other order made by a court; or

9 (B) the offender was in possession of an offensive
10 weapon; or

11 (ii) imprisonment for 3 years in any other case; or

12 (b) in any other case—

13 (i) imprisonment for 5 years if—

14 (A) the offence involved a contravention of an
15 injunction or other order made by a court; or

16 (B) the offender was in possession of an offensive
17 weapon; or

18 (ii) imprisonment for 2 years in any other case.

19 *Note* Section 48C (Aggravated offences—offences against police officers)
20 makes provision in relation to aggravated offences against this section.

1 **19 Affray**
2 **Section 35A, penalty**

3 *substitute*

4 Maximum penalty:

5 (a) for an aggravated offence against a police officer—
6 imprisonment for 13 years; or

7 (b) in any other case—imprisonment for 10 years.

8 *Note* Section 48C (Aggravated offences—offences against police officers)
9 makes provision in relation to aggravated offences against this section.

10 **20 Aggravated offences—offences against pregnant women**
11 **Section 48A (2) and (3)**

12 *omit*

13 *aggravated offence*

14 *substitute*

15 *aggravated offence against a pregnant woman*

16 **21 Section 48A (4) and (5)**

17 *omit*

18 aggravated offence

19 *substitute*

20 aggravated offence against a pregnant woman

1 **22 Alternative verdicts for aggravated offences—offences**
2 **against pregnant women**
3 **Section 48B (2), definition of *aggravated offence***

4 *substitute*

5 *aggravated offence* means an aggravated offence against a pregnant
6 woman.

7 **23 New sections 48C and 48D**

8 *insert*

9 **48C Aggravated offences—offences against police officers**

10 (1) This section applies to an offence against any of the following
11 provisions:

- 12 (a) section 15 (Manslaughter);
13 (b) section 19 (Intentionally inflicting grievous bodily harm);
14 (c) section 20 (Recklessly inflicting grievous bodily harm);
15 (d) section 21 (Wounding);
16 (e) section 22 (Assault with intent to commit other offence);
17 (f) section 23 (Inflicting actual bodily harm);
18 (g) section 24 (Assault occasioning actual bodily harm);
19 (h) section 25 (Causing grievous bodily harm);
20 (i) section 26 (Common assault);
21 (j) section 30 (Threat to kill);
22 (k) section 31 (Threat to inflict grievous bodily harm);
23 (l) section 33 (Possession of object with intent to kill etc);
24 (m) section 34 (Forcible confinement);

- 1 (n) section 35 (Stalking);
- 2 (o) section 35A (Affray).
- 3 (2) The offence is an ***aggravated offence against a police officer*** if the
4 offence was committed against a police officer—
- 5 (a) while the police officer was exercising the officer’s functions
6 as a police officer; or
- 7 (b) because of, or in retaliation for, anything done by the police
8 officer or any other police officer in the exercise of the
9 officer’s functions as a police officer.
- 10 (3) However, the offence is not an ***aggravated offence against a police***
11 ***officer*** if the defendant proves, on the balance of probabilities, that
12 the defendant did not know, and could not reasonably have known,
13 that the person was a police officer.
- 14 (4) If the prosecution intends to prove that the offence is an aggravated
15 offence against a police officer, the relevant factors of aggravation
16 must be stated in the charge.
- 17 (5) To remove any doubt—
- 18 (a) it is not necessary for the prosecution to prove that the
19 defendant had a fault element in relation to any factor of
20 aggravation; and
- 21 (b) the Criminal Code, chapter 2 (other than the applied
22 provisions) does not apply to an offence mentioned in
23 subsection (1) (a) to (n), whether or not it is an aggravated
24 offence against a police officer.
- 25 (6) In this section:
- 26 ***applied provisions***—see the Criminal Code, section 10 (1).
- 27 ***factor of aggravation*** means a matter mentioned in
28 subsection (2) (a) or (b).

1 **48D Alternative verdicts for aggravated offences—offences**
 2 **against police officers**

3 (1) If, in a prosecution for an aggravated offence mentioned in
 4 column 2 of an item in table 48D, the trier of fact is not satisfied that
 5 the defendant committed the aggravated offence, but is satisfied
 6 beyond reasonable doubt that the defendant committed an offence
 7 mentioned in column 3 of the item (the *alternative offence*), the
 8 trier of fact may find the defendant guilty of the alternative offence
 9 but only if the defendant has been given procedural fairness in
 10 relation to that finding of guilt.

11 **Table 48D**

column 1 item	column 2 aggravated offence	column 3 alternative offences
1	section 15 (Manslaughter), aggravated offence	<ul style="list-style-type: none"> • section 15, simple offence • section 20 (Recklessly inflicting grievous bodily harm), aggravated offence • section 20, simple offence • section 25 (Causing grievous bodily harm), aggravated offence • section 25, simple offence • section 29 (2) (Culpable driving of motor vehicle—causing death)

column 1 item	column 2 aggravated offence	column 3 alternative offences
2	section 19 (Intentionally inflicting grievous bodily harm), aggravated offence	<ul style="list-style-type: none"> • section 19, simple offence • section 20 (Recklessly inflicting grievous bodily harm), aggravated offence • section 20, simple offence • section 21 (Wounding), aggravated offence • section 21, simple offence • section 23 (Inflicting actual bodily harm), aggravated offence • section 23, simple offence
3	section 20 (Recklessly inflicting grievous bodily harm), aggravated offence	<ul style="list-style-type: none"> • section 20, simple offence • section 23 (Inflicting actual bodily harm), aggravated offence • section 23, simple offence • section 25 (Causing grievous bodily harm), aggravated offence • section 25, simple offence • section 29 (4) (Culpable driving of motor vehicle—causing grievous bodily harm)
4	section 21 (Wounding), aggravated offence	<ul style="list-style-type: none"> • section 21, simple offence • section 23 (Inflicting actual bodily harm), aggravated offence • section 23, simple offence • section 24 (Assault occasioning actual bodily harm), aggravated offence • section 24, simple offence • section 26 (Common assault), aggravated offence • section 26, simple offence

Section 23

column 1 item	column 2 aggravated offence	column 3 alternative offences
5	section 22 (Assault with intent to commit other offence), aggravated offence	<ul style="list-style-type: none"> • section 22, simple offence • section 26 (Common assault), aggravated offence • section 26, simple offence
6	section 23 (Inflicting actual bodily harm), aggravated offence	<ul style="list-style-type: none"> • section 23, simple offence • section 24 (Assault occasioning actual bodily harm), aggravated offence • section 24, simple offence • section 26 (Common assault), aggravated offence • section 26, simple offence
7	section 24 (Assault occasioning actual bodily harm), aggravated offence	<ul style="list-style-type: none"> • section 24, simple offence • section 26 (Common assault), aggravated offence • section 26, simple offence
8	section 25 (Causing grievous bodily harm), aggravated offence	<ul style="list-style-type: none"> • section 25, simple offence
9	section 26 (Common assault), aggravated offence	<ul style="list-style-type: none"> • section 26, simple offence
10	section 30 (Threat to kill), aggravated offence	<ul style="list-style-type: none"> • section 30, simple offence
11	section 31 (Threat to inflict grievous bodily harm), aggravated offence	<ul style="list-style-type: none"> • section 31, simple offence
12	section 33 (Possession of object with intent to kill etc), aggravated offence	<ul style="list-style-type: none"> • section 33, simple offence

column 1 item	column 2 aggravated offence	column 3 alternative offences
13	section 34 (Forcible confinement), aggravated offence	<ul style="list-style-type: none"> section 34, simple offence
14	section 35 (Stalking), aggravated offence	<ul style="list-style-type: none"> section 35, simple offence
15	section 35A (Affray), aggravated offence	<ul style="list-style-type: none"> section 35A, simple offence

1 (2) In this section:

2 *aggravated offence* means an aggravated offence against a police
3 officer.

4 *simple offence*, in relation to a provision, means an offence against
5 the provision that is not an aggravated offence against the provision.

6 **24 Table 49, item 6, column 2**

7 *omit*

8 (2)

9 **25 Dictionary, definition of *aggravated offence***

10 *substitute*

11 *aggravated offence*—

12 (a) for part 2 (Offences against the person)—see section 9A; and

13 (b) for part 5 (Sexual servitude)—see section 81.

1 **26 Dictionary, new definitions**

2 *insert*

3 *aggravated offence against a police officer*, for part 2 (Offences
4 against the person)—see section 9A.

5 *aggravated offence against a pregnant woman*, for part 2 (Offences
6 against the person)—see section 9A.

7 *fault element*, for part 2 (Offences against the person)—see
8 section 9A.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 15 February 2012.

2 Notification

Notified under the Legislation Act on 2012.

3 Republications of amended laws

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