

TASMANIA

**CRIMINAL CODE AMENDMENT
(STALKING) BILL 2004**

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**CRIMINAL CODE AMENDMENT
(STALKING) BILL 2004**

*(Brought in by the Minister for Justice and Industrial
Relations, the Honourable Judith Louise Jackson)*

A BILL FOR

An Act to amend the *Criminal Code Act 1924*

Be it enacted by His Excellency the Governor of Tasmania,
by and with the advice and consent of the Legislative
Council and House of Assembly, in Parliament assembled,
as follows:

Short title

1. This Act may be cited as the *Criminal Code
Amendment (Stalking) Act 2004*.

Commencement

2. This Act commences on the day on which this Act
receives the Royal Assent.

Principal Act

3. In this Act, the *Criminal Code Act 1924** is referred to
as the Principal Act.

*No. 69 of 1924

Schedule 1 amended (*Criminal Code*)

4. Schedule 1 to the Principal Act is amended by omitting section 192 and substituting the following sections:

Stalking

192. (1) A person who, with intent to cause another person physical or mental harm or to be apprehensive or fearful, pursues a course of conduct made up of one or more of the following actions:

- (a) following the other person or a third person;
- (b) keeping the other person or a third person under surveillance;
- (c) loitering outside the residence or workplace of the other person or a third person;
- (d) loitering outside a place that the other person or a third person frequents;
- (e) entering or interfering with the property of the other person or a third person;
- (f) sending offensive material to the other person or a third person or leaving offensive material where it is likely to be found by, given to or brought to the attention of the other person or a third person;
- (g) publishing or transmitting offensive material by electronic or any other means in such a way that the offensive material is likely to be found by, or brought to the attention of, the other person or a third person;

- (h) using the internet or any other form of electronic communication in a way that could reasonably be expected to cause the other person to be apprehensive or fearful;
- (i) contacting the other person or a third person by postal, telephonic, electronic or any other means of communication;
- (j) acting in another way that could reasonably be expected to cause the other person to be apprehensive or fearful –

is guilty of a crime.

Charge: Stalking.

(2) For the purposes of subsection (1) –

- (a) a person pursues a course of conduct if the conduct is sustained or the conduct occurs on more than one occasion; and
- (b) if the conduct occurs on more than one occasion, it is immaterial whether the actions that make up the conduct on one of those occasions are the same as, or different from, the actions that make up the conduct on another of those occasions.

(3) A person who pursues a course of conduct of a kind referred to in subsection (1) and so causes another person physical or mental harm or to be apprehensive or fearful is taken to have the requisite intent under that subsection if at the relevant time the person knew, or ought to have known, that pursuing the course of conduct would,

or would be likely to, cause the other person physical or mental harm or to be apprehensive or fearful.

(4) Subsection (3) does not apply to a person who, in good faith, pursues a course of conduct of a kind referred to in subsection (1) in the course of performing official duties to –

- (a) enforce the criminal law; or
- (b) administer an Act; or
- (c) enforce a law imposing a pecuniary penalty; or
- (d) execute a warrant; or
- (e) protect the public revenue.

Extra-territorial operation of offence

192A. (1) If –

- (a) a person takes an action referred to in section 192(1)(f), (g), (h), (i) or (j) outside, or partly outside, Tasmania; and
- (b) there is a real and substantial link between the action taken and Tasmania –

those provisions apply in relation to the action taken as if it had been taken wholly within Tasmania.

(2) For the purposes of subsection (1), there is a real and substantial link between the action taken and Tasmania if–

- (a) a significant part of the conduct relating to, or constituting, the action occurred in Tasmania; or

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- (b) where the action was taken wholly or partly outside Tasmania, substantial harmful effects arose in Tasmania.