



Queensland

Criminal Code (Abusive Domestic Relationship Defence and Another Matter) Amendment Act 2010

Act No. 1 of 2010



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Criminal Code (Abusive Domestic Relationship Defence and Another Matter) Amendment Act 2010

Act No. 1 of 2010

An Act to make particular amendments to the Criminal Code to provide for a manslaughter conviction in relation to killing in an abusive domestic relationship and to prohibit possession of equipment in relation to an offence of obtaining or dealing with identification information

[Assented to 16 February 2010]

The Parliament of Queensland enacts—

1 Short title

This Act may be cited as the *Criminal Code (Abusive Domestic Relationship Defence and Another Matter) Amendment Act 2010*.

2 Code amended

This Act amends the Criminal Code.

3 Insertion of new s 304B

Part 5, chapter 28—

insert—

‘304B Killing in an abusive domestic relationship

- ‘(1) A person who unlawfully kills another (the *deceased*) under circumstances that, but for the provisions of this section, would constitute murder, is guilty of manslaughter only, if—
- (a) the deceased has committed acts of serious domestic violence against the person in the course of an abusive domestic relationship; and
 - (b) the person believes that it is necessary for the person’s preservation from death or grievous bodily harm to do the act or make the omission that causes the death; and
 - (c) the person has reasonable grounds for the belief having regard to the abusive domestic relationship and all the circumstances of the case.
- ‘(2) References to the following are to be interpreted in the same way as they are interpreted under the *Domestic and Family Violence Protection Act 1989* for that Act—
- (a) the existence of a domestic relationship between 2 persons;

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- (b) an act of domestic violence in a domestic relationship.
- ‘(3) An ***abusive domestic relationship*** is a domestic relationship existing between 2 persons in which there is a history of acts of serious domestic violence committed by either person against the other.
- ‘(4) A history of acts of serious domestic violence may include acts that appear minor or trivial when considered in isolation.
- ‘(5) Subsection (1) may apply even if the act or omission causing the death (the ***response***) was done or made in response to a particular act of domestic violence committed by the deceased that would not, if the history of acts of serious domestic violence were disregarded, warrant the response.
- ‘(6) Subsection (1)(a) may apply even if the person has sometimes committed acts of domestic violence in the relationship.
- ‘(7) For subsection (1)(c), without limiting the circumstances to which regard may be had for the purposes of the subsection, those circumstances include acts of the deceased that were not acts of domestic violence.’.

4 Amendment of s 408D (Obtaining or dealing with identification information)

Section 408D—

insert—

- ‘(1A) A person who possesses equipment for the purpose of committing, or facilitating the commission of, an offence against subsection (1), commits a misdemeanour.

Maximum penalty—3 years imprisonment.’.

5 Insertion of new pt 9, ch 86

Part 9—

insert—

‘Chapter 86 Transitional provisions for Criminal Code (Abusive Domestic Relationship Defence and Another Matter) Amendment Act 2010

‘723 Retrospective application of amendment

‘(1) This Code, as amended by the *Criminal Code (Abusive Domestic Relationship Defence and Another Matter) Amendment Act 2010*, section 3, applies to proceedings for an offence—

- (a) started but not finished before the commencement; or
- (b) started after the commencement, whether the act or omission constituting the offence happened before or after the commencement.

‘(2) Subsection (1) does not apply to proceedings for an appeal from a conviction or sentence that happened before the commencement.

‘(3) In this section—

commencement means the commencement of the *Criminal Code (Abusive Domestic Relationship Defence and Another Matter) Amendment Act 2010*, section 3.’.