

2019

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Police and Emergency Services)

# **Crimes (Protection of Police, Firefighters and Paramedics) Amendment Bill 2019**

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## **A Bill for**

An Act to amend the *Crimes Act 1900*

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

- 1     **1       Name of Act**
- 2               This Act is the *Crimes (Protection of Police, Firefighters and*  
3               *Paramedics) Amendment Act 2019*.
- 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       Offences against Act—application of Criminal Code etc**  
11    **Section 7A, note 1**
- 12               *insert*
- 13                     •   s 26A (Assault of emergency worker)  
14                     •   s 29A (Driving motor vehicle at police)  
15                     •   s 29B (Damaging police vehicle)
- 16    **5       New sections 26A and 26B**
- 17               *insert*
- 18    **26A      Assault of emergency worker**
- 19               (1) A person commits an offence if—
- 20                     (a) the person assaults another person; and
- 21                     (b) the other person is an emergency worker; and
- 22                     (c) the person knows, or is reckless about whether, the other person  
23                     is an emergency worker; and

- 1 (d) the assault is committed—
  - 2 (i) when the emergency worker is exercising a function given
  - 3 to the person as an emergency worker; or
  - 4 (ii) as a consequence of, or in retaliation for, action taken by
  - 5 the person in exercising a function as an emergency
  - 6 worker; or
  - 7 (iii) because the person is an emergency worker.
- 8 Maximum penalty: imprisonment for 2 years.
- 9 (2) For subsection (1) (c), it is presumed, unless there is evidence to the
- 10 contrary, that the defendant knew that the person was an emergency
- 11 worker if—
  - 12 (a) the person identified themselves as an emergency worker; or
  - 13 (b) the fact that the person was an emergency worker was
  - 14 reasonably apparent, having regard to all of the circumstances,
  - 15 including the conduct and manner of the emergency worker.
- 16 **Examples—par (b)**
  - 17 1 the emergency worker was in uniform
  - 18 2 the emergency worker was in an emergency vehicle
- 19 (3) The defendant has an evidential burden in relation to evidence to the
- 20 contrary mentioned in subsection (2).
- 21 (4) For subsection (1) (d) (i) and (ii)—
  - 22 (a) strict liability applies to the circumstance that the emergency
  - 23 worker was exercising a function as an emergency worker; and
  - 24 (b) it does not matter if the emergency worker was off duty when
  - 25 exercising a function as an emergency worker.

- 1           (5) In this section:
- 2                 *emergency worker* means—
- 3                 (a) a police officer; or
- 4                 (b) a member of the fire and rescue service; or
- 5                 (c) a member of the ambulance service who is employed as a
- 6                     paramedic or patient transport officer.

7   **26B       Assault of emergency worker—alternative verdict**

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

16 **6       New sections 29A and 29B**

17                 *insert*

18 **29A       Driving motor vehicle at police**

- 19           (1) A person commits an offence if—
- 20                 (a) the person drives a motor vehicle near or at a police officer; and
- 21                 (b) the person knows, or is reckless about whether, the police officer
- 22                     is a police officer; and
- 23                 (c) the police officer is exercising a function given to the officer as
- 24                     a police officer; and

- 1 (d) the person—
  - 2 (i) intends to risk the police officer’s safety by that conduct;
  - 3 or
  - 4 (ii) is reckless about risking the police officer’s safety by that
  - 5 conduct.
- 6 Maximum penalty: imprisonment for 15 years.
- 7 (2) Strict liability applies to subsection (1) (c).
- 8 (3) For subsection (1) (b), it is presumed, unless there is evidence to the
- 9 contrary, that the defendant knew that the police officer was a police
- 10 officer if—
  - 11 (a) the officer identified themselves as a police officer; or
  - 12 (b) the officer was inside a vehicle that stated “police” on the
  - 13 outside of the vehicle; or
  - 14 (c) the officer was inside a vehicle and it was reasonably apparent
  - 15 that the vehicle was being used, or was ordinarily used, by a
  - 16 police officer in the exercise of the officer’s functions; or
  - 17 (d) the fact that the police officer was a police officer was
  - 18 reasonably apparent, having regard to all of the circumstances,
  - 19 including the conduct and manner of the police officer.
- 20 **Example—par (c)**  
21 the vehicle was an unmarked car displaying a flashing blue or red light (whether or  
22 not it was displaying other lights) or was using a siren
- 23 (4) The defendant has an evidential burden in relation to evidence to the
- 24 contrary mentioned in subsection (3).
- 25 (5) A person may be guilty of an offence against this section regardless
- 26 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.

(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 police, firefighters and paramedics**

- (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 emergency worker);
  - (b) section 26B (Assault of emergency worker—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*

- function

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## Endnotes

**1 Presentation speech**

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

**2 Notification**

Notified under the [Legislation Act](#) on 2019.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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