



# Review of particular criminal defences

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Just, clear and modern: Reformed criminal defences for Queensland

**FINAL REPORT – VOLUME 2**

December 2025

THE  
CRIMINAL CODE  
OF QUEENSLAND,  
AND THE  
PRACTICE RULES OF 1900.

*S. W. Pizzillo*

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Postal address: PO Box 13312, George Street Post Shop, Brisbane, QLD 4003

Telephone: (07) 3564 7777

Email: [LawReform.Commission@justice.qld.gov.au](mailto:LawReform.Commission@justice.qld.gov.au)

Website: [www.qlrc.qld.gov.au](http://www.qlrc.qld.gov.au)

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**Reference to legislation:**

All references to legislation are to Queensland legislation, unless otherwise stated.

All references in recommendations to legislation are to provisions of the Criminal Code, unless otherwise stated.

This report reflects the law and information available to us at 1 November 2025.

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# PART | 1

Criminal Code  
(Defences and Excuses)  
Amendment Bill



Queensland

# Criminal Code (Defences and Excuses) Amendment Bill 2025

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**2025**

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**A Bill**

for

**An Act to amend the *Corrective Services Act 2006*, the *Criminal Code* and the *Penalties and Sentences Act 1992* for particular purposes**

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[s 1]

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**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Criminal Code (Defences and Excuses) Amendment Act 2025*.

### **2 Commencement**

Section 19 commences on the day that is 3 years and 1 day after the date of assent.

## **Part 2 Amendment of Criminal Code**

### **3 Code amended**

This part amends the Criminal Code.

### **4 Amendment of s 25 (Extraordinary emergencies)**

(1) Section 25, ‘upon compulsion or provocation’—

*omit, insert—*

under duress

(2) Section 25, after ‘self-defence’—

*insert—*

or the defence of another

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**5 Amendment of s 31 (Justification and excuse—compulsion)**

- (1) Section 31, heading—

*omit, insert—*

**31 Execution of law and obedience to orders**

- (2) Section 31(1)(c) and (d)—

*omit.*

- (3) Section 31(2), from ‘element, nor’ to ‘the person.’—

*omit, insert—*

element.

**6 Insertion of new ss 32–33B**

After section 31—

*insert—*

**32 Duress**

A person is not criminally responsible for an act or omission if—

- (a) the person reasonably believes—
- (i) a threat of harm or detriment has been made that will be carried out unless an offence is committed; and
  - (ii) doing the act or making the omission is the only reasonable way the threat can be avoided; and
- (b) the act or omission is a reasonable response to the threat.

**33 Application of duress in relation to offences constituting murder**

- (1) Section 32 applies to an act or omission that would otherwise constitute murder as if a

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reference in section 32(a)(i) to a threat of harm or detriment were a reference to a threat of death or serious harm.

(2) In this section—

*serious harm* means harm, including the cumulative effect of any harm, that—

- (a) endangers, or is likely to endanger, a person's life; or
- (b) is, or is likely to be, significant and longstanding.

### **33A Application of duress in relation to voluntary associations**

Section 32 does not apply if the person is voluntarily associating with the person who made the threat, or on whose behalf the threat was made, for the purpose of doing an act or making an omission of the kind in fact done or made.

### **33B Intoxication in relation to duress**

For sections 32 and 33—

- (a) in deciding whether a person's belief existed, regard may be had to the intoxication of the person caused by alcohol or another drug, whether voluntary or involuntary; and
- (b) in deciding whether a person's belief, or a person's response, was reasonable—
  - (i) regard may not be had to the voluntary intoxication of the person caused by alcohol or another drug; and
  - (ii) regard may be had to the involuntary intoxication of the person caused by alcohol or another drug.

**7 Amendment of s 36 (Application of rules)**

Section 36(2), after ‘and 31’—

*insert—*

to 33B

**8 Insertion of new pt 5, ch 26, ch div 1, hdg**

Part 5, chapter 26, before section 245—

*insert—*

**Chapter division 1 Assaults**

**9 Insertion of new pt 5, ch 26, ch div 2, hdg**

Part 5, chapter 26, before section 247—

*insert—*

**Chapter division 2 Sentences, processes,  
warrants and arrests**

**10 Insertion of new pt 5, ch 26, ch div 3, hdg**

Part 5, chapter 26, before section 260—

*insert—*

**Chapter division 3 Prevention or  
suppression of violence**

**11 Replacement of ss 268–273**

Sections 268 to 273—

*omit, insert—*

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## Chapter division 4 Self-defence and defence of another

### 268 Self-defence and defence of another

It is lawful for a person to use force if—

- (a) the person believes the use of the force is necessary—
  - (i) to defend themselves or another person; or
  - (ii) to prevent or cease the unlawful deprivation of liberty of themselves or another person; and
- (b) the use of the force is a reasonable response in the circumstances as the person believes them to be.

### 269 Application in relation to offences constituting murder

- (1) Section 268 applies to a use of force that would otherwise constitute murder as if a reference in section 268(a)(i) to the person believing the use of the force is necessary to defend themselves or another person were a reference to the person believing the use of the force is necessary to defend themselves or another person from death or serious harm.
- (2) In this section—

*serious harm* means harm, including the cumulative effect of any harm, that—

  - (a) endangers, or is likely to endanger, a person's life; or
  - (b) is, or is likely to be, significant and longstanding.

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### **270 Application in relation to lawful acts**

- (1) Section 268 does not apply if—
  - (a) the person is responding to a lawful act; and
  - (b) the person has no reasonable basis for believing that the act is not lawful.
- (2) For subsection (1), an act is not lawful merely because the person doing the act is not criminally responsible for it.

### **271 Application in the context of domestic relationships**

- (1) This section applies if the use of the force happens in the context of a domestic relationship involving domestic violence or associated domestic violence under the *Domestic and Family Violence Protection Act 2012*.
- (2) The person's belief that the use of the force is necessary as mentioned in section 268(a) or 269(1) may exist, and the person's use of the force may be a reasonable response as mentioned in section 268(b), even if—
  - (a) the person is responding to harm or a threat of harm that is not imminent; or
  - (b) the force used is in excess of the force involved in the harm or threat of harm.
- (3) This section does not limit section 268 or 269.

### **272 Abusive domestic relationships**

- (1) This section applies if the use of the force is not lawful under this chapter division and would, apart from this section, constitute murder.
- (2) The person is guilty of manslaughter only, if—

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- (a) the person killed has committed acts of serious domestic violence against the person in the course of an abusive domestic relationship; and
  - (b) the use of the force is not lawful under this chapter division only because the use of the force is not a reasonable response in the circumstances as the person believes them to be.
- (3) An ***abusive domestic relationship*** is a domestic relationship existing between 2 persons in which acts of serious domestic violence have been committed by either person against the other.
- (4) Acts of serious domestic violence may include acts that appear minor or trivial when considered in isolation.
- (5) Subsection (2)(a) may apply even if the person has sometimes committed acts of domestic violence in the relationship.
- (6) In this section—  
***domestic violence*** see the *Domestic and Family Violence Protection Act 2012*, section 8.

### **273 Intoxication in relation to self-defence and defence of another**

For this chapter division—

- (a) in deciding whether a person's belief existed, regard may be had to the intoxication of the person caused by alcohol or another drug, whether voluntary or involuntary; and
- (b) in deciding whether a person's response was reasonable in the circumstances as the person believes them to be—

- (i) regard may not be had to the voluntary intoxication of the person caused by alcohol or another drug; and
- (ii) regard may be had to the involuntary intoxication of the person caused by alcohol or another drug.

### **Chapter division 5 Defence of property, premises or possession**

**12 Omission of s 280 (Domestic discipline)**

Section 280—  
*omit.*

**13 Insertion of new pt 5, ch 26, ch div 6, hdg**

Part 5, chapter 26, before section 281—  
*insert—*

### **Chapter division 6 Other matters**

**14 Omission of s 304 (Killing on provocation)**

Section 304—  
*omit.*

**15 Omission of s 304B (Killing for preservation in an abusive domestic relationship)**

Section 304B—  
*omit.*

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**16 Amendment of s 305 (Punishment of murder)**

- (1) Section 305(2) to (4)—  
*omit.*
- (2) Section 305(5)—  
*renumber* as section 305(2).

**17 Amendment of s 314A (Unlawful striking causing death)**

Section 314A(2), from ‘Sections’ to ‘do’—  
*omit, insert—*  
Section 23(1)(b) does

**18 Insertion of new s 336**

After section 335—  
*insert—*

**336 Justification for common assault in relation to child—parents of children**

- (1) This section applies if—
  - (a) a person who is a parent of a child is charged with an offence against section 335; and
  - (b) the offence is committed against the child; and
  - (c) at the time of the offence, the person has the lawful care of the child.
- (2) It is a defence to the charge that—
  - (a) the person committed the offence for the purpose of managing or protecting the child; and
  - (b) the person’s application of force, or attempt or threat to apply force, to the child was reasonable in the circumstances.

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- (3) Also, it is a defence to the charge that—
- (a) the person committed the offence for the purpose of disciplining or correcting the child; and
  - (b) the person’s application of force, or attempt or threat to apply force, to the child was reasonable in the circumstances.
- (4) However, subsections (2) and (3) do not apply if the person—
- (a) strikes the head, face or neck of the child; or
  - (b) applies pressure to the child’s neck that completely or partially restricts the child’s respiration or blood circulation, or both; or
  - (c) shakes the child; or
  - (d) kicks the child or otherwise applies force to any part of the child with an implement or closed fist; or
  - (e) applies heat, light, electrical force, gas, odour, or any other substance or thing to the person of the child.
- (5) Also, subsections (2) and (3) do not apply if the person attempts or threatens to use force mentioned in subsection (4) against the child.
- (6) Subsection (3) and this subsection expire on the day that is 3 years after the day this section commences.
- (7) In this section—
- parent*, of a child, includes—
- (a) a relation of the child having or exercising parental responsibility for the child; and
  - (b) a person, other than the chief executive of the department in which the *Child Protection Act 1999* is administered, who is

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granted guardianship of the child under that Act or a law of another State; and

- (c) an approved carer for the child under the *Child Protection Act 1999*; and
- (d) for an Aboriginal child—a person who, under Aboriginal tradition, is regarded as—
  - (i) a parent of the child; or
  - (ii) an appropriate person to exercise parental responsibilities in relation to the child; and
- (e) for a Torres Strait Islander child—a person who, under Ailan Kastom, is regarded as—
  - (i) a parent of the child; or
  - (ii) an appropriate person to exercise parental responsibilities in relation to the child.

**parentage order** means—

- (a) a parentage order under the *Surrogacy Act 2010*; or
- (b) an order under a law of another State that provides for a parentage order similar to a parentage order mentioned in paragraph (a).

**relation**, of a child, means—

- (a) a person who is related to the child by blood, spousal relationship, adoption, a parentage order or a cultural recognition order under the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020*; or
- (b) for an Aboriginal child—a person who, under Aboriginal tradition, is regarded as a relative of the child; or

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- (c) for a Torres Strait Islander child—a person who, under Ailan Kastom, is regarded as a relative of the child.

**19 Amendment of s 336 (Justification for common assault in relation to child—parents of children)**

- (1) Section 336, heading—

*omit, insert—*

**336 Management and protection of children**

- (2) Section 336(4), ‘subsections (2) and (3) do’—

*omit, insert—*

subsection (2) does

- (3) Section 336(4)—

*insert—*

(f) smacks or spansks the child.

- (4) Section 336(5), ‘subsections (2) and (3) do’—

*omit, insert—*

subsection (2) does

**20 Insertion of new pt 9, ch 114**

Part 9—

*insert—*

**Chapter 114 Transitional provision  
for Criminal Code  
(Defences and  
Excuses) Amendment  
Act 2025**

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### **769 Reviews of s 336**

- (1) The Minister must ensure the operation of section 336 is reviewed as soon as practicable after—
  - (a) the day that is 2 years after the commencement; and
  - (b) the day that is 5 years after the commencement; and
  - (c) the day that is 7 years after the commencement.
- (2) A review must include a review of—
  - (a) information and education provided to parents and other members of the community in relation to section 336 about—
    - (i) the abolition of physical punishment of children; and
    - (ii) evidence-based parenting strategies that eliminate physical punishment of children; and
  - (b) whether any demographic has been disproportionately or adversely affected by section 336.
- (3) The Minister must table in the Legislative Assembly a report on the outcome of each review—
  - (a) for the review mentioned in subsection (1)(a)—2 years and 6 months after the commencement; or
  - (b) for the review mentioned in subsection (1)(b)—5 years and 6 months after the commencement; or
  - (c) for the review mentioned in subsection (1)(c)—7 years and 6 months after the commencement.

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## **Part 3                      Amendment of other legislation**

### **Division 1                      Amendment of Corrective Services Act 2006**

#### **21            Act amended**

This division amends the *Corrective Services Act 2006*.

#### **22            Amendment of s 181 (Parole eligibility date for prisoner serving term of imprisonment for life)**

(1) Section 181(2)—

*omit, insert—*

(1A) If the prisoner is serving a term of imprisonment for life for an offence of murder, the prisoner's parole eligibility date is the date fixed under the *Penalties and Sentences Act 1992*, part 9, division 3.

(2) If the prisoner is serving a term of imprisonment for life for another offence, the prisoner's parole eligibility date is the day after the day on which the prisoner has served 15 years.

(2) Section 181(2A), 'subsection (2)'—

*omit, insert—*

subsection (1A) or (2)

(3) Section 181(2B), 'subsection (2)'—

*omit, insert—*

subsection (1A), (2)

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## **Division 2                      Amendment of Penalties and Sentences Act 1992**

### **23        Act amended**

This division amends the *Penalties and Sentences Act 1992*.

### **24        Amendment of s 160 (Definitions for div 3)**

Section 160, definition *parole eligibility date*, after ‘or (5),’—  
*insert—*

160CA(2),

### **25        Amendment of s 160A (Application of ss 160B–160D)**

Section 160A(4), examples, first dot point, ‘sections 305(2) and (4) and’—

*omit, insert—*

section

### **26        Amendment of s 160AA (Reduction of minimum period of imprisonment for particular offenders)**

Section 160AA(2), after ‘section 160C’—

*insert—*

, 160CA

### **27        Amendment of s 160B (Sentence of 3 years or less and not a serious violent offence or sexual offence)**

Section 160B(1)—

*omit, insert—*

- (1) This section applies if sections 160C, 160CA and 160D do not apply.

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**28 Amendment of s 160C (Sentence of more than 3 years and not a serious violent offence or sexual offence)**

- (1) Section 160C, heading, ‘not a’—

*omit, insert—*

**not an offence of murder,**

- (2) Section 160C(1)—

*omit, insert—*

- (1) This section applies if—

- (a) sections 160CA and 160D do not apply; and  
(b) the offender’s period of imprisonment is more than 3 years.

**29 Insertion of new s 160CA**

After section 160C—

*insert—*

**160CA Sentence for murder**

- (1) This section applies if the offender’s term of imprisonment is imprisonment for life for an offence of murder.
- (2) The court must fix the date the offender is eligible for parole.
- (3) If the offender had a current parole eligibility date or current parole release date, a date fixed under subsection (2) must not be earlier than the current parole eligibility date or current parole release date.
- (4) In fixing the date the offender is eligible for parole, the court must have regard to the standard non-parole period under this section in relation to the offender.
- (5) The standard non-parole period is 30 years if the offender was sentenced—

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- (a) for the offence of murder at the same time as another offence of murder; or
  - (b) for the offence of murder and another offence of murder is taken into account at the time of sentence; or
  - (c) for the offence of murder (the *relevant offence*) and the offender has on a previous occasion been sentenced for another offence of murder, regardless of whether the relevant offence was committed before or after the conviction for the other offence of murder.
- (6) The standard non-parole period is 25 years if—
- (a) the person killed was a police officer at the time the act or omission that caused the person's death was done or made; and
  - (b) the offender did the act or made the omission that caused the police officer's death—
    - (i) when—
      - (A) the police officer was performing the officer's duty; and
      - (B) the offender knew or ought reasonably to have known that the person was a police officer; or
    - (ii) because the police officer was a police officer; or
    - (iii) because of, or in retaliation for, the actions of the police officer or another police officer in the performance of the officer's duty.
- (7) If subsections (5) and (6) do not apply in relation to the offender, the standard non-parole period is 20 years.

- (8) A standard non-parole period represents the minimum non-parole period for an offence of murder that, taking into account only the objective factors affecting the relative seriousness of the offence, is in the middle of the range of seriousness for the offence.

**30 Amendment of s 160D (Sentence for a serious violent offence or sexual offence)**

Section 160D(1), after ‘applies if’—

*insert—*

section 160CA does not apply and

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# PART | 2

## Guide to the Bill

# Part 2

## Guide to the Criminal Code (Defences and Excuses) Amendment Bill 2025

Clause	Explanatory Comments
<b>Part 1: Preliminary</b>	
Clause 1	Clause 1 provides that the short title of the Act is the Criminal Code (Defences and Excuses) Amendment Act 2025 (Qld).
Clause 2	<p>Clause 2 provides that section 19 commences on the day that is 3 years and 1 day after the date of assent.</p> <p>The effect of this clause is to trigger the second stage of a two-stage reform process for the defence of domestic discipline (currently section 280 of the Criminal Code; see clauses 18 and 19, below).</p> <p><b>QLRC Recommendation 16(b), discussed in Chapter 9.</b></p>
<b>Part 2: Amendment of Criminal Code</b>	
Clause 3	Clause 3 provides that Part 2 of the Bill amends the Criminal Code.
Clause 4	<p>Clause 4 makes consequential amendments to section 25 of the Criminal Code.</p> <p>Clause 4(1) omits the reference to compulsion and provocation and adds a reference to duress in section 25 of the Criminal Code.</p> <p>Clause 4(2) adds a reference to ‘defence of another’ in section 25 of the Criminal Code. These amendments are related to repeal of the defences of compulsion and provocation and the renaming of duress and self-defence in the new sections 32 and 268 respectively.</p>
Clause 5	<p>Clause 5(1) changes the heading of section 31 from ‘Justification and excuse—compulsion’ to ‘Execution of law and obedience to orders’ to more accurately reflect section 31, as amended.</p> <p>Clause 5(2) repeals the defence of compulsion currently contained in section 31(1)(c) of the Criminal Code. This defence excuses responses to threats of violence that do not amount to assault.</p> <p>The reforms effected by clause 11 of the Bill, which create a new test for self-defence in the new section 268, expand the scope of self-defence to cover violent responses to threats that are necessary and reasonable in the circumstances as the person believed them to be and remove the requirement that the person is responding to an assault. This is not covered by self-defence as currently provided for in sections 271–273 of the Criminal Code. Coupled with the reforms effected by clause 6 to establish a new, expanded defence of duress (discussed below), these reforms subsume the current defence of compulsion in section 31(1)(c) of the Criminal Code within the new sections 32 and 268. To retain the defence of compulsion would create unnecessary complexity and duplication.</p> <p>Clause 5(2) also amends section 31 of the Criminal Code by omitting section 31(1)(d). Section 31(1)(d) currently provides the defence of duress, although the current provision does not use the term ‘duress’ in the heading or text. Clause 6 of the Bill creates a new defence of duress. The combined effect of clauses 5 and 6 is to repeal the current defence</p>

Clause	Explanatory Comments
	<p>of duress and create a new defence of duress that is more appropriately named and located within the Criminal Code.</p> <p>Clause 5 does not change sections 31(1)(a) and (b) of the Criminal Code, which make a person not criminally responsible for acts or omissions undertaken in execution of law or in obedience to the order of a competent authority they are bound to obey.</p> <p>Clause 5(3) amends section 31(2) of the Criminal Code by removing reference to the unlawful voluntary association exclusion. The exclusion explicitly references ‘threats’, so it does not apply to sections 31(1)(a) and (b) and has no relevance once sections 31(1)(c) and (d) are repealed. An amended voluntary association exclusion for duress is introduced in clause 6, discussed below.</p> <p><b>QLRC Recommendations 1, 7, discussed in Chapters 2, 4 and 6.</b></p>
Clause 6	<p>Clause 6 inserts four new sections into the Criminal Code (sections 32–33B).</p> <p>Clauses 5 and 6 improve the clarity and structure of Chapter 5 of the Criminal Code, by grouping the duress sections together with headings to support their correct identification. This will support appropriate interpretation of the statutory provisions.</p> <p>The new section 32 (Duress) establishes the defence of duress. It has the following elements:</p> <ul style="list-style-type: none"> <li>• the person reasonably believes that a threat of harm or detriment has been made that will be carried out unless an offence is committed (‘threat element’)</li> <li>• the person reasonably believes that doing the act or making the omission is the only reasonable way the threat can be avoided (‘necessity element’), and</li> <li>• the act or omission is a reasonable response to the threat (‘proportionality element’).</li> </ul> <p>This provision draws on the defences in section 322O of the Crimes Act 1958 (Vic) and section 10.2 of the Commonwealth Criminal Code.</p> <p>The new defence of duress is broader than the existing defence in section 31(1)(d) of the Criminal Code. It applies to threats of harm or detriment, not just threats of serious harm or detriment. It can apply in cases of murder and where grievous bodily harm or intention to cause grievous bodily harm is an element.</p> <p>By preserving the focus on the person’s ‘reasonable belief’, the defence recognises that the victim in duress cases may be an innocent third party and it is therefore important that the defence is anchored in community standards as determined by the jury. This is intended to safeguard against irrational beliefs excusing otherwise criminal conduct. It is intended to preserve Queensland and Commonwealth interpretations of this concept.</p> <p>The new section 32 does not define ‘harm’, relying on the ordinary meaning of this term. The term is already widely used without definition in the Criminal Code.</p> <p>The new section uses the term ‘detriment’, which is defined in section 1 of the Criminal Code and has been used in section 31(1)(d) since its amendment in 2000.</p> <p>The defence retains the traditional burden of proof, requiring that the prosecution disprove duress beyond reasonable doubt.</p> <p><b>QLRC Recommendation 8, discussed in Chapter 6.</b></p> <p>The new section 33 (Application of duress in relation to offences constituting murder) expands the operation of duress to apply as a defence to murder where a higher threshold is met.</p>

Clause	Explanatory Comments
	<p>To recognise the seriousness of the offence of murder, the new section 33 requires a threat of death or ‘serious harm’. The Bill defines ‘serious harm’ as harm, including the cumulative effect of any harm, that:</p> <ul style="list-style-type: none"> <li>• endangers, or is likely to endanger, a person’s life, or</li> <li>• is, or is likely to be, significant and longstanding.</li> </ul> <p>This definition of serious harm is based on the Commonwealth Criminal Code definition, used in section 211(6) of the Police Powers and Responsibilities Act 2000 (Qld). It covers the long-term psychological effects resulting from threats of serious sexual assault or serious psychological harm. It does not include all threats of harm or normal everyday reactions such as distress. It also does not include threats of detriment, including serious detriment.</p> <p>The definition of ‘serious harm’ explicitly identifies that the cumulative effect of harm can constitute serious harm.</p> <p><b>QLRC Recommendation 9, discussed in Chapter 6.</b></p> <p>The new section 33A (Application of duress in relation to voluntary associations) narrows the application of the defence in cases of voluntary unlawful associations. It provides that the defence of duress is not available to a person who is voluntarily associating with the person who made the threat, or on whose behalf the threat was made, for the purpose of carrying out unlawful conduct of the same kind carried out. This creates a closer connection between the association and alleged offence.</p> <p>The new section 33A excludes the defence where the:</p> <ul style="list-style-type: none"> <li>• relationship was entered into for the purpose of carrying out the unlawful conduct of the same kind as that demanded</li> <li>• person was involved in the unlawful association at the relevant time</li> <li>• threat of violence came from a person within the unlawful association.</li> </ul> <p><b>QLRC Recommendation 10, discussed in Chapter 6.</b></p> <p>The new section 33B (Intoxication in relation to duress) clarifies the relevance of intoxication for duress.</p> <p>Where a person is voluntarily intoxicated, their intoxication is a relevant factor in determining:</p> <ul style="list-style-type: none"> <li>• their belief in a threat of harm or detriment (in murder cases, a threat of death or serious harm) being made that will be carried out unless an offence is committed</li> <li>• their belief that doing the act or making the omission is the only reasonable way the threat can be avoided.</li> </ul> <p>Voluntary intoxication is not relevant to the reasonableness of those beliefs, and the reasonableness of the person’s response. In these circumstances the reasonableness of the defendant’s response is assessed from the perspective of a person who is not intoxicated.</p> <p>Where a person is involuntarily intoxicated (for example, where they have been drugged or unknowingly consumed a particular substance), their intoxication is relevant to all elements of the test for duress.</p> <p><b>QLRC Recommendation 11, discussed in Chapter 6.</b></p>
Clause 7	<p>Clause 7 makes a consequential amendment to section 36(2) of the Criminal Code to reference the new sections regarding duress (new sections 32 to 33B).</p>

Clause	Explanatory Comments
Clause 8	<p>Clause 8 inserts a new Chapter division (Chapter division 1 Assaults). This reform is part of the restructuring of Chapter 26 to modernise this chapter of the Criminal Code and make it simple, clear and accessible.</p> <p>The new Chapter division 1 includes sections 245–246 of the Criminal Code. The Bill does not amend these sections.</p>
Clause 9	<p>Clause 9 inserts a new Chapter division (Chapter division 2 Sentences, processes, warrants and arrests). This reform is part of the restructuring of Chapter 26 to modernise this chapter of the Criminal Code and make it simple, clear and accessible.</p> <p>The new Chapter division 2 contains sections 247 – 258 of the Criminal Code. The Bill does not amend these sections.</p>
Clause 10	<p>Clause 10 inserts a new Chapter division (Chapter division 3 Prevention or suppression of violence). This reform is part of the restructuring of Chapter 26 to modernise this chapter of the Criminal Code and make it simple, clear and accessible.</p> <p>The new Chapter division 3 contains sections 260–267 of the Criminal Code. The Bill does not amend these sections.</p>
Clause 11	<p>Clause 11 replaces the current sections 268–273 of the Criminal Code to facilitate repeal of the definition and defence of provocation, repeal of the defence of prevention of repetition of insult and reform of self-defence.</p> <p>Clause 11 repeals the defence of provocation in section 269 of the Criminal Code and the defence of prevention of repetition of insult in section 270. It also repeals the statutory definition of provocation in section 268 as it is no longer required.</p> <p>The repeal of these defences aligns with other jurisdictions. For example, South Australia abolished the common law defence of provocation in 2021. The Northern Territory repealed a defence equivalent to provocation to assault in section 34 of its Criminal Code in 2006.</p> <p><b>QLRC Recommendation 12, discussed in Chapter 7.</b></p> <p>Clause 11 inserts a new Chapter division (Chapter division 4 Self-defence and defence of another).</p> <p>The title of this division clarifies this division’s focus on self-defence. It inserts:</p> <ul style="list-style-type: none"> <li>• Self-defence and defence of another (new section 268)</li> <li>• Application in relation to offences constituting murder (new section 269)</li> <li>• Application in relation to lawful acts (new section 270)</li> <li>• Application in the context of domestic relationships (new section 271)</li> <li>• Abusive domestic relationships (new section 272)</li> <li>• Intoxication in relation to self-defence and defence of another (new section 273).</li> </ul> <p>Clause 11 also inserts a new Chapter division (Chapter division 5 Defence of property, premises or possession). This reform is part of the restructuring of Chapter 26 to modernise this chapter of the Criminal Code and make it simple, clear and accessible.</p> <p>The new Chapter division 5 contains sections 274–279 of the Criminal Code. The Bill does not amend these sections.</p> <p><b>Discussed in Chapter 4.</b></p>

Clause	Explanatory Comments
	<p>The new section 268 creates a single, consolidated test for self-defence that can apply where a person is defending themselves or another.</p> <p>The core elements of this defence are:</p> <ul style="list-style-type: none"> <li>• the person believes their conduct was necessary to defend themselves or another, or to prevent or cease the unlawful deprivation of liberty of themselves or another (the 'necessity element')</li> <li>• the conduct was reasonable in the circumstances as the person believes them to be (the 'reasonableness element').</li> </ul> <p>The new defence does not require proof of an assault. This also removes the need to establish 'imminence'. This is consistent with recent Queensland case law, where the courts have recognised that it is not necessary that the relevant threat is of imminent danger, ensuring the defence is appropriately available in the context of ongoing abusive domestic relationships.</p> <p>The test includes subjective and objective components.</p> <p>The necessity element is assessed subjectively, having regard to the person's belief in the need to act for a defensive purpose. This connection between necessity and the defensive purpose is essential and distinguishes defensive force from retaliation based on motives like revenge.</p> <p>The reasonableness element is assessed through a mixed subjective-objective lens, involving consideration of:</p> <ul style="list-style-type: none"> <li>• objective factors, such as whether the person provoked the assault and the nature of the threat</li> <li>• the person's belief about the circumstances in which they were responding to the threat.</li> </ul> <p>The defence retains the traditional burden of proof, requiring that the prosecution disprove self-defence beyond reasonable doubt.</p> <p>This reform is consistent with the approach to self-defence taken in other Australian jurisdictions of a single test for self-defence with the two elements of necessity and reasonableness (for example the Commonwealth Criminal Code section 10.4; Crimes Act 1900 (NSW) section 418; Crimes Act 1958 (Vic) section 322K; Tasmanian Criminal Code section 46).</p> <p><b>QLRC Recommendation 1, discussed in Chapter 4.</b></p>
	<p>The new section 269 provides that self-defence can apply in relation to offences constituting murder where the person believed their conduct was necessary to defend themselves or another from death or 'serious harm'. This expands and modernises the existing threshold for the use of lethal defensive force in the Criminal Code, drawing on the Commonwealth Criminal Code definition.</p> <p>The new section 269 defines 'serious harm' as harm, including the cumulative effect of any harm, that:</p> <ul style="list-style-type: none"> <li>• endangers, or is likely to endanger, a person's life; or</li> <li>• is, or is likely to be, significant and longstanding.</li> </ul> <p>This extends beyond grievous bodily harm, which is limited to loss of an organ or body part, serious disfigurement or bodily injury likely to endanger life or cause permanent injury to health if untreated. It covers the long-term psychological effects resulting from threats of</p>

Clause	Explanatory Comments
	<p>serious sexual assault or serious psychological harm. It does not include all threats of harm or normal everyday reactions such as distress.</p> <p>The definition of ‘serious harm’ explicitly identifies that the cumulative effect of non-serious harm can constitute serious harm.</p> <p>The threshold requirement of ‘serious harm’, together with the reasonableness element in the new section 268, precludes self-defence justifying lethal force where a person kills another in response to a non-violent unwanted homosexual advance. The use of lethal defensive force must be necessary in self-defence, with necessity assessed in light of the higher standard required by the new section 269 and further constrained by the requirement that the response is reasonable in the circumstances as the person believes them to be.</p> <p><b>QLRC Recommendation 5, discussed in Chapter 4.</b></p>
	<p>The new section 270(1) provides that self-defence is not available where a person is responding to a lawful act and has no reasonable basis for believing that the act is not lawful. It reflects the position that officers of the public, including police officers and child safety officers, should not be subjected to violence when lawfully executing their duties. This maintains the current approach to limiting the availability of self-defence in cases involving lawful acts.</p> <p>The new section 270(2) clarifies that conduct is not lawful merely because the person carrying it out is not criminally responsible for it. This refers to persons who are not criminally responsible for an act or omission due to, for example, the defence of insanity (section 27 of the Criminal Code) or immature age (section 29 of the Criminal Code).</p> <p><b>QLRC Recommendation 2, discussed in Chapter 4.</b></p>
	<p>The new section 271 clarifies the application of self-defence in the context of domestic relationships involving domestic violence. It provides that a person who uses force in the context of a domestic relationship involving domestic violence may be acting in self-defence, including self-defence to murder, even if:</p> <ul style="list-style-type: none"> <li>• they are responding to a non-imminent harm or threat of harm</li> <li>• their use of force is in excess of the force involved in the harm or threatened harm.</li> </ul> <p>This provision does not alter the legal tests but makes the interaction between self-defence and DFV explicit in the Criminal Code.</p> <p>An example of a non-imminent threat of harm may be where a person is responding to a threat of future physical or emotional abuse. An example of an excessive use of force may be where a person uses a knife in response to an unarmed attack by their abusive partner. The new section 271(3) states that the provision does not limit the new sections 268 or 269.</p> <p>This new section relies on the definitions of ‘domestic violence’ and ‘associated domestic violence’ under the Domestic and Family Violence Protection Act 2012 (Qld).</p> <p><b>QLRC Recommendation 4, discussed in Chapter 4.</b></p>
	<p>The new section 272 provides a substitute partial defence to murder in the context of abusive domestic relationships, replacing the partial defence to murder of killing for preservation in an abusive domestic relationship (currently in section 304B of the Criminal Code and repealed by clause 15).</p> <p>The new partial defence has the following elements:</p> <ul style="list-style-type: none"> <li>• the deceased had committed acts of serious domestic violence against the person in the course of an abusive domestic relationship</li> </ul>

Clause	Explanatory Comments
	<ul style="list-style-type: none"> <li>• the person believed the use of the force was necessary to defend themselves or another from death or serious harm</li> <li>• the person's response was not a reasonable response in the circumstances as they believed them to be.</li> </ul> <p>The new partial defence should be considered only if the complete defence of self-defence is not available because the response of the person using force is not reasonable. The person must have used lethal force in the context of an abusive domestic relationship and believed their response to the threat was necessary to defend themselves or another from death or serious harm.</p> <p>While it reflects the same relationship context as the partial defence it replaces, the reformed partial defence in the new section 272 modifies the definition of 'abusive domestic relationship' by removing the requirement that there is a 'history' of acts of serious domestic violence. This approach is consistent with the more recent drafting of the coercive control provisions (Chapter 29A of the Criminal Code).</p> <p><b>QLRC Recommendation 6, discussed in Chapter 5.</b></p>
	<p>The new section 273 clarifies the relevance of intoxication for self-defence.</p> <p>Where a person is voluntarily intoxicated, their intoxication is a relevant factor in determining:</p> <ul style="list-style-type: none"> <li>• their belief in the necessity to act in self-defence (in murder cases, their belief as to the necessity to defend themselves or another from death or serious harm)</li> <li>• the circumstances as the person believed them to be.</li> </ul> <p>Voluntary intoxication is not relevant to the reasonableness of the person's response. In these circumstances the reasonableness of the defendant's response is assessed from the perspective of a person who is not intoxicated.</p> <p>Where a person is involuntarily intoxicated (for example, where they have been drugged or unknowingly consumed a particular substance), their intoxication is relevant to all elements of the test for self-defence.</p> <p><b>QLRC Recommendation 3, discussed in Chapter 4.</b></p>
Clause 12	<p>Clause 12 omits section 280 of the Criminal Code, which contains the defence of domestic discipline. Clause 18 (discussed below) replaces the omitted defence with a new defence in section 336 of the Criminal Code (Justification for common assault in relation to child—parents of children).</p> <p><b>QLRC Recommendation 16, discussed in Chapter 9.</b></p>
Clause 13	<p>Clause 13 inserts a new Chapter division (Chapter division 6 Other matters). This reform is part of the restructuring of Chapter 26 to modernise this chapter of the Criminal Code and make it simple, clear and accessible.</p> <p>The new Chapter division 6 contains sections 281–284 of the Criminal Code. The Bill does not amend these sections.</p>
Clause 14	<p>Clause 14 repeals the partial defence to murder of killing on provocation in section 304 of the Criminal Code.</p> <p>The repeal of this defence aligns with other jurisdictions. For example, the defence was abolished in Tasmania in 2003, in Victoria in 2005 and in Western Australia in 2008.</p> <p><b>QLRC Recommendation 12, discussed in Chapter 7.</b></p>

Clause	Explanatory Comments
Clause 15	<p>Clause 15 repeals the partial defence to murder of killing for preservation in an abusive domestic relationship in section 304B of the Criminal Code. This partial defence is reformed and inserted within the self-defence framework in the new Chapter division 4 of the Criminal Code (see clause 11, above).</p> <p><b>QLRC Recommendation 6, discussed in Chapter 5.</b></p>
Clause 16	<p>Clause 16 facilitates the reorganisation of the aggravated statutory non-parole periods for murder from the Criminal Code to the Penalties and Sentences Act 1992 (Qld).</p> <p>It achieves this by omitting sections 305(2) to (4) from the Criminal Code. This removes the specified aggravating circumstances from the Criminal Code. Clause 29 reintroduces equivalent periods for murder committed in the same circumstances into the new section 160CA of the Penalties and Sentences Act 1992 (Qld).</p> <p>Clause 16 also makes a consequential amendment, renumbering section 305(5) in the Criminal Code as section 305(2).</p> <p><b>Discussed in Chapter 8.</b></p>
Clause 17	<p>Clause 17 makes consequential amendments to section 314A of the Criminal Code (Unlawful striking causing death). It omits the reference to section 270 of the Criminal Code (Prevention of repetition of insult). This amendment is directly related to repeal of the defence of prevention of repetition of insult (clause 11, above).</p>
Clause 18	<p>Clause 18 gives effect to stage one of a two-stage reform to the defence of domestic discipline which is currently provided by section 280 of the Criminal Code.</p> <p>Clause 18 inserts a new section into the Criminal Code: section 336 (Justification for common assault in relation to child—parents of children). The new section draws on the existing defence in section 280 and clarifies and limits its scope.</p> <p>The new section applies to the offence of common assault (section 335 of the Criminal Code) and is available to a parent (new section 336(1)(a)). It applies to the use of force, or an attempt or threat to use force, towards a child.</p> <p>‘Parent’ is defined to include persons exercising parental responsibility for the child, which reflects the availability of the defence under section 280 of the Criminal Code to a ‘person in the place of a parent’. The definition of parent clarifies the other types of persons that may rely on the defence (new sections 336(7)(b) to (e)). Schoolteachers and masters are excluded from this definition and will not have access to the new defence.</p> <p>The new defence retains the requirement in section 280 of the Criminal Code that the defence apply only when a person has care of the child and clarifies that care of the child must be lawful at the time of the offence (new section 336(1)(c)).</p> <p>The new section 336 retains the requirement in section 280 of the Criminal Code that the defence only applies in relation to specified purposes. These are the management, protection, discipline or correction of a child (new sections 336(2)(a), (3)(a)). The new defence will also apply for the purpose of protection which includes preventing or minimising harm to the child (subsection 336(2)(a)). The purpose of control, explicitly identified in section 280 of the Criminal Code, is an aspect of management and is not included.</p> <p>The new defence will apply only if the person’s application of force or attempt or threat to apply force to the child was reasonable in the circumstances (new sections 336(2)(b), (3)(b)). This is consistent with the current requirement in section 280 of the Criminal Code. Certain uses of force, or attempts or threats to use such force, are excluded from the operation of the new defence and are not reasonable in any circumstance (new sections 336(4), (5)).</p>

Clause	Explanatory Comments
	<p>Factors that inform consideration of reasonableness are not included in the new section, but may, for example, include the attributes or characteristics of the child including their age, size, maturity and degree of vulnerability, the nature of the assault, if the charge relates to a series of offences, the duration and frequency of the offences and whether the offence is part of a course of conduct against the child that consists of maltreatment, or domestic violence.</p> <p>Stage two of reform will commence three years after the day the new section 336 commences. On this day, the defence will no longer apply when force is applied, attempted or threatened for the purpose of disciplining or correcting the child. This reform will be triggered by the new section 336(6) which provides for the expiration of subsection (3) three years after the day the section commences. Minor amendments to the new section 336 through the operation of clauses 2 and 18 (see clause 19) will also give effect to the second stage of reform and clarify the scope of the defence.</p> <p><b>QLRC Recommendation 16(a), discussed in Chapter 9.</b></p>
Clause 19	<p>Clause 19 commences on the day that is three years and one day after the date of assent, as provided by clause 2. It will give effect to the second stage of reform to the domestic discipline defence, currently provided by section 280 of the Criminal Code, and clarify the scope of the new section 336 upon the commencement of stage two (see clause 18).</p> <p>Clause 19 omits the heading of the new section 336 and inserts a new heading, ‘Management and protection of children’. This amendment will align the heading of the new section 336 with the lawful purposes for which force may be applied or attempted or threatened to be applied to a child, those being managing or protecting the child (new section 336(2)), upon the commencement of the stage two reform.</p> <p>Clause 19 will insert ‘smacking or spanking’ as an additional use of force, attempt or threat to use force which is excluded from the operation of the new defence and not reasonable in any circumstance (new section 336(4)(f)). This insertion will reinforce that the new section 336 is no longer a defence available for the purpose of disciplining or correcting a child.</p> <p>Clause 19 also provides for further consequential amendments to the new section 336 related to the substantive amendments to the scope of the defence.</p> <p><b>QLRC Recommendation 16(b), discussed in Chapter 9.</b></p>
Clause 20	<p>Clause 20 inserts a new part (Part 9, Chapter 114) into the Criminal Code.</p> <p>The new chapter 114 is a transitional provision for the Criminal Code (Defences and Excuses) Amendment Act 2025. It includes one section: section 769 (Reviews of s 336).</p> <p>The new section 769 forms part of the two-stage reform to the defence of domestic discipline (currently provided by section 280 of the Criminal Code) and provides for review of the operation of the new section 336 (see clauses 18 and 19, above).</p> <p>The new section 769(1) imposes this review as a Ministerial duty, which will be held by the Attorney-General as the Minister responsible for the Criminal Code. Under this provision, a review must be carried out by the Minister as soon as practicable two, five and seven years after the commencement of section 336.</p> <p>The new section 769(2) prescribes the scope of the review. This includes information and education provided to parents and community members about the abolition of physical punishment of children (which takes effect at the commencement of stage 2 of reform), evidence-based parenting strategies that eliminate the physical punishment of children and whether any demographic has been disproportionately or adversely affected by the new section 336. Recommendations made by the Commission support the collection and reporting of data that will inform each review. This includes data collected and reported by the Queensland Police Service and the Office of the Director of Public Prosecutions and</p>

Clause	Explanatory Comments
	<p>reporting by the Queensland Human Rights Commission on the implementation of education and awareness-raising activities under its statutory function to advise the Attorney-General about matters relevant to the operation of the Human Rights Act 2019 (section 61(h) Human Rights Act 2019 (Qld)).</p> <p>The new section 769(3) will require the Minister to table a report on the outcome of each review in the Legislative Assembly within six months after the commencement of each review.</p> <p><b>QLRC Recommendation 20, discussed in Chapter 9. See also QLRC Recommendations 18(b) and 19, discussed in Chapter 9.</b></p>
<b>Part 3: Amendment of other legislation</b>	
<b>Division 1: Amendment of the Corrective Services Act 2006 (Qld)</b>	
Clause 21	Clause 21 provides that Part 3, Division 1 of the Bill amends the Corrective Services Act 2006 (Qld).
Clause 22	<p>Clause 22 facilitates the relocation of the 20-year statutory non-parole period for murder from the Corrective Services Act 2006 (Qld) to the Penalties and Sentences Act 1992 (Qld).</p> <p>It achieves this by repealing the current section 181(2) of the Corrective Services Act 2006 (Qld). It inserts a new section 181(1A) that references the Court's power to set a non-parole period for murder in the Penalties and Sentences Act 1992 (Qld), as relevantly amended by clause 29 (discussed below).</p> <p>The new section 181(2) maintains the current position that a prisoner serving a term of life imprisonment for an offence other than murder is required to serve a period of 15 years before they are eligible for parole.</p> <p>Clause 22 also makes consequential amendments to reference the new section 181(1A).</p> <p><a href="#">QLRC Recommendation 15, discussed in Chapter 8.</a></p>
<b>Division 2: Amendment of the Penalties and Sentences Act 1992 (Qld)</b>	
Clause 23	Clause 23 provides that Part 3, Division 2 of the Bill amends the Penalties and Sentences Act 1992 (Qld).
Clause 24	Clause 24 makes consequential amendments to reference the new section 160CA.
Clause 25	Clause 25 makes consequential amendments to remove reference to sections 305(2) and (4) of the Criminal Code which are omitted by clause 16, discussed above.
Clause 26	Clause 26 makes consequential amendments to reference the new section 160CA.
Clause 27	Clause 27 makes consequential amendments to reference the new section 160CA.
Clause 28	Clause 28 amends the heading of section 160C and makes consequential amendments to reference the new section 160CA.
Clause 29	<p>Clause 29 inserts a new section 160CA into the Penalties and Sentences Act 1992 (Qld).</p> <p>This section will apply to murder and requires the court to set a parole eligibility date for offenders (new section 160CA(1), (2)).</p>

Clause	Explanatory Comments
	<p>The new section 160CA(3) provides that, when sentencing an offender for murder who has a parole eligibility or release date, the court cannot fix an earlier parole eligibility date.</p> <p>The new section 160CA(4) requires the court to have regard to the standard non-parole periods set out in the new subsections (5)–(7) in setting the parole eligibility date.</p> <p>The new sections 160CA(5)–(7) replace the current minimum non-parole periods with standard non-parole periods of equivalent lengths. The aggravated standard non-parole periods cover the same circumstances as the current provisions of the Criminal Code. This maintains the approach of specifying longer non-parole periods for multiple murder offences or offences involving the murder of a police officer performing their duty.</p> <p>The new section 160CA(8) provides that the standard non-parole periods reflect the objective middle range of seriousness for that offence. In conjunction with the new section 160CA(4), this subsection requires that a court take into account the non-parole periods although they do not create a presumption as to the appropriate non-parole period. The court may set a non-parole period that is the same, higher or lower than the standard when sentencing an offender for murder, consistent with the circumstances of the case.</p> <p>This gives the court discretion to set a parole eligibility date that is just in all of the circumstances.</p> <p>This provision draws on the approach taken in New South Wales for standard non-parole periods: Crimes (Sentencing Procedure) Act 1999 (NSW) pt 4 div 1A.</p> <p><b>QLRC Recommendation 15, discussed in Chapter 8.</b></p>
Clause 30	Clause 30 makes consequential amendments to reference the new section 160CA.

**Review of particular criminal defences**  
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