

Non-fatal strangulation: Section 315A review

Domestic setting terms and definitions in Australian jurisdictions

Table 1: Types of relationships to which the non-fatal strangulation offences in Queensland, South Australia, the Northern Territory and Victoria apply.

Type of relationships	Queensland	South Australia	Northern Territory	Victoria
	Domestic relationship and associated domestic violence ¹	Relationship ²	Domestic relationship ³	Family member ⁴
Current or former spouse or de facto partners	✓	✓	✓ (Includes current or former spouses or de facto partners of the person's former spouse or de facto partner)	✓
Current or former parent/child relationship	✓ (Includes those regarded as parents under Aboriginal and Torres Strait tradition or custom, but excludes those temporarily standing in loco parentis, approved foster carers, and approved kinship carers)	✓ (Includes stepchildren, grandchildren and those acting in loco parentis)	✓ (Includes current or former spouses and relatives of children)	✓ (Includes children of a person who has or had an intimate personal relationship with the person)
Current or former guardianship relationship		✓	✓ (Includes custody and right of access relationships)	
Child who normally or regularly resides or stays, or		✓	✓	✓

resided or stayed, with the other person				
Those who are or were engaged to be married (including under cultural or religious tradition)	✓		✓ (Includes people who are or were engaged to the person who the other person is or was in an intimate personal relationship)	
Those who have or had a relationship as a couple	✓			✓ (Defined as those who provide personal or financial commitment and support)
Those who have or had an intimate personal relationship (not already listed)		✓ (Defined as those whose lives are interrelated and their actions affect each other)	✓ (Includes intimate personal relationships, whether or not sexual, as well as persons who engaged in a sexual act or conduct. Also includes people who are or were in an intimate personal relationship with the person who the other person is or was in an intimate personal relationship with)	✓ (Whether or not sexual)
Current or former relative	✓ (Defined as those connected by blood or marriage)	✓ (Includes siblings; those related through blood, marriage, domestic partnership or adoption; those related according to Aboriginal and Torres Strait Islander kinship rules; and members of a	✓ (Includes relatives according to Aboriginal tradition or contemporary social practice)	✓ (Defined as those connected by blood, half-blood, marriage or adoption, or a relative under Aboriginal and Torres Strait tradition or contemporary social practice)

		culturally recognised family group)		
Current or former carers' relationship	✓ (Defined as someone who is dependent on the other for help in daily activities, but doesn't include children or those who provide services under a commercial arrangement)	✓	✓ (Defined as someone who is dependent on the ongoing paid or unpaid care of another)	
Current spouse, de facto partner or relative of a person with whom the other person is engaged to, is having an intimate relationship, or who engaged in a sexual act or conduct			✓	
Currently engaged to, having an intimate relationship with, or previously engaged in a sexual act or conduct with a person with whom the other person is their spouse, de facto partner or relative			✓	
Anyone else who the person regards or regarded as being like a relative or family member	✓ (Like a relative)			✓ (If it is or was reasonable to regard them as a family member, having regard to the circumstances of the relationship)

Domestic violence by a respondent towards a child of an aggrieved	✓			
Domestic violence by a respondent towards a child who usually lives with an aggrieved	✓			
Domestic violence by a respondent towards a relative or associate of an aggrieved	✓			

Table 2: Types of relationships to which the aggravated non-fatal strangulation offences in Western Australia and the Australian Capital Territory apply.

Type of relationships	Western Australia	Australian Capital Territory
	Family relationships ⁵	Family members ⁶
Current or former spouse or de facto partners	✓ (Includes former spouses or de facto partners or the other person's current spouse or de facto partner)	✓
Current or former parent/child relationship		✓ (Includes children of a current or former spouse or de facto partner)
Current or former guardianship relationship	✓	
Child who normally or regularly resides or stays, or resided or stayed, with the other person	✓	
Those who are or were engaged to be married (including under cultural or religious tradition)		
Those who have or had a relationship as a couple		
Those who have or had an intimate personal relationship	✓ (Includes other personal relationships of a domestic nature in which the lives of the persons are or were interrelated and the actions of one affect or affected the other)	✓
Current or former relative	✓ (Includes those currently related to the person's current or former spouse or de facto partner)	✓ (Includes those related by blood or marriage; who a person has responsibility for or an interest in according to the traditions and customs of their Aboriginal and Torres Strait Islander community (and vice versa); and with whom the person has a family-like relationship)
Current or former carers' relationship		
Current spouse, de facto partner or relative of a person with whom the other person is engaged to, is having an intimate relationship, or who engaged in a sexual act or conduct		

Currently engaged to, having an intimate relationship with, or previously engaged in a sexual act or conduct with a person with whom the other person is their spouse, de facto partner or relative		
Anyone else who the person regards or regarded as being like a relative or family member		✓
Anyone else who could reasonably be considered to be or have been a relative		✓
Domestic violence by a respondent towards a child of an aggrieved		
Domestic violence by a respondent towards a child who usually lives with an aggrieved		
Domestic violence by a respondent towards a relative or associate of an aggrieved		

¹ Criminal Code Act 1899 (Qld) s 1 (definition of 'domestic relationship'); Domestic and Family Violence Protection Act 2012 (Qld) ss 9, 13-20.

² Criminal Law Consolidation Act 1935 (SA) s 20A(3).

³ Domestic and Family Violence Act 2007 (NT) ss 9-12.

⁴ Family Violence Protection Act 2008 (Vic) ss 8-10.

⁵ Restraining Orders Act 1997 (WA) s 4.

⁶ Family Violence Act 2016 (ACT) ss 9-11.