

Strangulation Offence Provisions – All Jurisdictions

Australian Capital Territory - Crimes Act 1900

27 Acts endangering life etc

(1) In this section:

choke, a person, includes apply pressure, to any extent, to the person's neck.

conveyance means a vehicle (including an aircraft) or vessel of a kind used for transporting persons, animals or goods.

public utility service means—

- (a) the supply of electricity, gas or water; or
- (b) the supply of fuel; or
- (c) the collection and disposal of sewerage and other waste;

as a service to the public.

strangle, a person, includes apply pressure, to any extent, to the person's neck.

suffocate, a person, includes the following:

- (a) obstruct, to any extent, any part of the person's—
 - (i) respiratory system; or
 - (ii) accessory systems of respiration;
- (b) interfere, to any extent, with the operation of the person's—
 - (i) respiratory system; or
 - (ii) accessory systems of respiration;
- (c) impede, to any extent, the person's respiration.

transport facility means a facility provided to permit the transportation of persons, animals or goods, whether by air or over land or water, or provided in connection with such transportation.

(2) For subsection (3) (g), an interference shall be taken to include any act or omission that, whether temporarily or permanently, damages, renders inoperative, obstructs, causes to malfunction or puts to an improper purpose.

(3) A person who intentionally and unlawfully—

- (a) chokes, suffocates or strangles another person so as to render that person insensible or unconscious or, by any other means, renders another person insensible or unconscious; or
- (b) administers to, or causes to be taken by, another person any stupefying or overpowering drug or poison or any other injurious substance likely to endanger human life or cause a person grievous bodily harm; or

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- (c) uses against another person any offensive weapon likely to endanger human life or cause a person grievous bodily harm; or
- (d) discharges any loaded arms at another person or so as to cause another person reasonable apprehension for his or her safety; or
- (e) causes an explosion or throws, places, sends or otherwise uses any explosive device or any explosive, corrosive or inflammable substance in circumstances likely to endanger human life or cause a person grievous bodily harm; or
- (f) sets a trap or device for the purpose of creating circumstances likely to endanger human life or cause a person (including a trespasser) grievous bodily harm; or
- (g) interferes with any conveyance or transport facility or any public utility service in circumstances likely to endanger human life or cause a person grievous bodily harm; or
- (h) interferes with a prescribed traffic control device (within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*) in circumstances likely to endanger life or cause a person grievous bodily harm;

is guilty of an offence punishable, on conviction, by imprisonment for—

- (i) in the case of an aggravated offence against this section—13 years; or
- (j) in any other case—10 years.

Note Section 48C (Aggravated offences—pt 2 offences involving family violence) makes provision in relation to an aggravated offence against this section.

- (4) A person who does an act referred to in subsection (3)—
 - (a) intending to commit an indictable offence against this part punishable by imprisonment for a maximum period exceeding 10 years; or
 - (b) intending to prevent or hinder his or her lawful apprehension or detention or that of another person; or
 - (c) intending to prevent or hinder a police officer from lawfully investigating an act or matter that reasonably calls for investigation by the officer;

is guilty of an offence punishable, on conviction, by imprisonment for 15 years.

28 Acts endangering health etc

- (1) In this section:

choke, a person—see section 27 (1).

conveyance—see section 27 (1).

interferes with—see section 27 (2).

public utility service—see section 27 (1).

strangle, a person—see section 27 (1).

suffocate, a person—see section 27 (1).

transport facility—see section 27 (1).

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- (2) A person who intentionally and unlawfully—
- (a) chokes, suffocates or strangles another person; or
 - (b) administers to, or causes to be taken by, another person any poison or other injurious substance with intent to injure or cause pain or discomfort to that person; or
 - (c) causes an explosion or throws, places, sends or otherwise uses any explosive device or any explosive, corrosive or inflammable substance in circumstances dangerous to the health, safety or physical wellbeing of another person; or
 - (d) sets a trap or device for the purpose of creating circumstances dangerous to the health, safety or physical wellbeing of another person (including a trespasser); or
 - (e) interferes with any conveyance or transport facility or any public utility service in circumstances dangerous to the health, safety or physical wellbeing of another person;
- is guilty of an offence punishable, on conviction, by imprisonment for—
- (f) in the case of an aggravated offence against this section—7 years; or
 - (g) in any other case—5 years.

Note Section 48C (Aggravated offences—pt 2 offences involving family violence) makes provision in relation to an aggravated offence against this section.

New South Wales - Crimes Act 1900

37 Choking, suffocation and strangulation

- (1A) A person is guilty of an offence if the person intentionally chokes, suffocates or strangles another person without the other person's consent.
Maximum penalty—imprisonment for 5 years.
- (1) A person is guilty of an offence if the person—
- (a) intentionally chokes, suffocates or strangles another person so as to render the other person unconscious, insensible or incapable of resistance, and
 - (b) is reckless as to rendering the other person unconscious, insensible or incapable of resistance.
- Maximum penalty—imprisonment for 10 years.
- (2) A person is guilty of an offence if the person—
- (a) chokes, suffocates or strangles another person so as to render the other person unconscious, insensible or incapable of resistance, and
 - (b) does so with the intention of enabling himself or herself to commit, or assisting any other person to commit, another indictable offence.
- Maximum penalty—imprisonment for 25 years.

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- (3) In this section—

another indictable offence means an indictable offence other than an offence against this section.

Northern Territory – Criminal Code Act 1983

186AA Choking, strangling or suffocating in a domestic relationship

- (1) A person commits an offence if:
- (a) the person is in a domestic relationship with another person; and
 - (b) the person intentionally chokes, strangles or suffocates the other person; and
 - (c) the other person does not consent to the choking, strangling or suffocating and the person is reckless in relation to that circumstance.

Maximum penalty: Imprisonment for 5 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) To avoid doubt, an offence against this section constitutes domestic violence under section 5 of the *Domestic and Family Violence Act 2007*.
- (4) In this section:

chokes, strangles or suffocates, a person, includes the following:

- (a) applies pressure, to any extent, to the person's neck;
- (b) obstructs, to any extent, any part of the person's:
 - (i) respiratory system; or
 - (ii) accessory systems of respiration;
- (c) interferes, to any extent, with the operation of the person's:
 - (i) respiratory system; or
 - (ii) accessory systems of respiration;
- (d) impedes, to any extent, the person's respiration.

domestic relationship, see section 9 of the *Domestic and Family Violence Act 2007*.

Queensland – Criminal Code Act 1899

315A Choking, suffocation or strangulation in a domestic setting

- (1) A person commits a crime if—
- (a) the person unlawfully chokes, suffocates or strangles another person, without the other person's consent; and
 - (b) either—
 - (i) the person is in a domestic relationship with the other person; or
 - (ii) the choking, suffocation or strangulation is associated domestic violence under the [Domestic and Family Violence Protection Act 2012](#).
- Maximum penalty—7 years imprisonment.
- (2) An assault is not an element of an offence against subsection (1).

South Australia – Criminal Law Consolidation Act 1935

20A— Choking, suffocation or strangulation in a domestic setting

- (1) A person who is, or has been, in a relationship with another person and chokes, suffocates or strangles that other person, without that other person's consent, is guilty of an offence.
- Maximum penalty: Imprisonment for 7 years.
- (2) However, conduct that is justified or excused by law cannot amount to an offence against this section.
- (3) Two people will be taken to be *in a relationship* for the purposes of this section if—
- (a) they are married to each other; or
 - (b) they are domestic partners; or
 - (c) they are in some other form of intimate personal relationship in which their lives are interrelated and the actions of 1 affects the other; or
 - (d) 1 is the child, stepchild or grandchild, or is under the guardianship, of the other (regardless of age); or
 - (e) 1 is a child, stepchild or grandchild, or is under the guardianship, of a person who is or was formerly in a relationship with the other under paragraph (a), (b) or (c) (regardless of age); or
 - (f) 1 is a child and the other is a person who acts in *loco parentis* in relation to the child; or
 - (g) 1 is a child who normally or regularly resides or stays with the other; or
 - (h) they are brothers or sisters or brother and sister; or

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- (i) they are otherwise related to each other by or through blood, marriage, a domestic partnership or adoption; or
 - (j) they are related according to Aboriginal or Torres Strait Islander kinship rules or are both members of some other culturally recognised family group; or
 - (k) 1 is the carer (within the meaning of the *Carers Recognition Act 2005*) of the other.
- (4) If—
- (a) a jury is not satisfied beyond reasonable doubt that a charge of an offence against this section has been established; but
 - (b) the Judge has instructed the jury that it is open to the jury on the evidence to find the defendant guilty of an offence of assault; and
 - (c) the jury is satisfied beyond reasonable doubt that the offence of assault has been established,

the jury may return a verdict that the defendant is not guilty of the offence charged but is guilty of assault.

Tasmania – Criminal Code Act 1924

170B. Strangulation, &c.

A person who intentionally and unlawfully chokes, suffocates or strangles another person is guilty of a crime.

Charge: Strangulation.

334AA. Strangulation

Upon an indictment for strangulation the accused person may be convicted of assault

Western Australia – Criminal Code Compilation Act 1913

298. Suffocation and strangulation

A person commits a crime if the person unlawfully impedes another person's normal breathing, blood circulation, or both, by manually, or by using any other aid —

- (a) blocking (completely or partially) another person's nose, mouth, or both; or
- (b) applying pressure on, or to, another person's neck.

Alternative offence: s. 313.

Penalty:

- (a) if the offence is committed in circumstances of aggravation, imprisonment for 7 years; or
- (b) in any other case, imprisonment for 5 years.

Summary conviction penalty:

- (a) in a case to which the Penalty paragraph (a) applies, imprisonment for 3 years and a fine of \$36 000; or
- (b) in a case to which the Penalty paragraph (b) applies, imprisonment for 2 years and a fine of \$24 000.

[Section 298 inserted: No. 30 of 2020 s. 6.]