



ASSAULTS AND BULLYING

This sheet is intended to provide **general legal information** about the law in Queensland. **This information is not legal advice.** If you have a particular legal problem, you should contact a solicitor for legal advice. At the end is a list of agencies that might be able to assist you, including legal agencies.

What is assault?

There are two types of assault in Queensland. The first type involves applying force to another without their consent. The second type involves a threat of the first type of assault. The person must appear to have the ability to carry out the threat.

Therefore, you can be charged with assaulting a person even if you didn't actually touch them, but you did move/act towards them in a way that would make them feel reasonably afraid of violence.

The more harm you cause a person when you assault them, the more serious the charge against you can be. For example, if you hit a person and they do not suffer injury you may be charged with 'common assault', where the maximum penalty is 3 years in custody. If you hit a person and they bleed, you may be charged with 'wounding', which has a maximum penalty of 7 years in custody. If you hit a person and you cause them, for example, to lose a part or organ of their body or have a permanent injury (such as a broken bone) you can be charged with 'grievous bodily harm' where the maximum penalty is 14 years in custody.

Your action	Possible charge	Maximum penalty
You hit a person and they do not suffer any injury	Common Assault	3 years in custody
You hit a person and they bleed	Wounding	7 years in custody
You hit a person and they lose part of their body/are disfigured/suffer a permanent injury to health	Grievous Bodily Harm	14 years in custody

If someone hits me first, can I hit back to protect myself?

This is called self-defence and it is only in **some** instances that the law will allow you to fight back against someone who hits you. You are also allowed to help another person defend themselves, and you can defend your property under some circumstances. You will probably still be charged with hitting the person (the charge will vary depending on the seriousness of the incident), and if you say you were acting in self-defence, the prosecution must prove to the court that you *were*'t acting in self-defence.

The law states that in certain circumstances it may be justifiable for you to use force that is 'reasonably necessary'. To work out what is a reasonable amount of force, the courts will look at all circumstances of the event, including things like your age and size in comparison to the person you hit, the seriousness of the injuries you may have caused or if you used any weapons etc.

You will not be able to justify your actions if it is seen to be conduct that would likely cause death/grievous bodily harm, or if you intended to do that. Also, it may not release you from punishment completely and may only lessen any Order made against you.

Remember to seek help from one of the legal agencies below in the 'Who can help?' section if this has happened to you and you want some advice.

What is provocation?

Provocation is another type of justification for your actions if you have been charged with a type of assault. This can sometimes be used to show that, when you committed the assault, you had lost control of your senses and committed an act that is proportionate to the provocation. If the courts accept a defence of provocation in a case of assault then there will be no liability. In a case of

murder, the charge will be reduced to manslaughter which has a lesser sentence.

There are other types of defences if you are charged with assault, and the agencies under 'Who can help?' will assist you with advice about your particular situation.

What can I do if someone is gatecrashing at my house and I want them to leave?

There is a law in Queensland which allows an owner-occupier of a premises to use 'reasonable force' *as is necessary* to eject someone who is trespassing on the land.

You can only use as much force as is you reasonably believe is necessary to remove the person from the house. Further, the courts have said that it is usually not necessary to use violence at all against someone who is trespassing, as you may have other options instead of fighting. The best course of action may be to warn the trespasser involved and to call the police to evict them lawfully.

If I get into a fight at school, can I get into trouble?

Yes you can. Just because you are within school grounds, it does not mean that the only punishment you can face is through the school. The police can charge you with assault offences if they receive a complaint about the behaviour.

Sexual offences (not assaults)

Sexual offences are when someone indecently assaults another, or makes them commit or watch any act of gross indecency without that person's voluntary consent. There are many actions which can be seen as a sexual offence, including:

- rape
- incest
- touching or kissing without consent
- sexual harassment.

It is important to note that, the more serious the assault, the worse the punishment can be.

Please refer to our sheet, 'Victim of Crime' for more information on sexual assaults.

What is bullying and can I get in trouble for it?

Bullying can include behaviour that is violent, threatening or intimidates someone. It usually happens in school or work environments, with a number of people getting involved in conduct.

As discussed before, any bullying that is physical or harassing in nature can be investigated by police as a crime. For example, if someone is threatened with assault, a complaint can be made to the police and charges can be brought.

What is 'unlawful stalking'?

Additionally, Queensland law makes 'unlawful stalking' an offence. This can happen when someone does any of the following things on more than one occasion against another:

- follows, loiters or watches someone or a place that the person goes to regularly
- contacts the person in any way (including using technology such as mobile phones or email)
- leaves or gives a person offensive material (which can be material such as pornography or other material which the community deems as offensive)
- commits intimidating, harassing or threatening acts against a person or their property (including threats of violence).

If this behaviour causes the stalked person to be afraid of violence to themselves, or their property, or causes them to suffer detriment (harm - including psychological or emotional harm), then this behaviour is unlawful.

The maximum penalty for this offence is 5 years in custody, but can be increased to 7 years in certain circumstances.

What is cyber bullying and can I get into trouble in the law for that?

Cyberbullying can be an offence if it comes under the 'unlawful stalking' description. For example, if you contact someone via email or phone repeatedly and threaten them with violence, you may be charged with the offence.

Who can help?

Youth Advocacy Centre (YAC) www.yac.net.au	3356 1002
Hub Community Legal www.communitylegal.org.au	3372 7677
YFS Legal www.yfs.org.au	3826 1500
Legal Aid Queensland www.legalaid.qld.gov.au	1300 651 188
Aboriginal & Torres Strait Islander Legal Service www.atsils.org.au	3025 3888 or (free call) 1800 012 255 (24hrs 7 days a week)
Translating & Interpreting Services (24hrs)	131 450
Youth Legal Advice Hotline	1800 527 527
Community Legal Centres (CLCs) see www.naclc.org.au for your nearest CLC	

This sheet was last reviewed and updated in January 2020. The Youth Advocacy Centre does not accept responsibility for any action or outcome as a result of anyone relying on the information provided.