

South Australia



**CRIMINAL LAW CONSOLIDATION (STALKING)
AMENDMENT ACT 1994**

No. 7 of 1994

SUMMARY OF PROVISIONS

1. Short title
2. Commencement
3. Insertion of section 19AA
Stalking
19AA. Unlawful stalking



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ELIZABETHAE II REGINAE

A.D. 1994

No. 7 of 1994

An Act to amend the Criminal Law Consolidation Act 1935.

[Assented to 14 April 1994]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Criminal Law Consolidation (Stalking) Amendment Act 1994*.

(2) The *Criminal Law Consolidation Act 1935* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Insertion of section 19AA

3. The following heading and section are inserted after section 19 of the principal Act:

Stalking

Unlawful stalking

19AA. (1) A person stalks another if—

- (a) on at least two separate occasions, the person—
- (i) follows the other person; or
 - (ii) loiters outside the place of residence of the other person or some other place frequented by the other person; or
 - (iii) enters or interferes with property in the possession of the other person; or

- (iv) gives offensive material to the other person, or leaves offensive material where it will be found by, given to or brought to the attention of the other person; or
 - (v) keeps the other person under surveillance; or
 - (vi) acts in any other way that could reasonably be expected to arouse the other person's apprehension or fear; and
- (b) the person—
- (i) intends to cause serious physical or mental harm to the other person or a third person; or
 - (ii) intends to cause serious apprehension or fear.
- (2) A person who stalks another is guilty of an offence.

Penalty:

- (a) if—
- (i) the offender's conduct contravened an injunction or an order imposed by a court (either under a law of the State or the Commonwealth); or
 - (ii) the offender was, on any occasion to which the charge relates, in possession of an offensive weapon,
- imprisonment for not more than 5 years;
- (b) in any other case—imprisonment for not more than 3 years.

(3) A person who is charged with stalking is (subject to any exclusion in the instrument of charge) to be taken to have been charged in the alternative with offensive behaviour¹ so that if the court is not satisfied that the charge of stalking has been established but is satisfied that the charge of offensive behaviour has been established, the court may convict the person of offensive behaviour.

(4) A person who has been acquitted or convicted on a charge of stalking may not be convicted of another offence arising out of the same set of circumstances and involving a physical element that is common to that charge.

(5) A person who has been acquitted or convicted on a charge of an offence other than stalking may not be convicted of stalking if the charge of stalking arises out of the same set of circumstances and involves a physical element that is common to the charge of that other offence.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor

¹ See section 7 of the *Summary Offences Act 1953*.