

Western Australia

## **Criminal Code Amendment Act 2001**

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As at 07 Jan 2002

No. 34 of 2001

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## **Criminal Code Amendment Act 2001**

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## **Criminal Code Amendment Act 2001**

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**No. 34 of 2001**

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**An Act to amend *The Criminal Code*.**

[Assented to 7 January 2002]

The Parliament of Western Australia enacts as follows:

**1. Short title**

This Act may be cited as the *Criminal Code Amendment Act 2001*.

**2. Commencement**

This Act comes into operation on the day on which it receives the Royal Assent.

**3. Section 338C replaced**

Section 338C of *The Criminal Code*\* is repealed and the following section is inserted instead —

“

**338C. Statements or acts creating false apprehension as to the existence of threats or danger**

- (1) Any person who makes a statement or conveys information which that person knows to be false and which expressly indicates, or may reasonably be construed as indicating —
- (a) that a threat to unlawfully do anything mentioned in section 338(a), (b), (c) or (d) has been made; or
  - (b) that there has been, is, or is to be an intention, proposal, plan or conspiracy to unlawfully do anything mentioned in section 338(a), (b), (c) or (d),
- is guilty of a crime.
- (2) Any person who —
- (a) does any act with the intention of creating a belief, suspicion or fear that anything mentioned in section 338(a), (b), (c) or (d) is being, or has been, unlawfully done or attempted; and
  - (b) knows, at the time of doing that act, that the circumstance with respect to which the belief, suspicion or fear is intended to be created does not exist,

is guilty of a crime.

- (3) A person who commits a crime under this section is liable to —
- (a) imprisonment for 10 years if the —
    - (i) threat referred to in subsection (1)(a);
    - (ii) intention, proposal, plan or conspiracy referred to in subsection (1)(b); or
    - (iii) belief, suspicion or fear referred to in subsection (2)(a),relates to something mentioned in section 338(a), (b) or (c); or
  - (b) imprisonment for 3 years in any other case.
- Summary conviction penalty:
- (c) in a case to which paragraph (a) applies:  
Imprisonment for 3 years or a fine of \$12 000; or
  - (d) in a case to which paragraph (b) applies:  
Imprisonment for 18 months or a fine of \$6 000.
- (4) A court convicting a person of a crime under this section may, in addition to, or without, imposing any penalty, order that person to pay the amount of any wages attributable to, or expenses reasonably incurred with respect to, any investigation, inquiry or search made, whether by a member of the Police Force or otherwise, as a result of the statement, information or act by reason of which the person is convicted.
- (5) An order made under subsection (4) —
- (a) must specify to whom and in what manner the amount is to be paid; and
  - (b) may be enforced as though the amount so ordered to be paid were a penalty imposed under this section.

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[\* *Reprinted as at 9 February 2001 as the Schedule to the Criminal Code Act 1913 appearing as Appendix B to the Criminal Code Compilation Act 1913.*]

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