

STALKING – ELEMENTS OF THE OFFENCE

	SA	ACT	NSW	NT	QLD	TAS	VIC	WA
On at least two occasions/course of conduct/repeated instances								
One occasion if protracted or on more than one occasion								
Intention to cause physical or mental harm or arouse apprehension or fear for safety								
Conduct intentional directed at person								
Intention to prevent or hinder a person from doing act								
Sufficient if reckless whether will cause fear or apprehension or harassment								
Presumed intention if reasonable person would be aware conduct likely cause fear or apprehension								
Sufficient if actually knew conduct likely to cause fear								
Sufficient if knew or ought to know likely to cause harm, apprehension or fear if actual harm, apprehension or fear was caused								
Necessary to show that (1) caused apprehension or fear reasonably arising or (2) causes detriment, reasonably arising to the person or another – and immaterial whether intended to cause apprehension, fear or detriment								
Not necessary to prove anyone actually apprehended or feared harm								
Necessary to show actually caused physical or mental harm or fear or apprehension								
Necessary to pursue in manner reasonably expected to intimidate and does in fact intimidate								
Sufficient if show actual harm but not necessary								

STALKING – PROSCRIBED CONDUCT

	SA	ACT	NSW	NT	QLD	TAS	VIC	WA
Follow or approach a person								
Loiter, watch, approach or enter place where person lives, works or frequents								
Keeping a person under surveillance								
Interfere with property in possession of a person								
Give or send offensive material to a person								
Telephone, sends electronic messages to or otherwise contacts a person/sends or makes available electronic messages about a person								
Communicates with the other person or to others about another person by way of mail, telephone (including associated technology) fax, or the internet or some other electronic communication								
Contacting or communicating with a person (eg by telephone, mail, fax, email, or through any use of technology)								
Communicating or otherwise approaching a person using the internet or any other technologically assisted means								
Communicate with the person whether directly or indirectly and whether in words or otherwise								
Publishing on the internet or by email or other electronic communication materials about a person								
Acting in a way that could reasonably be expected to arouse apprehension or fear								
Engaging in conduct amounting to intimidation, harassment or molestation								
Engaging in an act of violence or threat of violence against person or property								
Causing a person to receive unsolicited items								
Causing an unauthorised computer function in a computer owned or used by a person								
Tracing a person's use of the internet, email or electronic communication								
Using abusive or offensive words to or in the presence of the victim, performing abusive or offensive acts in the presence of the victim and directing abusive or offensive acts towards the victim								

VILIFICATION

	SA	CWTH	ACT	NSW	NT	QLD	TAS	VIC	WA
Civil and criminal									
Criminal only									
Civil only									
Race									
Religion									
Ethno-religion									
Homosexuality/sexual orientation									
Gender identity									
Transgender									
HIV/AIDS status									
Disability									

AWARENESS STATISTICS

Study undertaken by AUARA (Australian Universities Anti-bullying Research Alliance)

Sample

- 535 Year 10 students (aged 15-16 years) at 14 schools in Qld, SA, WA (mixture of public/private, metropolitan/provincial, co-ed/boys & girls only)
- 251 teaching staff at 12 schools in Qld, SA, WA

Responsibility for bullying

- 43% of students and 69.6% of teachers either had no idea or had an incorrect view as to the potential for existing criminal laws to apply to cyberbullying behaviour by students before Year 11
- only 25.5% of students and 14.3% of teachers correctly answered that the parent of a child cannot be made to pay monetary damages to the victim of their child's cyberbullying
- 61.9% of students but only 34.7% of teachers correctly stated that the parent of a child cannot be fined or imprisoned for their child's actions

Vilification laws

- In Queensland a relatively high 45.4% of students and 64.5% of teachers correctly identify the relevant grounds for anti-vilification laws (that is, race, religion, gender and sexual identity)
- In South Australia only 4.3% of students and 6.7% of teachers and in Western Australia no students and 15.8% of teachers correctly identified the relevant ground as being race alone (in both States 30-40% in both thought the Queensland grounds)

Duty of care

- 69% of teachers either incorrectly stated what their legal duty required them to do or had no idea (10%)