

Queensland



**CRIMINAL CODE
AMENDMENT BILL (No. 2)
1999**

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(No. 2) 1999**

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1999

A BILL

FOR

An Act to amend the Criminal Code

The Parliament of Queensland enacts—

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Short title

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1. This Act may be cited as the *Criminal Code Amendment Act (No. 2) 1999*.

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Code amended

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2. This Act amends the Criminal Code.

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Replacement of ss 271 and 272

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3. Sections 271 and 272—

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omit, insert—

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‘Self-defence and defence of another

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‘**271.(1)** A person (the “**defender**”), acting in defence of himself or herself or in defence of another, is justified using force that the defender believes, on reasonable grounds, is necessary in the circumstances as perceived by the defender.

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‘**(2)** In deciding whether the defender believed, on reasonable grounds, that the force he or she used was necessary in the circumstances as perceived by the defender, the following matters are relevant—

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(a) the history of any relationship between the defender or the person defended and the person (the “**assailant**”) against whom force is used;

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(b) the effects of that relationship on the defender or the person defended.

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Examples—

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1. It is relevant that the defender was responding to a history of personal violence against himself or herself or another person.

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2. Evidence of a defender’s sex, race or culture, as it influences the defender’s response to violence, may be relevant in the particular case.

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Criminal Code Amendment (No. 2)

‘(3) For the purpose of giving evidence about matters referred to in subsection (2), the following persons are taken to be appropriately qualified experts—

- (a) social workers or domestic violence workers who have appropriate experience working in women’s refuges, domestic violence services or counselling services;
- (b) psychologists and psychiatrists.

‘Jury directions on self-defence

‘272.(1) This section applies if there is evidence of a history of a relationship mentioned in section 271(2) between the defender or the person defended and the assailant.

‘(2) If relevant to the facts in issue in a proceeding, the judge must, when directing the jury in relation to self-defence, direct the jury that evidence of the matters referred to in section 271(2) may be relevant to questions such as—

- (a) why a defender or the person defended who is subjected to prolonged and repeated abuse would remain in the relationship; and
- (b) the nature and extent of the violence that may exist in the relationship before producing a response; and
- (c) the defender’s ability, or the ability of the person defended, in the relationship to perceive danger from the assailant; and
- (d) if the defender perceived himself or herself or the person defended to be under threat of death or grievous bodily harm, whether the defender believed on reasonable grounds that there was no way to preserve himself or herself or the person defended from death or grievous bodily harm other than by using the force that the defender used.

‘(3) A judge must give directions under subsection (2) in a way that helps the jury to understand the directions.’.

Criminal Code Amendment (No. 2)

Repeal of s 273 (Aiding in self-defence)

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4. Section 273—

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omit.

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