



Murder charges in Queensland

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This article explores the charge of murder in Queensland.

We explore:

- meanings and definitions related to the charge of murder;
- murder vs manslaughter;
- defences for murder;
- punishments and penalties if convicted of murder or manslaughter; and
- other offences related to murder.

Murder definition

Queensland law provides that murder involves the *unlawful killing* of another person in a variety of prescribed circumstances, including where:

- the offender intended to cause the death of the person killed, or some other person;
- the offender intended to cause grievous bodily harm to the person killed;
- the death is caused by conduct involving *reckless indifference* to human life;
- the death is caused by conduct performed during in the furtherance of an unlawful purpose, and is of such a nature as to be likely to endanger human life;
- the offender intends to do grievous bodily harm to someone for the purpose of facilitating a crime.

What does “causing” a death mean?

Any person who causes the death of another person, directly or indirectly, by any means whatever, is deemed to have killed that other person. So, what does *causing* a death mean?

Deaths are often the result of multiple overlapping factors. Consider this scenario:

- A gun is pointed at someone who runs across a street to escape the perpetrator;
- The victim is hit and killed by a speeding car driven by a drunk driver.

Who has caused that person's death – the gunman or the driver? Perhaps both.

The law states that if a person's conduct is a substantial or significant cause of death or “substantially contributed” to the death, such conduct will be regarded as causing the death.

If a person causes the death of another, the question will then be whether the killing was unlawful.

What is an unlawful killing?

The Queensland law provides that it is unlawful to kill another person unless that killing is “authorised or justified or excused by law”.

Unlawful killings are classified as “homicides”, but not all homicides are murders. An unlawful killing (a homicide) may amount to murder or manslaughter.

The difference between murder and manslaughter

Manslaughter is defined as the unlawful killing of a person in circumstances which do not amount to murder.

Manslaughter usually involves the unlawful killing of someone where there was no intent to cause serious injury or death, whereas murder generally requires an intention of that type to be proven. Manslaughter cases usually involve conduct that could be regarded as reckless or negligent but not deliberate.

One significant exception to this is the situation where a death is caused by conduct involving *reckless indifference* to human life. This extension to the definition of murder was introduced in recent years to address some highly-publicised instances of extreme parental neglect – where parents deliberately decided not to seek medical treatment for obviously ill children. Such cases are unlike most cases of murder, where an element of deliberate conduct or intention needs to be proven.

Defences to a charge of murder

A killing is not unlawful if it is “authorised, justified or excused by law”. What does that phrase mean?

The law in Queensland provides various instances of authorised, justified or excused conduct, as well as general defences to criminal charges for murder. In Queensland, there are both complete defences and partial defences to a charge of murder.

Defence of “authorisation, justification, or excuse”

In the context of murder, there are some specific instances where the law provides an authorisation, justification, or excuse. Examples include a soldier following lawful orders to kill during warfare or a doctor performing lawful euthanasia.

Other general defences that apply to most criminal offences of violence are also available, including self-defence and accident. Such defences are regarded as “complete defences”, ie. if the defence is established, the person who has killed another is not guilty of any offence at all.

“Partial defence” when charged with murder

In other situations, the person may be able to rely on a “partial defence”. Establishing such a defence means the person will be acquitted of murder but found guilty of manslaughter. This can mean a significantly reduced sentence for the offender – see *Punishment and penalties for murder* below.

Examples of partial defences under Queensland law include:

- where a person unlawfully kills another person in circumstances where they have been “provoked” (which is a term with a very specific legal meaning and which is quite different to acting in self-defence);
- where the person acts in circumstances of “diminished responsibility”. This concerns people who acted in a state of abnormality of mind, whether due to retarded development or inherent causes or injury, so as to substantially impair their capacity to understand the rights and wrongs of their conduct;
- where the deceased was domestically violent towards the other person, in circumstances where that other person believed their conduct was necessary to preserve their life or avoid grievous bodily harm.

Punishment and penalties for murder

A person convicted of murder is liable to life imprisonment, which cannot be reduced, although life imprisonment under Queensland law is usually a period of 20 years before that person becomes eligible for parole.

If, however, the victim was a police officer performing duty at the time of being killed, the minimum term becomes 25 years before parole can be considered. Those convicted of more than one murder must serve 30 years before being eligible for parole.

Furthermore, in 2017, the Queensland parliament introduced “no body, no parole” laws whereby someone convicted of a homicide offence must be denied parole if the deceased’s body or remains have not been located unless the Parole Board is satisfied that the offender has cooperated satisfactorily in attempts to identify the victim’s location.

Punishment and penalties for manslaughter

Manslaughter also carries a maximum penalty of life imprisonment, but unlike murder, that penalty is not mandatory and can be reduced. In some rare instances, someone convicted of manslaughter may only be sentenced to a few years in jail.

Other offences related to murder

Queensland law provides for a range of other offences which are related to the offence of murder.

Accessory after the fact to murder is an offence carrying life imprisonment. That offence concerns behaviour in which a person assists another person who they know to have committed murder. The most common example is assisting the offender in hiding or escaping or helping dispose of the body.

For more information about crimes related to *accessory after the fact*, read our previous article, [“Being an accessory to \(“aiding and abetting”\) a crime”](#).

In 2014, the Queensland parliament introduced a new offence of *unlawful striking causing death*. This offence captures conduct involving an unlawful strike to the head or neck of another person, causing their death. The offence carries life imprisonment.

The section was introduced in response to high-profile incidents of fatal “king hits” on unsuspecting victims outside licensed premises. Anecdotal evidence suggested that juries were reluctant to convict offenders of murder in such a situation, leading to the government introducing this new offence to cover this type of conduct. The law also places limits on an offender’s release on parole after they’ve been sentenced for this offence.

You can read more about this offence in our previous article, [“What is unlawful striking causing death?”](#)

Get help from a criminal lawyer when charged with murder

Any charge of murder, or a related offence, is extremely serious and requires urgent and expert legal assistance from a lawyer highly experienced in criminal law. The earlier that advice and representation is sought, the more likely it is that your early decisions will assist in mounting a successful defence.

We recommend you contact Gilshenan &Luton as soon as you become aware of any investigation (we are available 24/7) and ensure you have representation at any police interview.

Contacting Gilshenan &Luton

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Further reading that may be useful:

- [Dealing with a police search warrant - the do's and don'ts](#)
- [How does criminal sentencing work in Queensland?](#)
- [Your mental health during criminal law proceedings](#)
- [Legal Professional Privilege](#)
- When can multiple criminal charges be tried together?

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