**Youth Justice Legislation – Australia and New Zealand**

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| **Jurisdiction** | **Act** | **Regulations** | **Other** |
| **ACT** | Children and Young People Act 2008 |  | * Bail Act 1992 * Crimes (Restorative Justice) Act 2004 * Crimes (Sentence Administration) Act 2005 * Crimes (Sentencing) Act 2005 |
| **NSW** | * *Young Offenders Act 1997* * Children (Community Service Orders) Act 1987 * Children (Detention Centres) Act 1987 | * *Young Offenders Regulation 2010* * Children (Community Service Orders) Regulation 2015 * Children (Detention Centres) Regulation 2015 | * *Children (Interstate Transfer Offenders) Act 1988* * *Children (Interstate Transfer Offenders) Regulation 2010* * *Crimes Act 1900* * *Crimes Regulation 2015* |
| **NT** | Youth Justice Act 2005 | Youth Justice Regulation 2005 | * Cross-border Justice Act * Correctional Services Act * Probation and Parole Act |
| **QLD** | Youth Justice Act 1992 | Youth Justice Regulation 2003 | Young Offenders (Interstate Transfer) Act 1987 |
| **SA** | * Young Offenders Act 1993 * Family and Community Services Act 1972 | Family and Community Services Regulations 2009 | * Criminal Law Consolidation Act 1935 * Criminal Law (Sentencing) Act 1988 * Bail Act 1985, Summary Procedure Act 1921 * Summary Offences Act 1953 |
| **TAS** | Youth Justice Act 1997 |  | * Bail Act 1994 * Children, Young Persons and Their Families Act 1997 * Police Offences Act 1935 * Sentencing Act 1997 |
| **VIC** | Children, Youth and Families Act 2005 (enacted in April 2007) | Children, Youth and Families Regulations 2007 | * Bail Act 1977 * Crimes Act 1958 * Sentencing Act 1991 |
| **WA** | [*Young Offenders Act 1994*](https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_1101_homepage.html) | [Young Offenders Regulations 1995](https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_2230_homepage.html) | * [*Children’s Court of Western Australia Act 1988*](https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_133_homepage.html) * [*Bail Act 1982*](https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_70_homepage.html) * [*Children and Community Services Act 2004*](https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_132_homepage.html) * [*Criminal Code Act Compilation Act 1913*](https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_218_homepage.html) * [*Police Act 1892*](https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_729_homepage.html) * [*Road Traffic Act 1974*](https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_848_homepage.html) * [*Sentence Administration Act 2003*](https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_887_homepage.html) * [*Sentencing Act 1995*](https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_888_homepage.html) * [*School Education Act 1999*](https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_878_homepage.html) |
| **NZ** | Youth Justice Provisions of the Children, Young Persons and their Families Act 1989 | Children, Young Persons and their Families (Residential Care) regulations. |  |

**NOTES:**

**Western Australia**

According to the [Western Australia Police](http://www.police.wa.gov.au/Aboutus/Statistics/Crimestatistics/Offencedescriptions/tabid/1213/Default.aspx) service and the [*Criminal Code Act Compilation Act 1913*](https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_218_homepage.html) the definition of “assault” falls under various categories and is defined as:

**Non-Aggravated Assault**

Defined under section 313 of the Criminal Code Act Compilation Act 1913 as an assault not involving any of the aggravating circumstances as defined in Aggravated Assault. This category of offence also includes acts involving the indirect and non-confrontational infliction of harm, injury or violence upon a person such as administering drugs/poison or stupefying. For reporting purposes, non-aggravated assault incorporates assault (including a relatively small number of aggravated assaults) committed against a WA Police Officer acting in the execution of their duty.

**Assault with Intent (Aggravated Assault)**

Defined under section 317A of the Criminal Code Act Compilation Act 1913 as an assault that has direct (and immediate/confrontational) infliction of force, injury or violence upon a person or persons or the direct (and immediate/confrontational) threat of force, injury or violence where there is an apprehension that the threat could be enacted. An Aggravated Assault as recorded by the WA Police is an assault that involves the aggravating circumstances of causing serious bodily injury. The Australian Standard Offence Classification also includes the following circumstances of aggravation:

* carried out in company;
* carried out using a weapon;
* carried out with the intent of preventing apprehension or committing a crime; or
* committed with the intent to recklessly endanger life or cause injury.

**Internal YJS Policy**

An assault according to the Internal Incident and Critical and Incident Policy within a Youth Justice Service’s community or custodial facility relates to an assault on:

* a member of staff, contractor, volunteer or visitor and/or
* a young person.

An assault includes where the victim is subject to physical violence that resulted in physical injuries that may or may not have required medical treatment, but did not require overnight hospitalisation or ongoing medical treatment.

Serious Assaults include where the victim is subjected to physical violence that resulted in physical injuries requiring medical treatment involving overnight hospitalisation in a medical facility including a custodial facility heath centre or hospital, or ongoing medical treatment. Serious assaults include all sexual assaults.

Note: If the condition of a young person in custody is later determined as requiring overnight hospitalisation after initially being assessed as non-critical, the incident is to be escalated to Critical and reported in accordance with the Critical Incident Policy – Youth Justice Services immediately the determination has been made.

Other assaults with no injury include where the victim is subjected to physical violence that does not result in physical injuries or require any form of medical treatment.

YJS must comply with the national Council of Australian Governments (COAG) definitions of assault and the Criminal Code Act Compilation Act 1913.

**South Australia**

In South Australia, and I suspect in many other jurisdictions, the charge/conviction process for assault sits outside of primary youth justice legislation.

The Minister for Communities and Social Inclusion has introduced to Parliament the Youth Justice Administration Bill 2015, which will establish the powers relevant to the functions undertaken by Youth Justice (DCSI), particularly the administration of training centres and community supervision services.

In relation to the definition of assault, the legislation in South Australia which defines assault for the purposes of criminal proceedings is under Section 20 of the Criminal Law Consolidation Act 1935. A link to all South Australian legislation is http://www.legislation.sa.gov.au/index.aspx.

**New South Wales**

**Assault**

Division 9 *Crimes Act*

Common assaults

61 Common assault prosecuted by indictment

“Whosoever assaults any person, although not occasioning actual bodily harm.”

**Judicial Commission States**

There are four elements which constitute an assault:

1. An act by the accused which intentionally, or recklessly, causes another person (the complainant) to apprehend immediate and unlawful violence.
2. That such conduct of the accused was without the consent of the complainant.
3. That such conduct was intentional or reckless in the sense that the accused realised that the complainant might fear that the complainant would then and there be subject to immediate and unlawful violence and none the less went on and took that risk.
4. That such conduct be without lawful excuse.

**Reference is for Judges**

An assault is any act — and not a mere omission to act — by which a person intentionally — or recklessly — causes another to apprehend immediate and unlawful violence.