

Western Australia

Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015

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Western Australia

LEGISLATIVE ASSEMBLY

**Criminal Code Amendment (Prevention of
Lawful Activity) Bill 2015**

A Bill for

An Act to amend *The Criminal Code*.

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Criminal Code Amendment (Prevention of Lawful*
3 *Activity) Act 2015*.

4 **2. Commencement**

5 This Act comes into operation as follows —

- 6 (a) sections 1 and 2 — on the day on which this Act
7 receives the Royal Assent;
8 (b) the rest of the Act — on the day after that day.

9 **3. Act amended**

10 This Act amends *The Criminal Code*.

11 **4. Sections 68AA and 68AB inserted**

12 After section 67 insert:
13

14 **68AA. Physical prevention of lawful activity**

15 (1) In this section —

16 *circumstances of aggravation*, in relation to the
17 commission of an offence, means circumstances in
18 which the offence is committed in a manner that causes
19 injury to, or endangers the safety of, a person
20 (including the offender or another person participating
21 in the offence);

22 *physically*, in relation to the prevention of lawful
23 activity, means —

- 24 (a) by physical force; or
25 (b) by the threat of immediate physical force, or
26 (c) by the creation or maintenance of —
27 (i) a physical barrier to carrying on the
28 lawful activity; or

- 1 (ii) a risk of injury to a person (including
2 the offender) or of damage to property
3 as a direct consequence of carrying on
4 the lawful activity.
- 5 (2) A person must not, with the intention of preventing a
6 lawful activity that is being, or is about to be, carried
7 on by another person, physically prevent that activity.
8 Penalty:
- 9 (a) if the offence is committed in circumstances
10 of aggravation, imprisonment for 24 months
11 and a fine of \$24 000;
- 12 (b) in any other case, imprisonment for
13 12 months and a fine of \$12 000.
- 14 (3) A person is presumed to have the intention referred to
15 in subsection (2) if —
- 16 (a) the person prevents a lawful activity in
17 circumstances that give reasonable grounds for
18 suspecting that the person had that intention;
19 and
20 (b) the contrary is not proved.
- 21 (4) A court convicting a person of an offence under
22 subsection (2) may order the person to pay some or all
23 of the reasonable expenses of or incidental to any
24 action reasonably taken in removing a physical barrier
25 to lawful activity created or maintained by the
26 person —
- 27 (a) by police officers; or
28 (b) by a person or body performing a statutory
29 function; or
30 (c) by a person or body whose lawful activity is
31 prevented by the offence.

s. 4

- 1 **68AB. Preparation for physical prevention or trespass**
- 2 (1) A person must not make, adapt or knowingly possess a
- 3 thing for the purpose of using it, or enabling it to be
- 4 used, in the commission of —
- 5 (a) an offence under section 68AA; or
- 6 (b) an offence under section 70A.
- 7 Penalty: imprisonment for 12 months and a fine
- 8 of \$12 000.
- 9 (2) A person making, adapting or knowingly possessing a
- 10 thing is presumed to have the purpose referred to in
- 11 subsection (1) if —
- 12 (a) the circumstances give rise to a reasonable
- 13 suspicion that the person has the purpose; and
- 14 (b) the contrary is not proved.
- 15 (3) A court convicting a person of an offence under
- 16 subsection (1) may make an order for the forfeiture to
- 17 the State, or the destruction or disposal, of the thing in
- 18 respect of which the offence was committed.
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