

# R U LEGAL? FIGHTING AND ASSAULTS

## Fighting with someone can get you into a lot of trouble with the law.

How much trouble you can get into will depend on how badly the other person is hurt, what criminal offence you are charged with, and the circumstances of what happened.

The most common offences that people are charged with after being involved in a fight are assault, assault occasioning bodily harm, grievous bodily harm, unlawful wounding, threats to injure, and disorderly conduct.

## What is an assault?

An "assault" is when someone applies force, or threatens to apply force, to another person without permission.

An assault can be many different behaviours, including:

- hitting, kicking or pushing someone,
- pulling someone's hair,
- spitting at someone, or
- throwing something at someone.

For example: throwing a bottle of water at someone else can be an assault even if it doesn't actually hit them.

## What if I hurt someone?

You can get into a lot of trouble with the law if you injure someone during a fight.

### Assaults causing bodily harm

If you get into a fight with someone and give them an injury that interferes with their health or comfort, the police can charge you with assault occasioning bodily harm. Some examples of bodily harm are a black eye, bruising or a broken arm.

The maximum penalty for assault occasioning bodily harm is 7 years jail.

### Grievous bodily harm

If you get into a fight with someone and give them an injury that is likely to be permanent or to endanger their life, the police can charge you with grievous bodily harm. Some examples of grievous bodily harm are a broken jaw, brain damage, or a permanent disability.

The maximum penalty for grievous bodily harm is 14 years jail.

## Assault causing death

If you assault someone and they die, you can be charged with assault causing death. You can be charged with this offence even if you didn't intend for the person to die and didn't think that your actions could cause their death. An example is a 'one punch' assault that causes the victim to fall backwards, hit their head and die.

The maximum penalty for assault causing death is 20 years jail.

## Unlawful wounding

If you get into a fight with someone and break or penetrate their skin, the police can charge you with unlawful wounding. An example of a wound is a gash to the arm that causes bleeding. Wounding caused by hitting someone with a glass or glass bottle (known as 'glassing') is particularly serious.

The maximum penalty for unlawful wounding is 7 years jail.

## What if no one got hurt?

You can still be charged with assaulting someone even if they are not injured at all. An example is pushing or jumper punching someone.

You can also be charged with disorderly conduct if you were fighting in a public place.

Disorderly conduct includes swearing in public or behaving in an insulting, offensive or threatening manner in public.

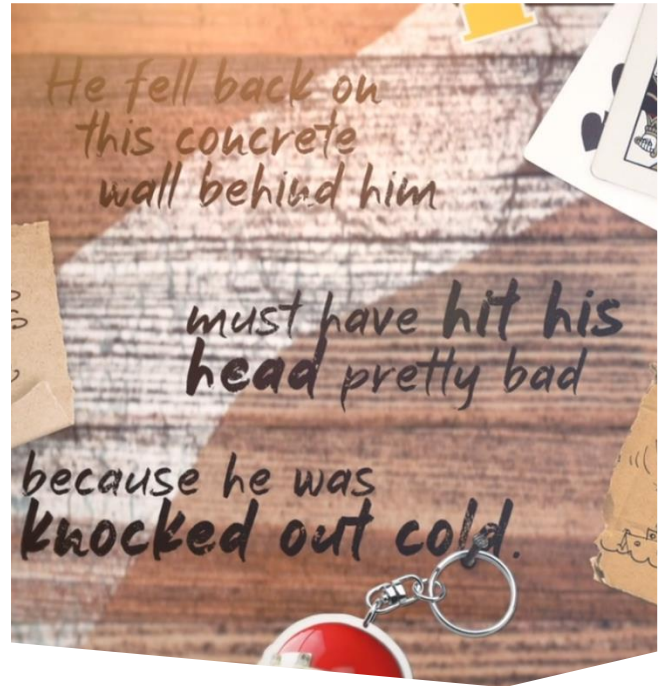
A public place includes anywhere in the sight or hearing of a person in a public place. For example: a park, shopping centre, or even the front yard of your house.

## What if I just threatened to hurt or fight someone?

Threatening to injure, endanger or harm someone is a criminal offence, even if you don't actually mean it or follow through with the threat.

You can be charged for threatening someone with words or with bodily gestures.

For example: telling someone that you will catch up with them later to give them a hiding, or physically indicating that you will "get them" can be a threat.



## What if I wasn't in the fight but I encouraged it?

If you help or encourage someone to assault another person, you can also be charged as a party to the assault.

For example, you can be charged with an assault if you:

- organise a fight,
- prevent the victim from getting away or from leaving the assault, or
- shout out words of encouragement. For example: if you yell out words like "go on, hit them".

## What if I just filmed the fight?

If you create, keep, share or ask for material that shows someone under 18 being physically abused, tortured or subject to cruelty, you could be charged with breaking Australia-wide laws aimed at protecting children from abuse.

You could get in trouble with these laws if you:

- film a young person fighting,
- post or share a video of a young person in a fight on social media,
- keep a video of a fight involving a young person that was sent to you, whether you asked for the footage or not, or
- ask someone to send you a video of a fight involving a young person.

## What are the potential consequences for being involved in a fight?

If you are involved in a fight and you break the law, the police can charge you with a criminal offence. This means you will have to go to court.

If you accept that you broke the law (or are found guilty), you will be convicted of the offence and this may go on your criminal record. The court will also punish you.

The punishment you will get depends on how serious the charge is, whether you have been in trouble for breaking the law before, and your personal circumstances. You might be ordered to pay a fine, do some community work, go to counselling or participate in a program. In serious cases, you could be sentenced to jail.

You may also have to pay compensation to the victim. For example: if you break someone's jaw, you might have to pay for their medical and dental expenses relating to the injury, or even compensate them for time they had to take off work.

### I am under 18 years old. Can I still get in trouble?

You can still get charged by the police and punished by the court even if:

- you are a young person,
- you don't know the law, and
- other people have done the same thing but haven't been charged by the police.

---

## The punishment you get will depend on how serious your charge is, your criminal record, and your personal circumstances.

---

### What if I was defending myself?

You may not be breaking the law if you are defending yourself or another person. It depends on the circumstances.

You can only do what is absolutely necessary to protect yourself or another person from being hurt.

If you can run away and get help, you must do that instead.



## How can Legal Aid WA help?

Legal Aid WA provides legal advice and representation on criminal offences.

### What if the police want to talk to me?

If the police want to speak to you about a criminal offence, you can call the Legal Aid WA Infoline on 1300 650 579 or chat to us online at [www.legalaid.wa.gov.au](http://www.legalaid.wa.gov.au) to get advice about talking to the police.

### What if I have been charged by the police?

If you have already been charged with a criminal offence, Legal Aid WA has duty lawyers in courts around Western Australia who can give you legal advice and represent you in court.

### Where can I find more information?

You can find more information, videos and factsheets on fighting and assaults on the Legal Aid WA website [www.legalaid.wa.gov.au](http://www.legalaid.wa.gov.au).

Legal Aid WA also delivers legal education sessions on these topics through our R U Legal? program.

This factsheet contains information only. It is not legal advice. If you have a legal problem, you should speak to a lawyer. Legal Aid WA aims to provide accurate information but does not accept responsibility if it is not. © Legal Aid WA. You are welcome to copy, use and share the information from our website, including our resources and publications, if you are doing so for non-commercial or non-profit purposes. You must make it clear the content was created by Legal Aid WA.

Last reviewed Tuesday, August 11, 2020