

(1)s 23B: Accident (Duty)

*s 23B does not excuse criminal negligence (s 262-67)

- **Mouritz v The State of WA [2006]**
= accident cannot alleviate criminal responsibility for negligence

s 262: Duty to provide necessities of life

It is the duty of every person having charge of another who is unable by reason of age, sickness, mental impairment, detention, or any other cause, to withdraw himself from such charge, and who is unable to provide himself with the necessities of life, whether the charge is undertaken under a contract, or is imposed by law, or arises by reason of any act, whether lawful or unlawful, of the person who has such charge, to provide for that other person the necessities of life; and he is held to have caused any consequences which result to the life or health of the other person by reason of any omission to perform that duty.

s 263: Duty of head of family

It is the duty of every person who, as head of a family, has the charge of a child under the age of 16 years, being a member of his household, to provide the necessities of life for such child, and he is held to have caused any consequences which result to the life or health of the child by reason of any omission to perform that duty whether the child is helpless or not.

s 265: Duty of person doing dangerous act

It is the duty of every person who, except in a case of necessity, undertakes to administer surgical or medical treatment (including palliative care) to any other person, or to do any other lawful act which is or may be dangerous to human life or health, to have reasonable skill and to use reasonable care in doing such act; and he is held to have caused any consequences which result to the life or health of any person by reason of any omission to observe or perform that duty.

s 266: Duty of person in charge of dangerous thing

(1) In this section — anything includes a source of ignition and a fire, which result to the life or health of any person by reason of any omission to perform that duty.

(2) It is the duty of every person who has in his charge or under his control anything, whether living or inanimate, and whether moving or stationary, of such a nature that, in the absence of care or precaution in its use or management, the life, safety, or health of any person may be endangered, to use reasonable care and take reasonable precautions to avoid such danger; and he is held to have caused any consequences

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Daniel F McAuley



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