

Second Reading

Reverend the Hon. FRED NILE [11.49 a.m.]: I move:

That this bill be now read a second time.

The Crimes Legislation Amendment (Possession of Knives in Public) Bill 2009 is a straightforward bill that reforms the knife possession laws in New South Wales. The prohibition on carrying knives in public and related police powers to search people suspected to be carrying knives was introduced on 1 July 1998 under the Crimes Legislation Amendment (Police and Public Safety) Act 1998. Under the Summary Offences Act 1988 there are currently a range of offences for selling, carrying and using knives. Section 11C of that Act prohibits the carrying of a knife in a public place or school without reasonable excuse. The Weapons Prohibition Act 1998 also makes it an offence to possess, use or deal in weapons prohibited under the Act without authorisation. The maximum penalty for that offence is imprisonment for 14 years. Schedule 1 of the Act lists a number of knives as prohibited knives: flick knives, ballistic knives, sheath knives, Urban Skinner push daggers, trench knives, butterfly knives, and star knives.

Under the Law Enforcement (Powers and Responsibilities) Act 2002 police are able to conduct searches on persons they suspect of carrying a knife and confiscate any dangerous implement located during such a search. It is very important that we take urgent action to drive down the rates of knife possession. We do not want to follow the pattern that is occurring in other countries in Europe, in the United Kingdom and in the United States, where there has been a dramatic increase in attacks involving knives. If we take action now, we may be successful in lowering the rates of knife possession in New South Wales. The amendments I propose will provide a greater deterrent to carrying knives in public and will also strengthen police powers to conduct searches.

The bill will increase penalties under the Summary Offences Act 1988. Section 11C of that Act currently makes it an offence to carry a knife in a public place or school without reasonable excuse—proof of which lies on the person. The current penalty structure is five penalty units, that is, a \$550 fine, for a first offence; 10 penalty units, that is, a \$1,000 fine, 12 months imprisonment, or both, for a second offence; and 20 penalty units, that is, a \$2,200 fine, two years imprisonment, or both, for a third or subsequent offence.

In comparison with other jurisdictions, New South Wales possesses a relatively low maximum penalty of only \$550 for a first offence of possessing a knife in a public place or school. In part this is due to the way New South Wales penalties for this offence are tiered by the number of prior knife-related offences the individual has committed. This structure also means that only a second-time or subsequent offender faces the possibility of imprisonment. It is therefore proposed that the Act be amended to alter the penalty structure for possession of a knife in a public place or school so as to create a single maximum penalty, reflecting the highest maximum penalty currently in the structure—that is \$2,200, two years imprisonment, or both. This could see even first-time offenders facing serious penalties, including possible time in prison, sending a clear deterrent message that knife possession will not be tolerated. Obviously, this gives the court the option to apply that maximum penalty, but we will provide the court with the powers it needs. Those powers can be exercised when required in particular cases, based on the evidence provided to the court by witnesses and/or the police officers who charge the individual.

The bill will increase penalties for failing to comply with search powers. Under section 27 of the Law Enforcement (Powers and Responsibilities) Act 2002 police are able to request a person in a public place or school to submit to a frisk search if the officer suspects on reasonable grounds that the person has a dangerous implement, which includes any knife. Police may also confiscate the implement in such circumstances. Obviously, it is a great priority that we provide citizens with protection from knife attacks in public places, but more importantly we must ensure that we do not have knives in any school in this State. Every step must be taken to make our schools 100 per cent safe.

We know that, thankfully, through the funds that have been allocated, the majority of schools now have a high security fence—not a wooden fence or a fence that can be pushed over but a steel fence that is sufficiently high to prevent intruders entering the school grounds. We need to maintain that security, to ensure that individuals who have motives of revenge or want to attack a student in the school cannot get in. In the event that they do get in, it must be made certain that that person is not carrying a knife. Police need these powers so they can require any person in a public place or school—which could involve, sadly, even a student—to submit to a frisk search if the officer suspects on reasonable grounds that the person is carrying a dangerous implement, which includes any knife.

The bill provides a maximum penalty of five penalty units, that is a fine of \$550, for failing or refusing to comply with a request for a frisk search in this situation, or for failing or refusing to produce the dangerous implement. I believe this penalty will also act as a deterrent. The details of this legislation will need to be publicised through

an education program, as there is no point in the Parliament passing legislation and increasing penalties if the information is not conveyed to the wider community. It is important that such information be conveyed to our schools, youth groups and other activity groups in particular so that people will see this legislation as a direct deterrent and therefore they will not carry a knife in a public place and certainly will not carry a knife into a school.

The proposed changes to the penalty structure for knife possession I have outlined would have the effect of making the maximum penalty for possessing a knife significantly higher than that of refusing to submit to a police knife search. This could have the effect of encouraging individuals to refuse to submit to a search should they be in possession of a knife. It is therefore also proposed to amend section 27 of the Law Enforcement (Powers and Responsibilities) Act 2002 to increase the penalty for failure to comply with requests relating to search and dangerous implements to 50 penalty points, a \$5,500 fine. This would certainly increase the power of police to carry out their duties. From many reports we know that there is a great deal of frustration in the New South Wales Police Force about lack of powers.