



New South Wales

# Crimes Amendment (School Protection) Bill 2002

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Crimes Act 1900* to include specific offences relating to the assault, harassment, stalking and intimidation of students and staff of schools on school premises or while entering or leaving school premises.

The Bill also amends the *Criminal Procedure Act 1986* consequentially.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the *Crimes Act 1900* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendments to the *Criminal Procedure Act 1986* set out in Schedule 2.

## **Schedule 1 Amendment of Crimes Act 1900**

**Schedule 1** inserts a new Division 8B of Part 3 into the *Crimes Act 1900* that creates new offences in relation to school premises. A *school* is defined to mean a primary or secondary school or a child care facility for children under school age. *School premises* is defined to include parks and other community premises that are used by a school (but only while they are being used for the purposes of the school).

Proposed section 60E creates the following offences:

- (a) a person who assaults, stalks, harasses or intimidates any school student or member of staff of a school while the student or member of staff is attending a school, although no actual bodily harm is occasioned, is liable to imprisonment for 5 years,
- (b) a person who assaults a school student or member of staff of a school while the student or member of staff is attending a school and by the assault occasions actual bodily harm, is liable to imprisonment for 7 years,
- (c) a person who maliciously by any means wounds, or inflicts grievous bodily harm on, a school student or member of staff of a school while the student or member of staff is attending a school, is liable to imprisonment for 12 years,
- (d) a person who enters school premises with intent to commit any of the preceding offences is liable to imprisonment for 5 years.

A school student or member of staff of a school is taken to be attending a school at any time that he or she is on school premises for the purposes of school work or duty or before or after school child care, and while entering or leaving school premises.

## **Schedule 2 Amendment of Criminal Procedure Act 1986**

The *Criminal Procedure Act 1986* enables certain indictable offences to be dealt with summarily by a Local Court and prescribes the maximum penalties that may be imposed when those offences are dealt with summarily. An offence listed in Table 1 to Schedule 1 to that Act (a *Table 1 offence*) must be dealt with summarily unless the prosecuting authority or the person charged with the offence elects to have the offence dealt with on indictment. An offence listed in Table 2 to Schedule 1 to that Act (a *Table 2 offence*) must be dealt with

summarily unless the prosecuting authority elects to have the offence dealt with on indictment.

**Schedule 2 [1]** prescribes the maximum penalty for an offence under proposed section 60E (1) and (4) of the *Crimes Act 1900* if dealt with summarily.

**Schedule 2 [2]** makes an offence under proposed section 60E (2) of the *Crimes Act 1900* a Table 1 offence.

**Schedule 2 [3]** makes offences under proposed section 60E (1) and (4) of the *Crimes Act 1900* Table 2 offences.



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New South Wales

# Crimes Amendment (School Protection) Bill 2002

No. , 2002

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## A Bill for

An Act to amend the *Crimes Act 1900* with respect to certain offences relating to school premises; and to amend the *Criminal Procedure Act 1986* consequentially.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Crimes Amendment (School Protection) Act 2002</i> .	3
<b>2 Commencement</b>	4
This Act commences on a day to be appointed by proclamation.	5
<b>3 Amendment of Crimes Act 1900 No 40</b>	6
The <i>Crimes Act 1900</i> is amended as set out in Schedule 1.	7
<b>4 Amendment of Criminal Procedure Act 1986 No 209</b>	8
The <i>Criminal Procedure Act 1986</i> is amended as set out in Schedule 2.	9 10

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## Schedule 1 Amendment of Crimes Act 1900

(Section 3)

### Part 3 Offences against the person

Insert after Division 8A:

#### Division 8B Assaults etc at schools

##### 60D Definitions

(1) In this Division:

*school* means:

- (a) a primary or secondary school, or
- (b) a child care facility for children under school age.

*school premises* includes parks and other community premises that are used by a school (but only while they are being used for the purposes of the school).

(2) For the purposes of this Division, a school student or member of staff of a school is taken to be attending a school:

- (a) while the student or member of staff is on school premises for the purposes of school work or duty (even if not engaged in school work or duty at the time), or
- (b) while the student or member of staff is on school premises for the purposes of before school or after school child care, or
- (c) while entering or leaving school premises in connection with school work or duty or before school or after school care.

##### 60E Assaults etc on school premises

- (1) A person who assaults, stalks, harasses or intimidates any school student or member of staff of a school while the student or member of staff is attending a school, although no actual bodily harm is occasioned, is liable to imprisonment for 5 years.
- (2) A person who assaults a school student or member of staff of a school while the student or member of staff is attending a school and by the assault occasions actual bodily harm, is liable to imprisonment for 7 years.

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Schedule 1      Amendment of Crimes Act 1900

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- (3) A person who maliciously by any means: 1
  - (a) wounds a school student or member of staff of a school, 2  
or 3
  - (b) inflicts grievous bodily harm on a school student or 4  
member of staff of a school, 5while the student or member of staff is attending a school, is 6  
liable to imprisonment for 12 years. 7
- (4) A person who enters school premises with intent to commit an 8  
offence under another provision of this section is liable to 9  
imprisonment for 5 years. 10
- (5) Nothing in subsection (1) applies to any reasonable 11  
disciplinary action taken by a member of staff of a school 12  
against a school student. 13



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**Schedule 2 Amendment of Criminal Procedure Act  
1986**

(Section 4)

**[1] Section 28 Maximum penalties for Table 2 offences**

Insert “, 60E (1) and (4),” after “60C” in section 28 (2) (a).

**[2] Schedule 1 Indictable offences triable summarily**

Insert “60E (2),” after “60A (2),” in clause 2 of Part 1 of Table 1.

**[3] Schedule 1, Table 2**

Insert “, 60E (1) and (4),” after “60C” in clause 1 of Part 1.

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