



New South Wales

Crimes Amendment (Protection of Innocent Accused) Bill 2005

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*:

- (a) to prohibit the publication of information that would identify, or would be likely to lead to the identification of, a person accused of having committed a crime before that person is charged, and
- (b) to provide that a court may order the publication of a notice of acquittal of a person in certain cases.

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 3 months after the date of assent, unless commenced sooner by proclamation.

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

Schedule 1 Amendment of Crimes Act 1900

Schedule 1 inserts proposed sections 583 and 584 into the *Crimes Act 1900*.

Proposed section 583 makes it an offence to publish any matter that accuses a person of having committed an offence, or, in relation to an offence, identifies a person who is accused of having committed that offence, or is likely to lead to the identification of such a person, before the person has been charged with that offence. The maximum penalty that may be imposed for the commission of the proposed offence is 200 penalty units (currently, \$22,000) or imprisonment for a period not exceeding 2 years or both (in the case of an individual) or 4,000 penalty units (currently \$440,000) (in the case of a corporation). Certain publications are excluded from the operation of the prohibition, including publications authorised by the Commissioner of Police for the purpose of apprehending a person who is accused of having committed an offence.

Proposed section 584 provides that if:

- (a) the name of a person and any details of an offence have been published or broadcast in contravention of proposed section 583 or an order of a court, and
 - (b) the person is charged with the offence, and
 - (c) the person is acquitted of the offence and not convicted of a related offence,
- the court that acquitted the person may make an order directing any person that published or broadcast the name of the person and any details of the offence to publish or broadcast notice of the acquittal of the person in such manner as the court directs. Failure to comply with such an order is an offence that would carry a maximum penalty of 200 penalty units (currently, \$22,000) or imprisonment for a period not exceeding 2 years or both (in the case of an individual) or 4,000 penalty units (currently \$440,000) (in the case of a corporation).

Introduced by the Hon D E Oldfield, MLC

First print



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New South Wales

Crimes Amendment (Protection of Innocent Accused) Bill 2005

No. , 2005

A Bill for

An Act to amend the *Crimes Act 1900* to prohibit the publication of information relating to a crime that would lead to the identification of a person accused of the crime before that person is charged; to provide for the publication of a notice of acquittal of a person in certain cases; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Crimes Amendment (Protection of Innocent Accused) Act 2005</i> .	3 4
2 Commencement	5
This Act commences 3 months after the date of assent, unless commenced sooner by proclamation.	6 7
3 Amendment of Crimes Act 1900 No 40	8
The <i>Crimes Act 1900</i> is amended as set out in Schedule 1.	9

Schedule 1 Amendment of Crimes Act 1900

(Section 3)

Sections 583 and 584

Insert after section 582:

583 Publication and broadcasting of name of accused persons

(1) In this section:

matter includes a picture.

publish includes broadcast by radio or television.

(2) A person must not publish any matter that:

(a) accuses a person of having committed an offence, or

(b) in relation to an offence:

(i) identifies a person who is accused of having committed that offence, or

(ii) is likely to lead to the identification of such a person,

before the person has been charged with that offence.

Maximum penalty: 200 penalty units or imprisonment for a period not exceeding 2 years or both (in the case of an individual) or 4,000 penalty units (in the case of a corporation).

(3) This section does not apply to the following:

(a) a publication authorised by the Commissioner of Police for the purpose of apprehending a person who is accused of having committed an offence,

(b) a publication authorised by a person who has been accused of having committed an offence regarding the accusation,

(c) a publication made after the death of the person accused of having committed an offence.

(4) The offence created by this section is an offence of strict liability.

(5) Proceedings for an offence against this section may be dealt with:

(a) summarily before a Local Court, or

(b) summarily before the Supreme Court in its summary jurisdiction.

(6) If proceedings for an offence against this section are brought in a Local Court, the maximum monetary penalty that the Local Court may impose for the offence is 200 penalty units.

584	Court may order publication of acquittal in certain cases	1
(1)	If:	2
(a)	the name of a person and any details of an offence have been published or broadcast in contravention of section 583 or an order of a court, and	3 4 5
(b)	the person is charged with the offence, and	6
(c)	the person is acquitted of the offence and not convicted of a related offence,	7 8
	the court that acquitted the person may make an order directing any person who published or broadcast the name of the person and any details of the offence to publish or broadcast notice of the acquittal of the person in such manner as the court directs.	9 10 11 12
(2)	A person who fails to comply with an order made under subsection (1) is guilty of an offence. Maximum penalty: 200 penalty units or imprisonment for a period not exceeding 2 years or both (in the case of an individual) or 4,000 penalty units (in the case of a corporation).	13 14 15 16 17
(3)	Proceedings for an offence against this section may be dealt with:	18
(a)	summarily before a Local Court, or	19
(b)	summarily before the Supreme Court in its summary jurisdiction.	20 21
(4)	If proceedings for an offence against this section are brought in a Local Court, the maximum monetary penalty that the Local Court may impose for the offence is 200 penalty units.	22 23 24