



## CRIMES LEGISLATION AMENDMENT (FRONTLINE EMERGENCY AND HEALTH WORKERS) BILL 2022

### STATEMENT OF PUBLIC INTEREST

#### **Need: Why is the policy needed based on factual evidence and stakeholder input?**

The Crimes Legislation Amendment (Frontline Emergency and Health Workers) Bill 2022 (Government Bill) gives effect to the NSW Government's commitment in April 2022 to introduce a bill to ensure that people who assault frontline health workers, correctional and youth justice officers and emergency services staff and volunteers will face tougher penalties under new offences.

This is part of the NSW Government's response to the NSW Sentencing Council's report 'Assaults on emergency services workers', which was commissioned by the Attorney General to review the sentencing for offences involving assaults on police officers, correctional staff, youth justice officers, emergency service workers and health workers, and consider any options for reform, if appropriate.

In undertaking its review, the Sentencing Council received 22 written submissions, conducted six consultations and obtained crime and sentencing data from the NSW Bureau of Crime Statistics and Research (BOCSAR).<sup>1</sup>

The Sentencing Council found that the current law does not appropriately recognise violence against frontline health workers and made ten recommendations to improve the sentencing of assaults against health workers and law enforcement officers, including seven recommendations for legislative reform. These include introducing new offences under the *Crimes Act 1900* for assaults against frontline health workers.

The Sentencing Council found that:

...NSW law does not effectively recognise violence against some emergency services workers. While there are offences for assaults and related conduct against police officers, law enforcement officers, firefighters, rescue workers and ambulance officers, there are no offences for assaults against health workers (other than ambulance officers). This is a significant gap. Health workers are exposed to similar risks as police and other law enforcement officers and perform an essential public function. Assaults against these workers should be treated equally to those against law enforcement officers in law.<sup>1</sup>

To address this gap in the law, the Sentencing Council recommended that new offences for assaults against frontline health workers, based on existing offences for assaults against police officers, be inserted into the *Crimes Act 1900*.

The Sentencing Council also identified opportunities to improve the clarity, consistency and coverage of existing offences in the *Crimes Act 1900* for assaults and other actions against police officers and other law enforcement officers.

On 11 April 2022, the NSW Government announced that it supports, or supports in principle, all of the Sentencing Council's recommendations and that the Government would be going further in one key respect by providing that, in addition to frontline health workers, frontline emergency workers will also be captured by the new offences.

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<sup>1</sup> NSW Sentencing Council, July 2021, *Assaults on emergency services workers*, Executive summary.

The NSW Government considers it is critical that the law in NSW adequately criminalises assaults against frontline emergency services workers and ensures that the penalties for such acts of violence are aligned with penalties for assaults on frontline health workers, police officers and other law enforcement officers.

The objects of this bill are to:

- insert new offences into the *Crimes Act 1900* to ensure that people who assault frontline health and emergency workers, and correctional and youth justice officers face tougher penalties,
- improve the clarity, consistency and coverage of existing offences in the *Crimes Act 1900* for assaults and other actions against police and other law enforcement officers,
- amend the *Criminal Procedure Act 1986* to provide that some of the new proposed offences can be tried summarily in certain circumstances, and
- amend other Acts that are affected by the proposed amendments in the *Crimes Act 1900* and avoid duplication of offences across various Acts of Parliament.

**Objectives: What is the policy's objective couched in terms of the public interest?**

It is in the public interest to ensure that NSW law appropriately criminalises assaults against frontline health and emergency services workers, who serve our community each day at personal risk to themselves, and that maximum penalties for such acts of violence committed against these workers reflect community expectations.

It is also in the public interest to provide greater clarity and consistency for existing offences for assaults against police officers and law enforcement officers.

**Options: What alternative policies and mechanisms were considered in advance of the bill?**

Reform of the *Crimes Act 1900*, *Criminal Procedure Act 1986* and other NSW statutes can only be achieved through legislative amendment.

**Analysis: What were the pros/cons and benefits/costs of each option considered?**

The Government Bill contains a suite of important reforms to better protect health and emergency service workers who commit their working lives to keeping our community safe. Importantly, this bill will ensure that people who assault frontline health workers, correctional and Youth Justice officers, and emergency services staff and volunteers will face tougher penalties under new offences.

Every person should be able to feel free and safe in their workplace, including health and emergency services workers who perform an essential public service for our community in difficult circumstances and often at personal risk.

Legislative amendment, as recommended by the Sentencing Council, will ensure that offences against frontline health and emergency service workers reflect the important work they undertake daily.

Frontline health and emergency services workers face the risk of harm or violence in the course of their duties daily. It is important that the law recognises that such violence is unacceptable and ensures such violence is met with adequate penalties that reflect community expectations.

**Pathway: What are the timetable and steps for the policy's rollout and who will administer it?**

The Government Bill will commence on the date of assent.

The Department of Communities and Justice will be responsible for the general oversight of the implementation of these changes and monitoring of the impacts of the reforms.

**Consultation: Were the views of affected stakeholders sought and considered in making the policy?**

This policy development and drafting of the Government Bill was informed by the widespread public consultation undertaken by the Sentencing Council's inquiry.

As part of its inquiry, the Sentencing Council sought and considered the views of affected stakeholders. It received more than 20 written submissions, from frontline workers' representative bodies, legal stakeholders and members of the public.

This included submissions from:

- the Australian Paramedics Association,
- the United Services Union,
- the Australian Medical Association,
- the NSW Rural Fire Service Association,
- the Australasian College of Paramedicine,
- the Police Association of New South Wales,
- the Public Service Association of NSW,
- NSW Police Force,
- Corrective Services NSW,
- Legal Aid NSW,
- the Aboriginal Legal Service NSW/Act Limited,
- the Law Society of New South Wales, and
- the Office of the Director of Public Prosecutions.

The Sentencing Council also conducted six consultations and obtained crime and sentencing data from BOCSAR.

Separate from the Sentencing Council's processes, the NSW Government conducted further consultation with impacted frontline agencies and legal stakeholders both in developing the NSW Government's response to the Sentencing Council's recommendations and on the detail of the drafting of the bill itself. The following stakeholders were consulted on the development of the NSW Government response to the Sentencing Council's report:

- the Office of the Director of Public Prosecutions,
- the NSW Ministry of Health,
- the Judicial Commission of NSW,
- the Office of the Sheriff of NSW,
- Corrective Services NSW,
- Youth Justice NSW,
- NSW Police Force,
- Legal Aid NSW,
- Resilience NSW (including NSW Rural Fire Service, Fire and Rescue NSW, and State Emergency Services), and
- BOCSAR.

The following stakeholders were consulted on the draft bill:

- the Law Society of NSW,
- the New South Wales Bar Association,
- the Aboriginal Legal Service NSW/Act Limited,
- the Aboriginal Health & Medical Research Council,
- NSW Police Force,
- NSW Ministry of Health (including Ambulance NSW),
- Resilience NSW (including NSW Rural Fire Service, Fire and Rescue NSW, and State Emergency Services),
- the NSW Branch of the Pharmacy Guild of Australia,
- the Department of Planning and Environment,
- the Department of Premier and Cabinet,
- Aboriginal Affairs NSW,
- the Department of Customer Service,
- Corrective Services NSW,
- Youth Justice NSW,
- the Office of the Sheriff of NSW,
- Legal Aid NSW,
- the Office of the Director of Public Prosecutions,
- the Judicial Commission of NSW,
- BOCSAR.

We thank these stakeholders for contributing to this important work.

The NSW Government has committed to closely monitoring the impact of the new offences, with particular regard to Aboriginal people and people in vulnerable circumstances, such as people with mental health impairment and cognitive impairment. This will minimise the risk of any unintended consequences of impacts on vulnerable persons in our community.