



New South Wales

# Crimes Amendment (Custody of Knives) Bill 2022

## 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 create an indictable offence, with a maximum penalty of imprisonment for 4 years, of having custody of a knife in a public place or school.

## 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 the date of assent to the proposed Act.

## Schedule 1 Amendment of Crimes Act 1900 No 40

**Schedule 1** gives effect to the object described in the above overview by re-enacting, in the *Crimes Act 1900*, an offence of having custody of a knife in a public place or school that is currently found in the *Summary Offences Act 1988*, section 11C. In re-enacting the offence, the amendment also—

- (a) doubles the maximum penalty for the offence from 20 penalty units or imprisonment for 2 years, or both, to 40 penalty units or imprisonment for 4 years, or both, and
- (b) provides that previous convictions for knife-related offences must be taken into account as an aggravating factor in determining the appropriate sentence for an offence under the re-enacted provision.

## **Schedule 2      Consequential amendments**

**Schedule 2** amends the following Acts consequential on Schedule 1—

- (a) *Criminal Procedure Act 1986*,
- (b) *Summary Offences Act 1988*.



New South Wales

# Crimes Amendment (Custody of Knives) Bill 2022

## Contents

---

		Page
	1 Name of Act	2
	2 Commencement	2
<b>Schedule 1</b>	<b>Amendment of Crimes Act 1900 No 40</b>	<b>3</b>
<b>Schedule 2</b>	<b>Consequential amendments</b>	<b>4</b>



New South Wales

# Crimes Amendment (Custody of Knives) Bill 2022

No. , 2022

---

## A Bill for

An Act to amend the *Crimes Act 1900* to create an indictable offence, with a maximum penalty of imprisonment for 4 years, of having custody of a knife in a public place or school; and to make consequential amendments to related legislation.

---

**The Legislature of New South Wales enacts—**

1

**1 Name of Act**

2

This Act is the *Crimes Amendment (Custody of Knives) Act 2022*.

3

**2 Commencement**

4

This Act commences on the date of assent to this Act.

5

## Schedule 1 Amendment of Crimes Act 1900 No 40

### Section 547F

Insert after section 547E—

#### 547F Custody of knife in public place or school

- (1) A person must not, without reasonable excuse, proof of which lies on the person, have in the person's custody a knife in a public place or a school.  
Maximum penalty—40 penalty units or imprisonment for 4 years, or both.
- (2) Without limitation, it is a reasonable excuse for this section for a person to have custody of a knife if—
  - (a) the custody is reasonably necessary in all the circumstances for any of the following—
    - (i) the lawful pursuit of the person's occupation, education or training,
    - (ii) the preparation or consumption of food or drink,
    - (iii) participation in a lawful entertainment, recreation or sport,
    - (iv) the exhibition of knives for retail or other trade purposes,
    - (v) an organised exhibition by knife collectors,
    - (vi) the wearing of an official uniform,
    - (vii) genuine religious purposes, or
  - (b) the custody is reasonably necessary in all the circumstances during travel to or from or incidental to an activity referred to in paragraph (a), or
  - (c) the custody is of a kind prescribed by the regulations.
- (3) However, it is not a reasonable excuse for this section for a person to have custody of a knife only for self-defence or the defence of another person.
- (4) Without limiting the *Crimes (Sentencing Procedure) Act 1999*, section 21A(1)(a) and (2)(d), a previous conviction for a knife-related offence must be taken into account as an aggravating factor in determining the appropriate sentence for an offence under this section.
- (5) The regulations may provide that this section does not apply to, or in relation to, a specified class or description of knife.
- (6) In this section—

**knife**, **public place** and **school** have the same meaning as in the *Summary Offences Act 1988*.

**knife-related offence** means an offence under the following—

  - (a) this section,
  - (b) the *Summary Offences Act 1988*, section 11B or 11E,
  - (c) the *Summary Offences Act 1988*, section 11C before its repeal,
  - (d) another offence punishable on conviction by imprisonment for 2 years or more if a knife was used in the commission of the offence,
  - (e) an offence under a law of the Commonwealth or of another State or Territory punishable on conviction by imprisonment for 2 years or more if a knife was used in the commission of the offence.

<b>Schedule 2</b>	<b>Consequential amendments</b>	1
<b>2.1</b>	<b>Criminal Procedure Act 1986 No 209</b>	2
	<b>Schedule 1 Indictable offences triable summarily</b>	3
	Insert after Table 1, Part 3, item 16D—	4
	<b>16E Custody of knife in public place or school</b>	5
	An offence under the <i>Crimes Act 1900</i> , section 547F.	6
<b>2.2</b>	<b>Summary Offences Act 1988 No 25</b>	7
<b>[1]</b>	<b>Sections 11C and 29A</b>	8
	Omit the sections.	9
<b>[2]</b>	<b>Section 11D Parents who allow children to carry knives</b>	10
	Omit “section 11C” wherever occurring.	11
	Insert instead “the <i>Crimes Act 1900</i> , section 547F”.	12