

First print



New South Wales

Crimes Amendment (Reckless Infliction of Harm) Bill 2012

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* in relation to offences involving the reckless infliction of grievous bodily harm and reckless wounding.

The *Crimes Amendment Act 2007* replaced malice with recklessness as the fault element in various offences in the *Crimes Act 1900*. The Court of Criminal Appeal held in *Blackwell v Regina* [2011] NSWCCA 93 that the effect of the amendments was that the offence of recklessly inflicting grievous bodily harm now required recklessness as to causing grievous bodily harm, not just some physical harm, as was the case before the amendments.

The Bill provides that a person will be guilty of the offence of recklessly causing grievous bodily harm and related offences if the person causes grievous bodily harm to a person and is reckless as to causing actual bodily harm (and not necessarily grievous bodily harm) to that or any other person.

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 [1]–[6] amend the following provisions to give effect to the object of the Bill as described in the Overview above:

- (a) section 35 (Reckless grievous bodily harm or wounding),
- (b) section 60 (Assault and other actions against police officers),
- (c) section 60A (Assault and other actions against law enforcement officers (other than police officers)),
- (d) section 60E (Assaults etc at schools),
- (e) section 105A (Definitions) for the purposes of specially aggravated break and enter offences in sections 109–113.

In the case of the offence of recklessly wounding or causing grievous bodily harm to a police officer, the Bill makes it clear that recklessness relates to causing actual bodily harm to a police officer or any other person. The Bill makes similar amendments in relation to the same offence against other law enforcement officers and school teachers and students.

Schedule 1 [7] is a transitional provision which provides that the amendments made by the proposed Act only apply to offences committed, or alleged to have been committed, on or after the commencement of the amendments.