



New South Wales

Crimes Amendment (Police and Other Law Enforcement Officers) Bill 2002

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to extend the application of offences relating to stalking, harassing, intimidating or maliciously wounding, or inflicting grievous bodily harm on, a police officer to police officers who are not on duty and are targeted because they are police officers,
- (b) to create offences (with the same level of higher penalties as relate to police officers) relating to assaulting, stalking, harassing, intimidating or maliciously wounding, or inflicting grievous bodily harm on, certain other law enforcement officers,
- (c) to create an offence prohibiting the assault, stalking, harassment or intimidation of persons having a domestic relationship with a police officer or other law enforcement officer (including relatives of such an officer), where the act concerned arises out of the law enforcement officer's duties or

occupation. It will also be an offence to obtain personal information about a person who has a domestic relationship with a police officer or other law enforcement officer for that purpose,

- (d) to create an offence prohibiting the obtaining of personal information about a police officer or other law enforcement officer where it is intended to be used for the purpose of assaulting, stalking, harassing, intimidating, or otherwise harming, a police officer or other law enforcement officer as a consequence of the officer's duties or occupation.

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 or days to be appointed by proclamation.

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

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

Schedule 1 Amendment of Crimes Act 1900

Schedule 1 [2] inserts proposed section 60AA. The proposed section defines the expression *law enforcement officer* for the purposes of the offences in proposed Division 8A of Part 3 of the *Crimes Act 1900*. Law enforcement officers for that purpose will include police officers, the Commissioner and an Assistant Commissioner for the Independent Commission Against Corruption, the Commissioner and an Assistant Commissioner for the Police Integrity Commission, the Commissioner and an Assistant Commissioner for the New South Wales Crime Commission, the Commissioner of Corrective Services, governors of correctional centres, correctional officers, probation and parole officers and certain officers of the Independent Commission Against Corruption, the Police Integrity Commission, the New South Wales Crime Commission and the Department of Juvenile Justice.

Schedule 1 [3] extends the application of offences relating to assaulting, stalking, harassing, intimidating or maliciously wounding, or inflicting grievous bodily harm on, a police officer to off duty police officers against whom action is taken as a consequence of, or in retaliation for, actions undertaken by them in the execution of their duty or because they are police officers. Officers in these circumstances will

be taken to be acting in the execution of their duty. Currently, the only circumstance in which an officer is taken to be acting in the execution of the officer's duty while off duty is in the case of an assault that arises as a consequence of, or in retaliation for, actions undertaken by the officer in the execution of the officer's duty.

Schedule 1 [4] inserts proposed sections 60A, 60B and 60C.

Proposed section 60A:

- (a) makes it an offence to assault, stalk, harass or intimidate a law enforcement officer (other than a police officer) while in the execution of the officer's duty, with a maximum penalty of 5 years imprisonment (where no actual bodily harm is occasioned), and
- (b) makes it an offence to assault any such officer while in the execution of the officer's duty and occasion actual bodily harm, with a maximum penalty of 7 years imprisonment, and
- (c) makes it an offence to maliciously by any means wound any such officer, or inflict grievous bodily harm on any such officer, while in the execution of the officer's duty, with a maximum penalty of 12 years imprisonment.

The circumstances in which actions against any such officer will be taken to occur in the execution of the officer's duty will be the same as those for the same offences relating to police officers.

Proposed section 60B makes it an offence to assault, stalk, harass or intimidate any person with whom a law enforcement officer has a domestic relationship (including a relative) with the intention of causing the officer to fear physical or mental harm, as a consequence of, or in retaliation for, actions undertaken by that law enforcement officer while in the execution of the officer's duty or because the officer is a law enforcement officer (maximum penalty 5 years imprisonment).

It will also be an offence to obtain information about a person with whom a law enforcement officer has a domestic relationship with the intention of using or permitting the use of the information to cause the officer to fear physical or mental harm (maximum penalty 2 years imprisonment).

For the purposes of the proposed offences, such a fear may include the fear of physical or mental harm to the person against whom the actions are taken. An intention to cause fear is established if a person knows the actions are likely to cause fear in the other person. It does not matter whether physical or mental harm was actually feared. The proposed section also defines the persons with whom an officer is taken to have a domestic relationship.

Explanatory note

Proposed section 60C makes it an offence to obtain personal information about a law enforcement officer with the intention of using or permitting the use of the information for the purpose of assaulting, stalking, harassing, intimidating, or otherwise harming, the officer as a consequence of, or in retaliation for, actions undertaken by the officer or because the officer is a law enforcement officer (maximum penalty 2 years imprisonment).

Schedule 1 [1] makes a consequential amendment.

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 sections 60A (1), 60B and 60C of the *Crimes Act 1900* if dealt with summarily. The maximum penalty is to be imprisonment for 2 years, or a fine of 50 penalty units, or both.

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

Schedule 2 [3] makes offences under proposed sections 60A (1), 60B and 60C of the *Crimes Act 1900* Table 2 offences.



New South Wales

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New South Wales

Crimes Amendment (Police and Other Law Enforcement Officers) Bill 2002

No. , 2002

A Bill for

An Act to amend the *Crimes Act 1900* with respect to offences committed against police officers, other law enforcement officers and persons associated with police officers and other law enforcement officers; to amend consequentially the *Criminal Procedure Act 1986*; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Crimes Amendment (Police and Other Law Enforcement Officers) Act 2002</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed 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
4 Amendment of Criminal Procedure Act 1986 No 209	10
The <i>Criminal Procedure Act 1986</i> is amended as set out in Schedule 2.	11

Schedule 1	Amendment of Crimes Act 1900	1	
	(Section 3)	2	
[1]	Part 3, Division 8	3	
	Omit the heading. Insert instead:	4	
	Division 8	Assaults	5
[2]	Part 3, Division 8A	6	
	Insert before section 60:	7	
	Division 8A	Assaults and other actions against police and other law enforcement officers	8
			9
60AA	Meaning of “law enforcement officer”	10	
	In this Division:	11	
	<i>law enforcement officer</i> means:	12	
	(a) a police officer, or	13	
	(b) the Commissioner for the Independent Commission Against Corruption or an Assistant Commissioner for that Commission, or	14	
		15	
		16	
	(c) an officer of the Independent Commission Against Corruption, within the meaning of the <i>Independent Commission Against Corruption Act 1988</i> , who performs investigation functions, or	17	
		18	
		19	
		20	
	(d) the Commissioner for the Police Integrity Commission or an Assistant Commissioner for that Commission, or	21	
		22	
	(e) an officer of the Police Integrity Commission, within the meaning of the <i>Police Integrity Commission Act 1996</i> , who performs investigation or confiscation functions, or	23	
		24	
		25	
	(f) the Commissioner for the New South Wales Crime Commission or an Assistant Commissioner for that Commission, or	26	
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- (g) a member of staff of the New South Wales Crime Commission, within the meaning of the *New South Wales Crime Commission Act 1985*, who performs investigation or confiscation functions, or 1
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- (h) the Commissioner of Corrective Services, or 5
- (i) governors of correctional centres, correctional officers and probation and parole officers, within the meaning of the *Crimes (Administration of Sentences) Act 1999*, or 6
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8
- (j) an officer of the Department of Juvenile Justice who works with children who have, or are alleged to have, committed offences and who is employed at or works from a community centre or children's detention centre, or 9
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- (k) an officer of the Department of Juvenile Justice who is involved in the conduct of youth justice conferences. 14
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[3] Section 60 Assault and other actions against police officers 16

Omit section 60 (4). Insert instead: 17

- (4) For the purposes of this section, an action is taken to be carried out in relation to a police officer while in the execution of the officer's duty, even though the police officer is not on duty at the time, if it is carried out: 18
19
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21
 - (a) as a consequence of, or in retaliation for, actions undertaken by that police officer in the execution of the officer's duty, or 22
23
24
 - (b) because the officer is a police officer. 25

[4] Sections 60A, 60B and 60C 26

Insert after section 60: 27

60A Assault and other acts against law enforcement officers (other than police officers) 28
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- (1) A person who assaults, stalks, harasses or intimidates a law enforcement officer (other than a police officer) while in the execution of the officer's duty, although no actual bodily harm is occasioned to the officer, is liable to imprisonment for 5 years. 30
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33
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(2) A person who assaults a law enforcement officer (other than a police officer) while in the execution of the officer's duty, and by the assault occasions actual bodily harm, is liable to imprisonment for 7 years.	1 2 3 4
(3) A person who maliciously by any means:	5
(a) wounds a law enforcement officer (other than a police officer), or	6 7
(b) inflicts grievous bodily harm on a law enforcement officer (other than a police officer),	8 9
while in the execution of the officer's duty is liable to imprisonment for 12 years.	10 11
(4) For the purposes of this section, an action is taken to be carried out in relation to a law enforcement officer while in the execution of the officer's duty, even though the officer is not on duty at the time, if it is carried out:	12 13 14 15
(a) as a consequence of, or in retaliation for, actions undertaken by that officer in the execution of the officer's duty, or	16 17 18
(b) because the officer is a law enforcement officer.	19
60B Actions against third parties connected with law enforcement officers	20 21
(1) A person who assaults, stalks, harasses or intimidates any person with whom a law enforcement officer has a domestic relationship, with the intention of causing the law enforcement officer to fear physical or mental harm:	22 23 24 25
(a) as a consequence of, or in retaliation for, actions undertaken by the law enforcement officer in the execution of the officer's duty, or	26 27 28
(b) because the law enforcement officer is a law enforcement officer,	29 30
is liable to imprisonment for 5 years.	31
(2) A person who obtains personal information about a person with whom a law enforcement officer has a domestic relationship, with the intention of using or permitting the use of the information to cause the officer to fear physical or mental harm:	32 33 34 35

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- (a) as a consequence of, or in retaliation for, actions undertaken by the law enforcement officer in the execution of the officer's duty, or
- (b) because the law enforcement officer is a law enforcement officer,
- is liable to imprisonment for 2 years.
- (3) For the purposes of this section, causing a law enforcement officer to fear physical or mental harm includes causing the officer to fear physical or mental harm to another person with whom he or she has a domestic relationship.
- (4) For the purposes of this section, a person intends to cause fear of physical or mental harm if he or she knows that the conduct is likely to cause fear in the other person.
- (5) For the purposes of this section, the prosecution is not required to prove that the person alleged to have been assaulted, stalked, harassed or intimidated, or the law enforcement officer, actually feared physical or mental harm.
- (6) In this section, a law enforcement officer has a ***domestic relationship*** with another person if the officer:
- (a) is or has been married to the other person, or
- (b) has or has had a de facto relationship, within the meaning of the *Property (Relationships) Act 1984*, with the other person, or
- (c) has or has had an intimate personal relationship with the other person, whether or not the intimate personal relationship involves or has involved a relationship of a sexual nature, or
- (d) is living or has lived in the same household or other residential facility as the other person, or
- (e) has or has had a relationship involving his or her dependence on the ongoing paid or unpaid care of the other person, or
- (f) is or has been a relative (within the meaning of section 4 (6)) of the other person.

60C	Obtaining of personal information about law enforcement officers	1
	A person who obtains personal information about a law enforcement officer, with the intention of using or permitting the use of the information for the purpose of assaulting, stalking, harassing, intimidating, or otherwise harming, the officer:	2
		3
		4
		5
		6
	(a) as a consequence of, or in retaliation for, actions undertaken by the law enforcement officer in the execution of the officer's duty, or	7
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	(b) because the officer is a law enforcement officer,	10
	is liable to imprisonment for 2 years.	11

Schedule 2	Amendment of Criminal Procedure Act 1986	1
		2
	(Section 4)	3
[1]	Section 28 Maximum penalties for Table 2 offences	4
	Insert “60A (1), 60B, 60C” after “60 (1),” in section 28 (2) (a).	5
[2]	Schedule 1 Indictable offences triable summarily	6
	Insert “60A (2),” after “60 (2),” in clause 2 of Part 1 of Table 1.	7
[3]	Schedule 1, Table 2	8
	Insert “60A (1), 60B, 60C” after “60 (1),” in clause 1 of Part 1.	9