



New South Wales

# Crimes Amendment (Protection of Criminal Defence Lawyers) Act 2022 No 70

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New South Wales

# Crimes Amendment (Protection of Criminal Defence Lawyers) Act 2022 No 70

Act No 70, 2022

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An Act to amend the *Crimes Act 1900* to extend offences protecting judges and persons connected with judicial proceedings from threats, intimidation and reprisals to also protect criminal defence lawyers; and to make consequential amendments to other Acts. [Assented to 25 November 2022]

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

**1 Name of Act**

This Act is the *Crimes Amendment (Protection of Criminal Defence Lawyers) Act 2022*.

**2 Commencement**

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

## Schedule 1 Amendment of Crimes Act 1900 No 40

**[1] Section 322, heading**

Omit the heading. Insert instead—

**322 Threats or intimidation—judges and other persons connected with judicial proceedings**

**[2] Section 322**

Omit “A person who threatens to do or cause, or who does”.

Insert instead “A person who, without reasonable excuse, threatens to do or cause, or does”.

**[3] Section 322(e)**

Insert at the end of section 322(d)—

or

- (e) intending to influence a person in the person’s conduct as an Australian legal practitioner acting—
  - (i) for a defendant in a criminal matter, or
  - (ii) in connection with criminal proceedings,

**[4] Section 322(2)**

Insert at the end of section 322—

- (2) In this section—

*reasonable excuse* includes—

- (a) making, or threatening to make, a complaint about a person to a person or body acting in an official capacity, including the following—
  - (i) a professional body,
  - (ii) the Judicial Commission of New South Wales,
  - (iii) the NSW Legal Services Commissioner, and
- (b) ending, or threatening to end, a retainer.

**[5] Section 324 Increased penalty if serious indictable offence involved**

Omit “322”. Insert instead “322(1)”.

**[6] Section 324**

Omit “(offences concerning interference with witnesses, jurors, judicial officers and public justice officials)”.

**[7] Section 326, heading**

Omit the heading. Insert instead—

**326 Reprisals—judges and other persons connected with judicial proceedings**

**[8] Section 326(1)**

Omit “A person who threatens to do or cause, or who does”.

Insert instead “A person who, without reasonable excuse, threatens to do or cause, or does”.

**[9] Section 326(1)(d)**

Insert at the end of section 326(1)(c)—

or

- (d) as an Australian legal practitioner acting—
  - (i) for a defendant in a criminal matter, or
  - (ii) in connection with criminal proceedings,

**[10] Section 326(4)**

Insert after section 326(3)—

(4) In this section—

*reasonable excuse* includes—

- (a) making, or threatening to make, a complaint about a person to a person or body acting in an official capacity, including the following—
  - (i) a professional body,
  - (ii) the Judicial Commission of New South Wales,
  - (iii) the NSW Legal Services Commissioner, and
- (b) ending, or threatening to end, a retainer.

**[11] Section 428B Offences of specific intent to which Part applies**

Omit the matter relating to section 322 from the Table, paragraph (a). Insert instead—

322(1)	Threats or intimidation—judges and other persons connected with judicial proceedings
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## **Schedule 2 Amendment of other Acts**

### **2.1 Criminal Procedure Act 1986 No 209**

#### **Schedule 1 Indictable offences triable summarily**

Omit “322” from Table 1, clause 15(1). Insert instead “322(1)”.

### **2.2 Evidence Act 1995 No 25**

#### **Section 129 Exclusion of evidence of reasons for judicial etc decisions**

Omit “322” from section 129(5)(a)(i). Insert instead “322(1)”.

[Second reading speech made in—

Legislative Assembly on 19 October 2022

Legislative Council on 16 November 2022]