



New South Wales

# Crimes Amendment (Child Neglect) Bill 2004

## 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 revise child neglect offences under that Act. The Bill also makes a consequential amendment to the *Criminal Procedure Act 1986*.

## 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 to be appointed by proclamation.

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

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

## **Schedule 1 Amendment of Crimes Act 1900**

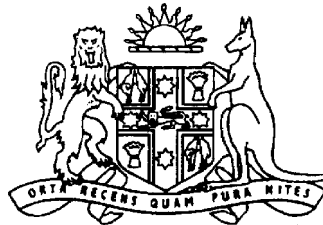
**Schedule 1 [1]** substitutes section 43 which deals with the offence of unlawful abandonment or exposure of a child under 7 years of age. The essential features and maximum penalty for the offence are retained, but the terms of the offence are being revised to replace the word “unlawful” and make other changes in line with the terminology of the new child neglect offence in proposed section 43A.

**Schedule 1 [2]** inserts section 43A to make it an offence if a person who has parental responsibility for a child under 16 years of age intentionally or recklessly fails to provide the child with the necessities of life, and thereby causes a danger of death or of serious injury to the child. The maximum penalty for this new child neglect offence is imprisonment for 5 years.

**Schedule 1 [3]** amends section 44 to remove references to a child or ward in the offence under that section since children and wards will now be covered by the new child neglect offence in proposed section 43A.

## **Schedule 2 Consequential amendment of Criminal Procedure Act 1986**

**Schedule 2** enables the new child neglect offence to be dealt with summarily unless the prosecutor or the accused elects otherwise. This is in line with the procedure for offences against sections 43 and 44 of the *Crimes Act 1900*.



New South Wales

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New South Wales

# Crimes Amendment (Child Neglect) Bill 2004

No. , 2004

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## A Bill for

An Act to amend the *Crimes Act 1900* with respect to child neglect offences; and to make a consequential amendment to the *Criminal Procedure Act 1986*.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Crimes Amendment (Child Neglect) Act 2004</i> .	3
<b>2 Commencement</b>	4
This Act commences on a day to be appointed by proclamation.	5
<b>3 Amendment of Crimes Act 1900 No 40</b>	6
The <i>Crimes Act 1900</i> is amended as set out in Schedule 1.	7
<b>4 Consequential amendment of Criminal Procedure Act 1986 No 209</b>	8
The <i>Criminal Procedure Act 1986</i> is amended as set out in Schedule 2.	9
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**Schedule 1 Amendment of Crimes Act 1900**

(Section 3)

**[1] Section 43**

Omit the section. Insert instead:

**43 Abandoning or exposing a child under 7 years**

A person who, without reasonable excuse, intentionally abandons or exposes a child under 7 years of age is guilty of an offence if it causes a danger of death or of serious injury to the child.

Maximum penalty: Imprisonment for 5 years.

**[2] Section 43A**

Insert after section 43:

**43A Failure of persons with parental responsibility to care for child**

(1) In this section:

*child* means a child under 16 years of age.

*parental responsibility* means the duties, powers, responsibilities and authority in respect of a child that, by law, parents have in relation to their children.

(2) A person:

(a) who has parental responsibility for a child, and

(b) who, without reasonable excuse, intentionally or recklessly fails to provide the child with the necessities of life,

is guilty of an offence if the failure causes a danger of death or of serious injury to the child.

Maximum penalty: Imprisonment for 5 years.

**[3] Section 44 Not providing wife, child or servant with food etc**

Omit “, child, ward” wherever occurring.

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**Schedule 2 Consequential amendment of Criminal  
Procedure Act 1986**

(Section 4)

**Schedule 1 Indictable offences triable summarily**

Insert “, 43A” after “43” in item 2 of Table 1.

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