



New South Wales

Crimes Amendment (Assault of Emergency Services Workers—3 Strikes Sentencing) Bill 2020

Explanatory note

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

Overview of Bill

The object of this Bill is to establish minimum penalties for assaults and certain other offences against emergency services workers.

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[3] defines the term *emergency services worker* for the purposes of Part 3, Division 8A of the *Crimes Act 1900*. The definition includes persons previously included in the definition of law enforcement officers, such as police officers and correctional officers, and includes new classes of persons, such as firefighters, paramedics, medical practitioners, nurses and midwives. **Schedule 1[1]–[2], [6]–[12] and [14]** make consequential amendments.

Schedule 1[4] establishes 3 tiers of offences against emergency services workers as follows—

- (a) Tier 1 offence—assault, throw a missile at, stalk, harass or intimidate an emergency services worker while in the execution of the worker’s duty, without causing actual bodily harm,

- (b) Tier 2 offence—assault an emergency services worker while in the execution of the worker’s duty, causing actual bodily harm,
- (c) Tier 3 offence—wound or cause grievous bodily harm to an emergency services worker while in the execution of the worker’s duty, and is reckless as to causing actual bodily harm to the worker or another person.

Schedule 1[5] makes a consequential repeal.

Schedule 1[13] establishes minimum penalties for the offences against emergency services workers in Part 3, Division 8A of the *Crimes Act 1900*. The proposed sentencing scheme provides for increased minimum penalties for subsequent offences.



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New South Wales

Crimes Amendment (Assault of Emergency Services Workers—3 Strikes Sentencing) Bill 2020

No. _____, 2020

A Bill for

An Act to amend the *Crimes Act 1900* with respect to certain offences against emergency services workers.

The Legislature of New South Wales enacts—

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1 Name of Act

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This Act is the *Crimes Amendment (Assault of Emergency Services Workers—3 Strikes Sentencing) Act 2020*.

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2 Commencement

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

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Schedule 1	Amendment of Crimes Act 1900 No 40	1
[1] Part 3, Division 8A, heading		2
Omit “and other law enforcement officers”.		3
Insert instead “and other emergency services workers”.		4
[2] Section 60AA, heading		5
Omit the heading. Insert instead—		6
60AA Meaning of “emergency services worker” and “law enforcement officer”		7
[3] Section 60AA, definition of “emergency services worker”		8
Insert before the definition of <i>law enforcement officer</i> —		9
<i>emergency services worker</i> means—		10
(a) a law enforcement officer, or		11
(b) a member of a fire brigade under the <i>Rural Fires Act 1997</i> or the <i>Fire and Rescue NSW Act 1989</i> or of another official firefighting unit, including a unit from outside the State, or		12
(c) a paramedic, or		13
(d) a medical practitioner, nurse or midwife, or		14
(e) a class of emergency services worker prescribed by the regulations.		15
[4] Section 60		18
Omit the section. Insert instead—		19
60 Assault and other actions against emergency services workers		20
(1) Tier 1 offence		21
A person who assaults, throws a missile at, stalks, harasses or intimidates an emergency services worker while in the execution of the worker’s duty, although no actual bodily harm is occasioned to the worker, is guilty of an offence.		22
Maximum penalty—		23
(a) if the offence occurred during a public disorder—7 years imprisonment, or		24
(b) otherwise—5 years imprisonment.		25
(2) Tier 2 offence		26
A person who assaults an emergency services worker while in the execution of the worker’s duty, and by the assault occasions actual bodily harm, is guilty of an offence.		27
Maximum penalty—		28
(a) if the offence occurred during a public disorder—9 years imprisonment, or		29
(b) otherwise—7 years imprisonment.		30
(3) Tier 3 offence		31
A person who by any means—		32
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	(a) wounds or causes grievous bodily harm to an emergency services worker while in the execution of the worker’s duty, and	1 2
	(b) is reckless as to causing actual bodily harm to that worker or any other person,	3 4
	is guilty of an offence.	5
	Maximum penalty—	6
	(a) if the offence occurred during a public disorder—14 years imprisonment, or	7 8
	(b) otherwise—12 years imprisonment.	9
	(4) For the purposes of this section, an action is taken to be carried out in relation to an emergency services worker while in the execution of the worker’s duty, even though the worker is not on duty at the time, if it is carried out—	10 11 12
	(a) as a consequence of, or in retaliation for, actions undertaken by that emergency services worker in the execution of the worker’s duty, or	13 14
	(b) because the worker is an emergency services worker.	15
[5]	Section 60A Assault and other actions against law enforcement officers (other than police officers)	16 17
	Omit the section.	18
[6]	Section 60B, heading	19
	Omit “law enforcement officers”. Insert instead “emergency services workers”.	20
[7]	Section 60B(1), (2) and (3)	21
	Omit “a law enforcement officer” wherever occurring.	22
	Insert instead “an emergency services worker”.	23
[8]	Section 60B(1), (2) and (5)	24
	Omit “the law enforcement officer” wherever occurring.	25
	Insert instead “the emergency services worker”.	26
[9]	Section 60B(1)(a) and (2)(a)	27
	Omit “the officer’s” wherever occurring. Insert instead “the worker’s”.	28
[10]	Section 60B(2) and (3)	29
	Omit “the officer” wherever occurring. Insert instead “the worker”.	30
[11]	Section 60C, heading	31
	Omit “law enforcement officers”. Insert instead “emergency services workers”.	32
[12]	Section 60C	33
	Omit “a law enforcement officer”, “the officer”, “the law enforcement officer” and “officer’s” wherever occurring.	34 35
	Insert instead “an emergency services worker”, “the worker”, “the emergency services worker” and “worker’s”, respectively.	36 37
[13]	Section 60CA	38
	Insert after section 60C—	39

60CA	Mandatory minimum sentences for offences in this Division—3 strikes sentencing	1
		2
(1)	Section 60 offences	3
	The court is required to impose a sentence on a person guilty of an offence under section 60 that is not less than the following—	4
		5
(a)	Tier 1 offence	6
	in relation to an offence against section 60(1)—	7
	(i) for a second offence against section 60—a period of imprisonment to be served by way of intensive correction in the community, or	8
		9
	(ii) for a third or subsequent offence against section 60—3 months imprisonment,	10
		11
		12
(b)	Tier 2 offence	13
	in relation to an offence against section 60(2)—	14
	(i) for a second offence against section 60—a period of imprisonment to be served by way of intensive correction in the community, or	15
		16
	(ii) for a third or subsequent offence against section 60—6 months imprisonment,	17
		18
		19
(c)	Tier 3 offence	20
	in relation to an offence against section 60(3)—	21
	(i) for a first offence against section 60—a period of imprisonment to be served by way of intensive correction in the community, or	22
		23
	(ii) for a second offence against section 60—6 months imprisonment, or	24
		25
	(iii) for a third or subsequent offence against section 60—12 months imprisonment.	26
		27
(2)	Section 60B offences	28
	The court is required to impose a sentence on a person guilty of an offence under section 60B(1) or (2) that is not less than the following—	29
		30
	(a) for a second offence against section 60B—a period of imprisonment to be served by way of intensive correction in the community,	31
		32
	(b) for a third or subsequent offence against section 60B—3 months imprisonment.	33
		34
(3)	Section 60C offences	35
	The court is required to impose a sentence on a person guilty of an offence under section 60C that is not less than the following—	36
		37
	(a) for a second offence against section 60C—a period of imprisonment to be served by way of intensive correction in the community,	38
		39
	(b) for a third or subsequent offence against section 60C—3 months imprisonment.	40
		41
(4)	Multiple offences in same circumstances	42
	If a person is convicted of 2 or more offences against a section in this Division in the same proceedings and the court is satisfied that the offences arose out of the same set of circumstances, the court may—	43
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- (a) declare that the convictions are taken to have occurred simultaneously,
or 1
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- (b) for the purposes of imposing a sentence under this section, treat all those
convictions as a first, second, third or subsequent offence, accordingly. 3
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- Note.** For example, if a person has previously been convicted of an offence against
section 60 and later is convicted of 3 offences against that section all arising out of the
same circumstances, the court may declare that those 3 convictions are taken to have
occurred simultaneously and treat those convictions as second offences for the
purposes of this section. 5
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- (5) If a person is convicted of an offence against a section in this Division, and the
person had previously been convicted of 2 or more offences against the section
that were dealt with under subsection (4), the court is to have regard to the
earlier court's declaration and sentence the person accordingly. 10
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- Note.** For example, if a sentencing court had previously declared under subsection (4)
that a person's 3 convictions were taken to have occurred simultaneously and the
person's convictions were all treated as first offences, a court sentencing that person
for a later different offence is to treat that later conviction as a second offence. 14
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- (6) **Miscellaneous** 18
- If this section requires a person to be sentenced to a period of imprisonment,
other than a period to be served by way of intensive correction in the
community, nothing in section 21 or any other provision of the *Crimes*
(Sentencing Procedure) Act 1999 or in any other Act or law authorises a court
to impose an intensive correction order, a lesser or no sentence or to impose a
lesser non-parole period. 19
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- (7) Nothing in this section, apart from subsection (6), affects the provisions of the
Crimes (Sentencing Procedure) Act 1999 or another Act or law relating to the
sentencing of offenders. 25
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- (8) Nothing in this section affects the prerogative of mercy. 28
- (9) In determining whether an offence is a second or subsequent offence, the
following are not to be considered— 29
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- (a) an offence occurring before the commencement of this section, 31
- (b) an offence against an emergency services worker of a class prescribed
for the purposes of section 60AA if, at the time of the offence, the class
was not prescribed. 32
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- (10) Despite section 55(1) of the *Crimes (Sentencing Procedure) Act 1999*, a
sentence required to be imposed on an offender under this section is not to be
served concurrently with another sentence of imprisonment. 35
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- (11) In this section— 38
- intensive correction order** has the same meaning as in the *Crimes (Sentencing
Procedure) Act 1999*. 39
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[14] Section 428B Offences of specific intent to which Part applies	1
Omit “Obtaining of personal information about law enforcement officers” from the Table to the section.	2 3
Insert instead “Obtaining of personal information about emergency services workers”.	4