

Act 1994 No. 84

CRIMES (HOME INVASION) AMENDMENT BILL 1994

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Crimes Act 1900 in relation to housebreaking (including burglary), robbery and associated crimes. The Bill creates additional offences (and increased penalties) when crimes of these kinds involve invasive or violent activities.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day or days appointed by the Governor by proclamation published in the Gazette.

Clause 3 is a formal provision giving effect to the Schedule of amendments.

SCHEDULE 1—AMENDMENTS

Aggravated housebreaking (including burglary) and associated crimes

The Bill creates a series of aggravated offences that parallel existing offences of housebreaking (including burglary), and breaking and entering certain other premises, including places of worship. An aggravated offence occurs when the offence is committed in “circumstances of aggravation”. These circumstances involve any of the following:

- (a) being armed with an offensive weapon or instrument;
- (b) being in the company of another person or persons;
- (c) using corporal violence;
- (d) inflicting actual bodily harm;
- (e) depriving a person of liberty.

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An aggravated offence attracts a maximum penalty of 14 years penal servitude if the basic offence attracts a maximum penalty of 10 years, or a maximum penalty of 20 years penal servitude if the basic offence attracts a maximum penalty of 14 years.

See Schedule 1 (7), (8), (9), (10), (11) (b), (12), (13).

Specially aggravated housebreaking (including burglary) and associated crimes

The Bill creates a series of specially aggravated offences that parallel the aggravated offences of housebreaking (including burglary), and breaking and entering certain other premises, including places of worship. A specially aggravated offence occurs when the offence is committed in “circumstances of special aggravation”. These circumstances involve either of the following:

- (a) wounding or inflicting grievous bodily harm;
- (b) being armed with a firearm or other dangerous weapon.

A specially aggravated offence attracts a maximum penalty of 20 years penal servitude if the aggravated offence attracts a maximum penalty of 14 years, or a maximum penalty of 25 years penal servitude if the aggravated offence attracts a maximum penalty of 20 years.

See Schedule 1 (7), (8), (9), (10), (11) (b), (12), (13).

Entering dwellings

The Bill removes the night element of the offence under section 111 of the Crimes Act 1900 of entering a dwelling at night (ie between 9pm and 6am) with intent to commit felony.

See Schedule 1 (11) (a).

Aggravated robbery

The Bill extends the existing crime of robbery with striking (section 95 of the Crimes Act 1900) to cover the infliction of actual bodily harm and the deprivation of liberty.

See Schedule 1 (3).

Robbery with wounding

The Bill specifically extends the existing crime of robbery with wounding (under section 96 of the Crimes Act 1900) to cover the infliction of grievous bodily harm.

See Schedule 1 (4).

Aggravated robbery with firearms and certain other weapons

The Bill creates an aggravated offence of robbery while armed with a firearm or other dangerous weapon, which parallels an existing offence (under section 97 of the Crimes Act 1900). The aggravated offence attracts a maximum penalty of 25 years penal servitude.

See Schedule 1 (5).

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Robbery in company

The Bill alters the existing crime of robbery in company with a person armed with an offensive weapon or instrument (under section 98 of the Crimes Act 1900) so that it covers robbery in company with any person (whether or not armed).

See Schedule 1 (6).

Firearms and other dangerous weapons

The Bill inserts a definition of “dangerous weapon”, which means a firearm (as defined in the Firearms Act 1989), or a prohibited weapon or prohibited article (within the meaning of the Prohibited Weapons Act 1989), or a spear gun. This definition is used in provisions being inserted by the Bill. Amendments are also made to ensure that existing references in the Crimes Act 1900 to weapons or offensive weapons extend to dangerous weapons as so defined.

See Schedule 1 (2).

Machinery and consequential amendments

The Bill makes machinery and consequential amendments, including provisions enabling the jury to convict of a lesser offence in cases where circumstances of aggravation are alleged.

See Schedule 1 (1), (5), (14), (15), (16).
