



New South Wales

Crimes Amendment (Custody of Knives) Bill 2022

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 create an indictable offence, with a maximum penalty of imprisonment for 4 years, of having custody of a knife in a public place or school.

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 gives effect to the object described in the above overview by re-enacting, in the *Crimes Act 1900*, an offence of having custody of a knife in a public place or school that is currently found in the *Summary Offences Act 1988*, section 11C. In re-enacting the offence, the amendment also—

- (a) doubles the maximum penalty for the offence from 20 penalty units or imprisonment for 2 years, or both, to 40 penalty units or imprisonment for 4 years, or both, and
- (b) provides that previous convictions for knife-related offences must be taken into account as an aggravating factor in determining the appropriate sentence for an offence under the re-enacted provision.

Schedule 2 Consequential amendments

Schedule 2 amends the following Acts consequential on Schedule 1—

- (a) *Criminal Procedure Act 1986*,
- (b) *Summary Offences Act 1988*.



New South Wales

Crimes Amendment (Custody of Knives) Bill 2022

Contents

		Page
	1 Name of Act	2
	2 Commencement	2
Schedule 1	Amendment of Crimes Act 1900 No 40	3
Schedule 2	Consequential amendments	4



New South Wales

Crimes Amendment (Custody of Knives) Bill 2022

No. _____, 2022

A Bill for

An Act to amend the *Crimes Act 1900* to create an indictable offence, with a maximum penalty of imprisonment for 4 years, of having custody of a knife in a public place or school; and to make consequential amendments to related legislation.

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Crimes Amendment (Custody of Knives) Act 2022*.

3

2 Commencement

4

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

5

Schedule 1 Amendment of Crimes Act 1900 No 40

Section 547F

Insert after section 547E—

547F Custody of knife in public place or school

- (1) A person must not, without reasonable excuse, proof of which lies on the person, have in the person's custody a knife in a public place or a school.
Maximum penalty—40 penalty units or imprisonment for 4 years, or both.
- (2) Without limitation, it is a reasonable excuse for this section for a person to have custody of a knife if—
 - (a) the custody is reasonably necessary in all the circumstances for any of the following—
 - (i) the lawful pursuit of the person's occupation, education or training,
 - (ii) the preparation or consumption of food or drink,
 - (iii) participation in a lawful entertainment, recreation or sport,
 - (iv) the exhibition of knives for retail or other trade purposes,
 - (v) an organised exhibition by knife collectors,
 - (vi) the wearing of an official uniform,
 - (vii) genuine religious purposes, or
 - (b) the custody is reasonably necessary in all the circumstances during travel to or from or incidental to an activity referred to in paragraph (a), or
 - (c) the custody is of a kind prescribed by the regulations.
- (3) However, it is not a reasonable excuse for this section for a person to have custody of a knife only for self-defence or the defence of another person.
- (4) Without limiting the *Crimes (Sentencing Procedure) Act 1999*, section 21A(1)(a) and (2)(d), a previous conviction for a knife-related offence must be taken into account as an aggravating factor in determining the appropriate sentence for an offence under this section.
- (5) The regulations may provide that this section does not apply to, or in relation to, a specified class or description of knife.
- (6) In this section—

knife, **public place** and **school** have the same meaning as in the *Summary Offences Act 1988*.

knife-related offence means an offence under the following—

 - (a) this section,
 - (b) the *Summary Offences Act 1988*, section 11B or 11E,
 - (c) the *Summary Offences Act 1988*, section 11C before its repeal,
 - (d) another offence punishable on conviction by imprisonment for 2 years or more if a knife was used in the commission of the offence,
 - (e) an offence under a law of the Commonwealth or of another State or Territory punishable on conviction by imprisonment for 2 years or more if a knife was used in the commission of the offence.

Schedule 2	Consequential amendments	1
2.1	Criminal Procedure Act 1986 No 209	2
	Schedule 1 Indictable offences triable summarily	3
	Insert after Table 1, Part 3, item 16D—	4
	16E Custody of knife in public place or school	5
	An offence under the <i>Crimes Act 1900</i> , section 547F.	6
2.2	Summary Offences Act 1988 No 25	7
[1]	Sections 11C and 29A	8
	Omit the sections.	9
[2]	Section 11D Parents who allow children to carry knives	10
	Omit “section 11C” wherever occurring.	11
	Insert instead “the <i>Crimes Act 1900</i> , section 547F”.	12