



New South Wales

# Crimes Amendment (Protection of Innocent Accused) Bill 2003

## 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*:

- (a) to prohibit the publication of information that would identify, or would be likely to lead to the identification of, a person accused of having committed a crime before that person is convicted, and
- (b) to provide that a court may order the publication of a notice of acquittal of a person in certain cases.

## 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 3 months after the date of assent, unless commenced sooner by proclamation.

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

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

**Schedule 1** inserts proposed sections 583 and 584 into the *Crimes Act 1900*.

Proposed section 583 makes it an offence to publish any matter that accuses a person of having committed an offence, or, in relation to an offence, identifies a person who is accused of having committed that offence, or is likely to lead to the identification of such a person, before the person has been convicted of that offence or another related offence. The maximum penalty that may be imposed for the commission of the proposed offence is 200 penalty units (currently, \$22,000) or imprisonment for a period not exceeding 2 years or both (in the case of an individual) or 4,000 penalty units (currently \$440,000) (in the case of a corporation). Certain publications are excluded from the operation of the prohibition, including publications authorised by the Commissioner of Police for the purpose of apprehending a person who is accused of having committed an offence.

Proposed section 584 provides that if:

- (a) a person has been charged with an offence, and
- (b) the name of the person and any details of the offence have been published or broadcast in contravention of proposed section 583, and
- (c) the person is acquitted of the offence and not convicted of a related offence,

the court that acquitted the person may make an order directing any person that published or broadcasted the name of the person and any details of the offence to publish or broadcast notice of the acquittal of the person in such manner as the court directs. Failure to comply with such an order is an offence that would carry a maximum penalty of 200 penalty units (currently, \$22,000) or imprisonment for a period not exceeding 2 years or both (in the case of an individual) or 4,000 penalty units (currently \$440,000) (in the case of a corporation).



New South Wales

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New South Wales

# Crimes Amendment (Protection of Innocent Accused) Bill 2003

No. , 2003

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## A Bill for

An Act to amend the *Crimes Act 1900* to prohibit the publication of information relating to a crime that would lead to the identification of a person accused of the crime before that person is convicted; to provide for the publication of a notice of acquittal of a person in certain cases; and for other purposes.

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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 (Protection of Innocent Accused) Act 2003</i> .	3 4
<b>2 Commencement</b>	5
This Act commences 3 months after the date of assent, unless commenced sooner by proclamation.	6 7
<b>3 Amendment of Crimes Act 1900 No 40</b>	8
The <i>Crimes Act 1900</i> is amended as set out in Schedule 1.	9

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## Schedule 1 Amendment of Crimes Act 1900

(Section 3)

### Sections 583 and 584

Insert after section 582:

#### 583 Publication and broadcasting of name of accused persons

(1) In this section:

*matter* includes a picture.

*publish* includes broadcast by radio or television.

(2) A person must not publish any matter that:

(a) accuses a person of having committed an offence, or

(b) in relation to an offence:

(i) identifies a person who is accused of having committed that offence, or

(ii) is likely to lead to the identification of such a person,

before the person has been convicted of that offence or another related offence.

Maximum penalty: 200 penalty units or imprisonment for a period not exceeding 2 years or both (in the case of an individual) or 4,000 penalty units (in the case of a corporation).

(3) This section does not apply to the following:

(a) a publication authorised by the Commissioner of Police for the purpose of apprehending a person who is accused of having committed an offence,

(b) an official law report of the criminal proceedings or any official publication in the course of, and for the purposes of, criminal proceedings relating to the offence concerned,

(c) the supply of transcripts of the criminal proceedings to persons with a genuine interest in those proceedings or for genuine research purposes,

(d) a publication made after the person's death.

- (4) The offence created by this section is an offence of strict liability. 1  
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- (5) Proceedings for an offence against this section may be dealt with: 3  
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- (a) summarily before a Local Court, or 5
- (b) summarily before the Supreme Court in its summary jurisdiction. 6  
7
- 584 Court may order publication of acquittal in certain cases 8**
- (1) If: 9
- (a) a person has been charged with an offence, and 10
- (b) the name of the person and any details of the offence have been published or broadcast in contravention of section 583, and 11  
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- (c) the person is acquitted of the offence and not convicted of a related offence, 14  
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- the court that acquitted the person may make an order directing any person who published or broadcasted the name of the person and any details of the offence to publish or broadcast notice of the acquittal of the person in such manner as the court directs. 16  
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- (2) A person who fails to comply with an order made under subsection (1) is guilty of an offence. 21  
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- Maximum penalty: 200 penalty units or imprisonment for a period not exceeding 2 years or both (in the case of an individual) or 4,000 penalty units (in the case of a corporation). 23  
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- (3) Proceedings for an offence against this section may be dealt with:
- (a) summarily before a Local Court, or
  - (b) summarily before the Supreme Court in its summary jurisdiction.

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