



New South Wales

Crimes Amendment (Animal Cruelty) Bill 2005

Explanatory note

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

Overview of Bill

The object of this Bill is to amend:

- (a) the *Crimes Act 1900* to create a new serious animal cruelty offence, with a maximum penalty of 5 years imprisonment, where the offender intends to inflict severe pain on an animal and kills or causes serious injury or prolonged suffering to the animal, and
- (b) the *Crimes Act 1900* to create a new animal cruelty offence, with a maximum penalty of 5 years imprisonment, where the offender intentionally kills or seriously injures an animal knowing that it is being used for law enforcement purposes or in retaliation for such a use, and
- (c) the *Criminal Procedure Act 1986* to enable the new offences to be dealt with summarily unless the prosecutor otherwise elects, and
- (d) the *Law Enforcement (Powers and Responsibilities) Act 2002* to enable a court that finds certain animal cruelty offences under the *Prevention of Cruelty to Animals Act 1979* to be proven to order that the offender submit to the taking of identification particulars (such as finger-prints) by police.

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 or days 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 amendments to the Acts specified in Schedule 2.

Schedule 1 Amendment of Crimes Act 1900

The Schedule inserts proposed sections 530 and 531 into the *Crimes Act 1900*. Currently, animal cruelty offences are contained in the *Prevention of Cruelty to Animals Act 1979*. The new provisions create new indictable animal cruelty offences with a maximum penalty of 5 years imprisonment.

The new serious animal cruelty offence contained in proposed section 530 is directed at acts of cruelty where the offender intends to inflict severe pain. It is not directed at authorised animal research or other lawful activities, routine agricultural or animal husbandry practices, recognised religious practices, pest extermination or veterinary practice (for which defences are provided) or other circumstances without the overriding intention to inflict severe pain. Such circumstances may be covered by the offences in the *Prevention of Cruelty to Animals Act 1979*. The proposed offence relates to mammals (other than human beings), birds and reptiles. Proposed section 530 makes it an offence, with the intention of inflicting severe pain on an animal:

- (a) to torture, beat or commit any other act of serious cruelty on the animal, and
- (b) to kill, seriously injure or cause prolonged suffering to the animal.

The new offence of harming an animal used by a law enforcement officer in the execution of the officer's duty will relate to dogs, horses and other mammals (other than human beings). Proposed section 531 makes it an offence to intentionally kill or seriously injure an animal knowing that the animal is being used in the execution of the officer's duty or to do so as a consequence of, or in retaliation for, such a use of the animal.

The offences do not prevent the application of the defence of self-defence under the *Crimes Act 1900* (the defence is contained in section 418 of that Act).

Schedule 2 Amendment of other Acts

Schedule 2.1 amends section 268 of, and Table 2 in Schedule 1 to, the *Criminal Procedure Act 1986* to provide that the new indictable animal cruelty offences are to be dealt with summarily by a Local Court unless the prosecutor elects otherwise and that the maximum term of imprisonment that may be imposed for such an offence if dealt with summarily is 2 years.

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Schedule 2.2 amends section 134 of the *Law Enforcement (Powers and Responsibilities) Act 2002* to enable a court which finds an offence proven against a person under section 5 (Cruelty to animals) or section 6 (Aggravated cruelty to animals) of the *Prevention of Cruelty to Animals Act 1979* to order the person to attend a police station and submit to the taking of identification particulars. Such particulars may include the person's photograph, finger-prints and palm-prints.

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First print



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No. , 2005

A Bill for

An Act to amend the Crimes Act 1900, the Criminal Procedure Act 1986 and the Law Enforcement (Powers and Responsibilities) Act 2002 with respect to animal cruelty offences; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Crimes Amendment (Animal Cruelty) Act 2005</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5
3 Amendment of Crimes Act 1900 No 40	6
The <i>Crimes Act 1900</i> is amended as set out in Schedule 1.	7
4 Amendment of other Acts	8
The Acts specified in Schedule 2 are amended as set out in that Schedule.	9
	10

Schedule 1	Amendment of Crimes Act 1900	1
	(Section 3)	2
Sections 530 and 531		3
Insert in appropriate numerical order:		4
530 Serious animal cruelty		5
(1) A person who, with the intention of inflicting severe pain:		6
(a) tortures, beats or commits any other serious act of cruelty on an animal, and		7
(b) kills or seriously injures or causes prolonged suffering to the animal,		8
is guilty of an offence.		9
Maximum penalty: Imprisonment for 5 years.		10
(2) A person is not criminally responsible for an offence against this section if:		11
(a) the conduct occurred in accordance with an authority conferred by or under the <i>Animal Research Act 1985</i> or any other Act or law, or		12
(b) the conduct occurred in the course of or for the purposes of routine agricultural or animal husbandry activities, recognised religious practices, the extermination of pest animals or veterinary practice.		13
(3) In this section:		14
<i>animal</i> means a mammal (other than a human being), a bird or a reptile.		15
531 Killing or seriously injuring animals used for law enforcement		16
(1) A person who intentionally kills or seriously injures an animal:		17
(a) knowing that the animal is being used by a law enforcement officer in the execution of the officer's duty, or		18
(b) as a consequence of, or in retaliation for, the use of the animal by a law enforcement officer while in the execution of the officer's duty,		19
is guilty of an offence.		20
Maximum penalty: Imprisonment for 5 years.		21

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Schedule 1 Amendment of Crimes Act 1900

- (2) In this section: 1
- animal* means a dog, horse or other mammal (other than a human 2
being). 3
- law enforcement officer* means: 4
- (a) a police officer (including a member of the police force of 5
the Commonwealth or another State or Territory), or 6
- (b) any other official of this State, the Commonwealth or 7
another State or Territory who is authorised to use an 8
animal in connection with the detention of persons or the 9
enforcement of the laws of this State, the Commonwealth 10
or another State or Territory. 11

Schedule 2	Amendment of other Acts	1
	(Section 4)	2
2.1	Criminal Procedure Act 1986 No 209	3
[1]	Section 268 Maximum penalties for Table 2 offences	4
	Insert after section 268 (1):	5
	(1A) The maximum term of imprisonment that a Local Court may impose for an offence is, subject to this section, 2 years or the maximum term of imprisonment provided by law for the offence, whichever is the shorter term.	6 7 8 9
[2]	Schedule 1 Indictable offences triable summarily	10
	Insert after Part 2 of Table 2:	11
	Part 2A Other offences under Crimes Act 1900	12
	4C Animal cruelty	13
	An offence under section 530 or 531 of the <i>Crimes Act 1900</i> .	14
2.2	Law Enforcement (Powers and Responsibilities) Act 2002 No 103	15 16
	Section 134 Orders for the taking of identification particulars	17
	Insert after section 134 (5) (c):	18
	(c1) an offence under section 5 or 6 of the <i>Prevention of Cruelty to Animals Act 1979</i> ,	19 20