

[Act 2002 No 45]



New South Wales

# Crimes Amendment (Police and Other Law Enforcement Officers) Bill 2002

## Explanatory note

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

## Overview of Bill

The objects of this Bill are as follows:

- (a) to extend the application of offences relating to stalking, harassing, intimidating or maliciously wounding, or inflicting grievous bodily harm on, a police officer to police officers who are not on duty and are targeted because they are police officers,
  - (b) to create offences (with the same level of higher penalties as relate to police officers) relating to assaulting, stalking, harassing, intimidating or maliciously wounding, or inflicting grievous bodily harm on, certain other law enforcement officers,
  - (c) to create an offence prohibiting the assault, stalking, harassment or intimidation of persons having a domestic relationship with a police officer or other law enforcement officer (including relatives of such an officer), where the act concerned arises out of the law enforcement officer's duties or
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occupation. It will also be an offence to obtain personal information about a person who has a domestic relationship with a police officer or other law enforcement officer for that purpose,

- (d) to create an offence prohibiting the obtaining of personal information about a police officer or other law enforcement officer where it is intended to be used for the purpose of assaulting, stalking, harassing, intimidating, or otherwise harming, a police officer or other law enforcement officer as a consequence of the officer's duties or occupation.

## 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 giving effect to the amendments to the *Crimes Act 1900* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments to the *Criminal Procedure Act 1986* set out in Schedule 2.

## Schedule 1 Amendment of Crimes Act 1900

**Schedule 1 [2]** inserts proposed section 60AA. The proposed section defines the expression *law enforcement officer* for the purposes of the offences in proposed Division 8A of Part 3 of the *Crimes Act 1900*. Law enforcement officers for that purpose will include police officers, the Commissioner and an Assistant Commissioner for the Independent Commission Against Corruption, the Commissioner and an Assistant Commissioner for the Police Integrity Commission, the Commissioner and an Assistant Commissioner for the New South Wales Crime Commission, the Commissioner of Corrective Services, governors of correctional centres, correctional officers, probation and parole officers and certain officers of the Independent Commission Against Corruption, the Police Integrity Commission, the New South Wales Crime Commission and the Department of Juvenile Justice.

**Schedule 1 [3]** extends the application of offences relating to assaulting, stalking, harassing, intimidating or maliciously wounding, or inflicting grievous bodily harm on, a police officer to off duty police officers against whom action is taken as a consequence of, or in retaliation for, actions undertaken by them in the execution of their duty or because they are police officers. Officers in these circumstances will

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be taken to be acting in the execution of their duty. Currently, the only circumstance in which an officer is taken to be acting in the execution of the officer's duty while off duty is in the case of an assault that arises as a consequence of, or in retaliation for, actions undertaken by the officer in the execution of the officer's duty.

**Schedule 1 [4]** inserts proposed sections 60A, 60B and 60C.

Proposed section 60A:

- (a) makes it an offence to assault, stalk, harass or intimidate a law enforcement officer (other than a police officer) while in the execution of the officer's duty, with a maximum penalty of 5 years imprisonment (where no actual bodily harm is occasioned), and
- (b) makes it an offence to assault any such officer while in the execution of the officer's duty and occasion actual bodily harm, with a maximum penalty of 7 years imprisonment, and
- (c) makes it an offence to maliciously by any means wound any such officer, or inflict grievous bodily harm on any such officer, while in the execution of the officer's duty, with a maximum penalty of 12 years imprisonment.

The circumstances in which actions against any such officer will be taken to occur in the execution of the officer's duty will be the same as those for the same offences relating to police officers.

Proposed section 60B makes it an offence to assault, stalk, harass or intimidate any person with whom a law enforcement officer has a domestic relationship (including a relative) with the intention of causing the officer to fear physical or mental harm, as a consequence of, or in retaliation for, actions undertaken by that law enforcement officer while in the execution of the officer's duty or because the officer is a law enforcement officer (maximum penalty 5 years imprisonment).

It will also be an offence to obtain information about a person with whom a law enforcement officer has a domestic relationship with the intention of using or permitting the use of the information to cause the officer to fear physical or mental harm (maximum penalty 2 years imprisonment).

For the purposes of the proposed offences, such a fear may include the fear of physical or mental harm to the person against whom the actions are taken. An intention to cause fear is established if a person knows the actions are likely to cause fear in the other person. It does not matter whether physical or mental harm was actually feared. The proposed section also defines the persons with whom an officer is taken to have a domestic relationship.

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Proposed section 60C makes it an offence to obtain personal information about a law enforcement officer with the intention of using or permitting the use of the information for the purpose of assaulting, stalking, harassing, intimidating, or otherwise harming, the officer as a consequence of, or in retaliation for, actions undertaken by the officer or because the officer is a law enforcement officer (maximum penalty 2 years imprisonment).

**Schedule 1 [1]** makes a consequential amendment.

## **Schedule 2 Amendment of Criminal Procedure Act 1986**

The *Criminal Procedure Act 1986* enables certain indictable offences to be dealt with summarily by a Local Court and prescribes the maximum penalties that may be imposed when those offences are dealt with summarily. An offence listed in Table 1 to Schedule 1 to that Act (a **Table 1 offence**) must be dealt with summarily unless the prosecuting authority or the person charged with the offence elects to have the offence dealt with on indictment. An offence listed in Table 2 to Schedule 1 to that Act (a **Table 2 offence**) must be dealt with summarily unless the prosecuting authority elects to have the offence dealt with on indictment.

**Schedule 2 [1]** prescribes the maximum penalty for an offence under proposed sections 60A (1), 60B and 60C of the *Crimes Act 1900* if dealt with summarily. The maximum penalty is to be imprisonment for 2 years, or a fine of 50 penalty units, or both.

**Schedule 2 [2]** makes an offence under proposed section 60A (2) of the *Crimes Act 1900* a Table 1 offence.

**Schedule 2 [3]** makes offences under proposed sections 60A (1), 60B and 60C of the *Crimes Act 1900* Table 2 offences.