Joint Departmental Brief on the
Youth Justice and Other Legislation Amendment Bill 2021
to the Legal Affairs and Safety Committee

DEPARTMENTS

- Queensland Police Service (QPS)
- Department of Children, Youth Justice and Multicultural Affairs (DCYJMA)

PURPOSE OF THE BILL

The Youth Justice and Other Legislation Amendment Bill 2021 (the Bill) will amend the *Youth Justice Act 1992* (YJA) to:

- introduce a discretion for courts to order GPS electronic monitoring in certain circumstances for youths aged 16 or 17 years as a condition of the youth's bail;
- provide an additional discretionary consideration when determining bail suitability that a parent or guardian, or another person, can indicate a willingness to the court or prescribed police officer that the person will support the youth to comply with bail conditions, or inform QPS or DCYJMA of any relevant changes in circumstances, or inform QPS or DCYJMA of any breach of the bail conditions;
- provide for a presumption against bail for youths charged with a 'prescribed indictable offence' while on bail for an indictable offence/s;
- codify the common law principle that the fact that an offence was committed while the offender was subject to bail for another offence is an aggravating factor in sentencing proceedings;
- include a statement that the community should be protected from recidivist youth offenders in the charter of youth justice principles; and
- clarify that while a lack of accommodation and/or family support can be considered alongside other factors in a bail decision, it cannot be the *sole* determining factor for keeping a youth in custody.

The Bill also amends the *Police Powers and Responsibilities Act 2000* (the PPRA) to:

- strengthen the existing owner onus provisions for hooning offences by allowing the evasion offence notice provisions in Chapter 22 of the PPRA to apply to all other type one vehicle impoundment offences; and
- provide police with the power to stop persons for the purposes of electronic scanning for knives, without reasonable suspicion, in public spaces inside Safe Night Precincts (SNP).

AMENDMENTS IN THE BILL

Amendments to youth justice bail framework

Part 5 of the YJA outlines the bail framework for youths aged 10 to 17 years charged with an offence.

The underpinning policy objective for the amendments in the Bill to Part 5 of the YJA is to provide a strengthened framework for bail decision makers (i.e. courts and prescribed police officers), legal representatives, youths and their families/guardians, with respect to the target cohort of serious recidivist offenders.

The provisions are aimed at promoting and supporting bail compliance.

Importantly, the proposed amendments still ultimately leave it to the bail decision maker to determine suitability for release on bail or what conditions should be imposed on a youth who is deemed suitable for release on bail.

Electronic monitoring devices as a condition of bail for offenders aged 16 and 17 years old in certain circumstances (clause 26 new section 52AA)

The Bill provides the court with the power to impose electronic tracking devices as a condition of bail for certain youth offenders aged 16 or 17 years old. The Bill also permits the imposition of any other condition/s necessary to facilitate the operation of the tracking device. An electronic tracking device will be a Global Positioning System (GPS) ankle bracelet.

The provisions will 'sunset' after two years. It is intended that the use of tracking devices will be subject to a 12-month location-based trial, with the locations prescribed by regulation. A review of the trial will inform future decisions about tracking devices.

The Bill provides a clear authority for QPS officers to fit and remove devices, at the request of the chief executive DCYJMA.

Queensland Corrective Service (QCS) will support the trial by remotely monitoring those who are subject to a tracking device condition.

The Bill includes a clear authority for QCS, at the request of the Chief Executive DCYJMA, to remotely monitor the tracking device, contact the young person by mobile phone in relation to an alert or notification from the tracking device, and give DCYJMA and the QPS information relating to alerts and notifications from the tracking device.

Examples of alerts QCS will contact the young person about include reminding the young person to charge the device and reminding them of their order conditions if they are outside the geographical location requirements of the court order.

For higher level alerts, such as where a device has been removed, or where low-level alerts cannot be resolved, QCS will immediately escalate the matter to the DCYJMA and the QPS who will decide how to respond.

A detailed response model for responding to all different system alerts and notifications will be included in operational protocols.

Consistent with the arrangements for determining other special conditions of bail under the YJA, the court will follow the existing legal pathway, as per existing sections 48AAA, 48AA and 52A of the YJA, to determine whether it is appropriate for release on bail, prior to considering whether a GPS tracking condition may mitigate any residual risk. A prescribed police officer does not have authority to impose an electronic tracking device condition.

The threshold for imposing a tracking device condition is that the youth must be charged with a 'prescribed indictable offence' (as defined in the Bill) and have been previously found guilty of an indictable offence. Prescribed indictable offences are serious in nature and also form the basis of the new presumption against bail. This threshold ensures the tracking device conditions are only imposed for bail granted with respect to serious and repeat offending behaviour.

There are additional suitability considerations relevant to the court's determination of whether to impose a tracking device condition. These include: whether the youth has access to a mobile phone (to answer calls from the monitoring centre), reliable access to electricity in order to charge the monitoring device and their phone, capacity to understand the requirements of wearing a monitoring device (such as charging requirements) as well as whether the youth has support, if necessary, to assist with compliance.

To ensure the court can be informed of these issues, the Bill inserts a new provision that the court must require a suitability assessment to be prepared by the chief executive of DCYJMA, to assist the court to consider: whether the child's personal circumstances make it likely the child will be able to comply with the technical requirements associated with the tracking device condition and any associated conditions. For example:

a) whether the child has the capacity to understand the associated conditions for compliance that comes with electronic monitoring;

b) whether the child has access to a mobile phone to facilitate contact with the tracking device monitoring service, and a power source to keep the device charged;

c) the geographic location of the child's accommodation if released and whether the technological, servicing, and other requirements of a tracking device can be maintained; and

d) any other matters the chief executive considers relevant.

There are also threshold requirements that the youth must reside in a geographical area to be prescribed by regulation, to ensure support services are available to support the youth on bail; and that the tracking device condition can only be imposed by courts in certain geographical areas to be prescribed by regulation, to ensure trained DCYJMA and QPS staff are available to support the court's decision-making and to fit the devices when ordered.

The policy intent for electronic monitoring of recidivist offenders is to deter the youth from committing further offences on bail, facilitate police investigations of breaches of bail conditions, and lower rates of reoffending while on bail to protect the community. However, evidence of the efficacy and cost-effectiveness of the use of tracking devices on children in other jurisdictions is inconsistent, which is why the Government is proceeding by way of a trial. A cross-jurisdictional analysis of other jurisdictions who allow for electronic monitoring is provided at **Attachment 1**.

Taking into consideration the number of recidivist youth offenders aged 16 to 17 years in the trial locations for the period 1 January to 31 December 2020, it is estimated that up to 100 youths may be considered for electronic monitoring (subject to the court's discretion to determine their suitability).

QCS will intensively monitor youths on bail through a new team within the existing Electronic Monitoring and Surveillance Unit (EMSU) at Wacol. Active monitoring involves at least two EMSU officers rostered on 24 hours per day actively reviewing the alerts generated by the system.

Under the response model, EMSU will immediately report any unresolved technical breaches or alerts that cannot be resolved through telephone contact with the youth to DCYJMA and/or the QPS, such as tamper or device removal alerts on the GPS tracker, curfew breaches, location breaches and alerts generated when the device is not adequately charged. The QPS will have operational responsibility for fitting and removing GPS devices, as well as to respond to alerts and alleged breaches of bail conditions.

Parental or other support associated with youth bail (clause 21, subclause (3))

The Bill amends the YJA to insert an additional consideration a court or prescribed police officers may, at their discretion, choose to take into consideration when determining suitability for release on bail, namely: whether a parent or another person has indicated a willingness to do one or more of the following:

- support the child to comply with the conditions imposed on a grant of bail;
- notify the chief executive (youth justice) or a police officer of a change in the child's personal circumstances that may affect their ability to comply with the bail conditions;
- notify the chief executive (youth justice) or a police officer of a breach of the conditions imposed on a grant of bail.

There is no prescribed 'form' the indication of willingness must be provided in. Accordingly, the assurance could be given either in writing or orally at the decision maker's discretion.

The YJA defines 'parent' to mean a parent or guardian of the child, or a person who has lawful custody of a child other than because of the child's detention for an offence or pending a proceeding for an offence; or a person who has the day-to-day care and control of a child.

The youth justice principles (schedule 1 of the YJA – in particular, principles 9(c), 11, 17(c), 21(b), and 21(c)(ii)) indicate the importance of the parents and family of a youth in the youth justice system.

Most youth offenders have parents or guardians who are engaged and provide support to comply with bail conditions and proactively advise youth justice staff or police of any material change in circumstances. For youths who may have disengaged parents or guardians, this amendment aims to increase those parents' or guardians' involvement, to support the youth on bail.

However, the Bill also extends the consideration of support from 'another person' which is deliberately not defined. This other person could be, for example, immediate or extended family, relatives, kin, a neighbour, employer, or support service worker.

The consideration is intended to operate flexibly to reflect the reality that the nature of the support a bail decision maker would consider helpful will vary with each case. For example, the bail decision maker may only have concerns about one specific bail condition, such as attending the next court date if the child has a demonstrated inability to keep track of dates.

This amendment seeks to promote a proactive support model where a parent, guardian or another person has a role in assisting the bail decision maker by stating their ability to support the youth on bail and to seek assistance where the ability of the youth to comply with bail conditions becomes an issue.

A court or prescribed police officer can refuse bail, or indicate that they are inclined to refuse bail, because of an unacceptable risk specified in section 48AAA(2) or (3). In those circumstances, DCYJMA or other relevant government agencies, and funded services, will work together to seek to identify and provide a response that might mitigate the risk. This might include locating a parent willing to provide the necessary supports to the young person as well as establishing other services and supports.

Presumption against bail (clause 24 new section 48AF)

Currently, section 48 of the YJA creates a presumption in favour of bail by requiring a court or prescribed police officer to release the child unless required to keep the child in custody by the YJA (or another Act) or if exercising a discretion to keep the child in custody.

A reverse presumption of bail for youths currently only exists in the YJA for youths who have previously been found guilty of a terrorism offence or is (or has been) subject to a Commonwealth control order (see section 48A). In these circumstances, the youth must show there are exceptional circumstances justifying their release. This arrangement also applies to adults (section 16A of the Bail Act) and is a more stringent threshold than the requirement to 'show cause' under the changes in the Bill.

The Bill inserts a presumption against bail framework into the YJA. The threshold for the presumption against bail to apply is that the youth must have been arrested for allegedly committing a 'prescribed indictable offence' (as defined in the Bill) whilst on bail on a charge for another indictable offence (whether a prescribed indictable offence or not). These alleged offenders will be required to 'show cause' why their detention in custody is not justified.

The *Bail Act* section 16(3) contains the adult framework that triggers a show cause requirement which does not apply to youths under the YJA. Extending the *Bail Act* adult framework to apply to youths was deemed unsuitable due to its wide scope.

The Bill (clause 34) inserts a definition of 'prescribed indictable offence' into the YJA that provides a prescriptive list of offences to fall within the threshold that can be easily identified and referenced. The offences are:

- a life offence (already defined in the YJA to mean an offence for which a person sentenced as an adult would be liable to life imprisonment);
- an offence of a type that, if committed by an adult would make the adult liable to imprisonment for 14 years or more; or
- an offence against the following Criminal Code provisions:
    - 315A (Choking, suffocation or strangulation in a domestic setting)
    - 323 (Wounding)
    - 328A (Dangerous operation of a vehicle)
    - 339 (Assault occasioning bodily harm)
    - 408A(1) where the offender was the driver (Unlawful use or possession of motor vehicles (UUMV));
    - 408A(1A) or (1B) (UUMV with aggravating circumstances);
    - 412 (Attempted robbery)

These specifically identified offences would, if committed by an adult, make the adult liable to imprisonment for seven years or more, but do not otherwise meet the 14 year threshold. These offences have been identified for inclusion by a range of factors, such as the harm or risk of harm caused by the offence, risk to community safety and the prevalence of the offence.

An offence against section 9(1) of the *Drugs Misuse Act 1986* (possession) is excluded from the operation of the presumption against bail framework to ensure a youth can be referred to drug diversion where appropriate.

The Bill explicitly allows the bail decision maker to consider the normal bail criteria in determining whether the youth has shown cause. Existing case law will also be relied upon, subject to the provisions of the YJA. In Queensland the standard of 'show cause' under the *Bail Act* has been held to require a varying level of onus depending on the seriousness of the circumstance.

Clarifying section 48AA(7) of the Youth Justice Act (clause 21, subclause (6))

The Bill does not alter the existing policy position that a lack of accommodation and/or no apparent family support is a consideration that bail decision makers are able to take into consideration; however, this cannot be the *sole* reason a child is kept in custody. The Bill simply clarifies the language in the Bill to make this policy position more readily understood. This amendment was included after some stakeholders identified the current wording was not ideal.

To ensure consistency in language, the clarifying wording is also applied to existing section 48AE (Releasing children whose safety is endangered because of offence) of the YJA by clause 23.

Additional youth justice amendments

Aggravating factor when determining the appropriate sentence (clause 29)

The Bill amends section 150 (Sentencing principles) of the YJA to include a principle that offending whilst on bail aggravates the conduct considered by a court when imposing a sentence.

Amending the Charter of Youth Justice principles (clause 33)

The Bill will also amend the Charter of Youth Justice Principles to clarify that the scope of the first principle extends to protecting the community from recidivist high-risk offenders.

Amendments to the *Police Powers and Responsibilities Act 2000*

Strengthening existing owner onus deeming provisions

Amendments to the PPRA will strengthen existing owner onus deeming provisions for hooning offences by holding the registered owner of the vehicle responsible in circumstances where the hooning offence is dealt with other than by issuing an infringement notice.

The use of, including the theft of motor vehicles and hooning feature routinely in the offending behaviours of serious recidivist youth offenders. In addition to the reckless driving behaviour of individuals, hooning offences are often committed in the context of the gathering of a number of vehicles.

In mass gatherings, offenders may attempt to escape liability by masking their identity or denying being the driver of a vehicle identified in hooning activity. For these reasons, on 6 September 2020, the Honourable Mark Ryan MP, the Minister for Police and Minister for Corrective Services, announced that a re-elected Palaszczuk Government would provide the QPS with advanced camera

technology to record evidence of hooning offences, and enhanced owner onus deeming provisions to help identify the drivers of motor vehicles used in these offences.

Offences that are categorised as 'hooning' are listed in Chapter 4 of the PPRA as type 1 vehicle-related offences. These offences include evade police and any of the following offences committed in circumstances involving a speed trial, a race between motor vehicles or a burn out:

- dangerous operation of a vehicle (section 328A of the Criminal Code);
- careless driving (section 83(1) of the *Transport Operations (Road Use Management) Act 1995* (TORUM));
- organising, promoting or taking part in a race between vehicles, speed trials or speed record attempts (section 85(1) of TORUM); and
- wilfully starting or driving a motor vehicle in a way that makes unnecessary noise or smoke (section 291(1)(b) of the *Transport Operations (Road Use Management – Road Rules) Regulation 2009.*

Current Owner Onus declarations – Police Powers and Responsibilities Act 2000

In 2011, the then Crime and Misconduct Commission (CMC) released '*An Alternative to Pursuit: A review of the evade police provision*', which recommended improvements to the evade policy provisions in light of the implementation by the QPS of a more restrictive pursuits policy. Of significant issue was identifying the drivers of motor vehicles committing these offences. In recommending the establishment of the current evasion offence notice scheme, the report highlighted the practical constraints of owner onus provisions that do not allow for effective police investigations.

In response to these CMC recommendations the Government amended the evasion offence notice provisions within Chapter 22 'Provisions about evading police officers' of the PPRA to ensure that it may be used as an important investigatory tool.

Evasion offence notices are personally served by police officers on an owner of a motor vehicle requiring the owner to make a statutory declaration where the motor vehicle has been involved in an evasion offence. These notices require the owner to provide to prosecuting authorities the information required to conduct an investigation into the identity of the driver of that motor vehicle. This information includes:

a) where the owner was when the evasion offence happened;

b) the usual location of the vehicle when it is not being used;

c) the name and address of each person (a *potential driver*) known by the owner to have access to drive the vehicle when the evasion offence happened; and

d) the way each potential driver has access to drive the vehicle.

The Bill amends the PPRA to strengthen owner onus provisions by expanding the evasion offence notice scheme to apply to all type 1 vehicle-related offences. However, in the case of dangerous operation of a vehicle the provisions will only apply to the simpliciter offence at section 328A(1) of the Criminal Code. This means that a person charged with a dangerous operation of a motor vehicle offence with a circumstance of aggravation, which attracts more significant penalties, will not be statute barred from providing defences owing to any non-compliance with the declaratory provisions of the offence notice scheme.

Replicating the evasion offence notice scheme for all type 1 hooning offences will equip police with an important investigatory tool to prosecute these offences. It will also enable police to take greater advantage of camera-based enforcement of hooning offences

Camera-based enforcement refers to the enforcement of offences that is supported by camera evidence. Camera-based traffic enforcement differs from the camera-detected traffic enforcement conducted by the QPS and the Department of Transport and Main Roads (DTMR) under the Camera Detected Offence Program (CDOP). CDOP offences include, speeding, running a red light, disobeying a no trucks sign, illegally driving a placard load in a tunnel, driving an unregistered vehicle and driving an uninsured vehicle.

A camera-based enforcement system is not capable of automatically detecting an offence. Instead, camera footage can be used as evidence of an offence when viewed by a police officer who makes a determination as to whether an offence has been committed.

Camera-based enforcement need not rely on specially designed, calibrated and tested camera systems in the same way as the CDOP does. Rather a range of cameras could be used, provided the footage collected was sufficiently clear for an enforcement officer to form a reasonable belief that an offence has been committed.

Knife Crime – use of hand held scanners to detect knives on persons

The Bill amends the PPRA to enable police, within the existing boundaries of declared Safe Night Precincts (SNPs) on the Gold Coast, to use hand held scanners to detect knives on a person. A 12-month trial of this power will be conducted in SNPs on the Gold Coast located at Broadbeach (Refer to Map at **Attachment 2**) and Surfers Paradise (Refer to Map at **Attachment 3**).

The PPRA already provides for electronic scanning to be undertaken of persons entering police watch-houses and State buildings. This is considered a non-invasive power.

Using metal detecting scanners to combat knife crime is an established practice in Victoria and South Australia (see Interjurisdictional Comparison at **Attachment 4**). The Victorian approach requires that an area be designated by the Chief Commissioner, or their delegate, based on incidents of violence or disorder in the area in the previous 12 months involving the use of weapons. The South Australian approach allows police to use a metal detector scanner on persons without reasonable suspicion in a declared public precinct.

Likewise, the practice of inspecting bags and scanning patrons is also common at many major sporting events and has long been an accepted part of air travel. Analogously, Queensland motorists accept that random breath testing is a necessary measure to prevent and detect drink driving in the interests of overall community safety.

From 2016-17 to 2019-20, there has been a consistent increase in persons charged with unlawful possession of a knife in Queensland (see Table 1). In 2019-20, some 4,323 persons were charged with unlawfully possessing a knife in a public place or school under section 51 of the *Weapons Act 1990*. This figure is a 13% increase on the 2018-19 period of 3,811 persons charged. This increase in offending was also reflected in the 2018-19 figure which shows an increase of 18% from the 2017-18 period.

Table 2 shows the age group breakdown of those persons charged with unlawfully possessing a knife state-wide in 2019-20. A significant proportion of the offenders were young people. In the age group of 10 to 14 years, there were 241 offenders, and in the age group 15 to 17 years, there were 495 offenders charged with unlawfully possessing a knife.

Table 3 shows a breakdown of the number of persons charged with unlawfully possessing a knife in each of the 15 SNPs. Table 4 shows some select offences where a knife has been used as the primary weapon to commit offences in SNPs.

The use of a knife as the primary weapon, remains statistically significant for offenders committing serious offences state-wide as indicated in Table 5. For example, in 2019-20, 67% of reported unlawful wounding offences were committed with a knife. During this period, 44% of reported going armed in public to cause fear offences were committed with a knife.

The Bill will amend the PPRA to insert a new Part 3A into Chapter 2 to give police the power to stop persons for the purpose of conducting hand held scanning in a public place, within a prescribed SNP. This scanning may occur without the presence of a reasonable suspicion.

The use of hand held scanning enables police to quickly and unobtrusively, identify persons who may be carrying a knife and therefore posing a risk to public safety by passing a metal detecting device over the outside of a person's clothing and belongings.

The amendments will provide a power for a police officer to stop a person for the purposes of scanning. The scanning is quick and non-invasive and involves police passing a hand held metal detection scanner over the outside of a person's clothing and belongings.

There are currently 15 SNPs prescribed in the *Liquor Act 1992*. These are generally CBD areas, characterised by the presence of licensed premises and concentrations of pedestrian traffic, particularly in the evenings and weekends. The nature of these precincts means they function as entertainment hubs and popular leisure areas for young people.

Prior to scanning, police must gain the authorisation of a commissioned police officer or an authorised senior sergeant to conduct scanning activities for a period of 12 hours. The authorised senior sergeant will be an officer, or a class of officer, the Police Commissioner is satisfied possesses the requisite skills to authorise the use of hand held scanning devices.

If the hand held scanner indicates the likely presence of metal on a person or their belongings, police will have the power to require the person to produce any items which may have caused this activation. Police will then have the power to conduct a subsequent scan. If a person fails to comply with this police requirement, or if the subsequent scan continues to indicate the presence of metal, police may search the person under the general search provisions of the PPRA.

The Bill also contains amendments to clarify that the use of a hand held scanner will not be considered an enforcement act under the PPRA. As such, details of each person scanned will not need to be recorded in a register. Without this amendment, a power to require name and address would also be needed. This would be unnecessarily invasive and add time delays to each scanning interaction. Using a hand held scanner is less invasive than other police activities that constitute enforcement acts and is analogous to the use of a police drug detection dog in public places and licensed premises which is also exempt from being an enforcement act.

While a person's personal details won't be recorded, scanning data (for example number of persons scanned, gender, outcome etc.) will be recorded at the conclusion of each scanning operation on a secure QPS database. The data will be updated throughout the trial and immediately available for review. Furthermore, the use of hand held scanners will be recorded on police body worn cameras, as per the Commissioner's written directions. The Commissioner will provide written instructions to officers articulating how the new powers are to be conducted, including any additional safeguards and reporting requirements.

The amendments include several provisions which will protect the rights of persons scanned from any undue inconvenience or embarrassment. They provide that, police must advise a person why they have been stopped, and offer them a notice that explains that the person is in a prescribed area, what the officer is empowered to do in relation to the scanning, and that it is an offence for them to fail to comply.

Furthermore, police must conduct a scan in the least invasive way practicable in the circumstances and detain the person only for as long as is reasonably necessary. This scanning must, if reasonably practicable, be undertaken by a police officer of the same sex as the person. Additionally, if requested the police officer must tell the person their name, rank and station and, if requested, give the person this information in writing.

Table 1: Persons charged with s.51 'Possession of a knife in a public place or a school' of the *Weapons Act 1990* in Queensland

Year	No. charged
2016-17	3,176
2017-18	3,224
2018-19	3,811
2019-20	4,323

Table 2: Age breakdown of persons charged with s.51 'Possession of a knife in a public place or a school' of the *Weapons Act 1990* in Queensland during 2019-20.

Age Group	Male	Female	Not Stated	Total[1]
Under 10	1			1
10 to 14	191	49	1	241
15 to 17	428	67		495
18 to 20	358	76		434
21 to 25	506	138		644
26 to 30	535	137	1	673
31 to 40	912	226	1	1139
41 to 50	484	91		575
51 and over	131	22		153

[1] Unique offence occurrences. Offender may appear in total more than once.

Table 3: Persons charged with s.51 'Possession of a knife in a public place or a school' of the *Weapons Act 1990* in each Safe Night Precinct

Airlie Beach CBD safe night precinct	
2016-17	6
2017-18	6
2018-19	2
2019-20	9
Brisbane CBD safe night precinct	
2016-17	50
2017-18	49
2018-19	95
2019-20	106
Broadbeach CBD safe night precinct	
2016-17	5
2017-18	7
2018-19	9
2019-20	4
Bundaberg CBD safe night precinct	
2016-17	9
2017-18	8
2018-19	9
2019-20	8
Cairns CBD safe night precinct	
2016-17	28
2017-18	22
2018-19	29
2019-20	40
Fortitude Valley safe night precinct	
2016-17	38
2017-18	47
2018-19	64
2019-20	81
Gladstone CBD safe night precinct	
2016-17	2
2017-18	No data found
2018-19	1
2019-20	3
Inner West Brisbane safe night precinct	
2016-17	3
2017-18	3
2018-19	2
2019-20	4
Ipswich CBD safe night precinct	
2016-17	34
2017-18	28
2018-19	47
2019-20	54

Mackay CBD safe night precinct	
2016-17	20
2017-18	18
2018-19	22
2019-20	23
Rockhampton CBD safe night precinct	
2016-17	11
2017-18	18
2018-19	27
2019-20	19
Sunshine Coast safe night precinct	
2016-17	17
2017-18	36
2018-19	40
2019-20	36
Surfers Paradise CBD safe night precinct	
2016-17	39
2017-18	32
2018-19	51
2019-20	60
Toowoomba CBD safe night precinct	
2016-17	22
2017-18	10
2018-19	10
2019-20	19
Townsville CBD safe night precinct	
2016-17	9
2017-18	15
2018-19	18
2019-20	29
Total of all years	**1,445**

Table 4: Select offences involving a knife in all Safe Night Precincts[2]

Reported occurrences where knife used in a SNP	**2016-17**	**2017-18**	**2018-19**	**2019-20**
Homicide		1		2
Armed in public to cause fear	10	10	10	12
Robbery	11	13	47	27
Grievous Bodily Harm	1	1		3
Wounding	9	9	15	10
Serious assault (incl serious assault other)	25	24	17	25
Common assault	1	1		1
Total	**57**	**59**	**89**	**80**

[2] Combined total of all 15 Safe Night Precincts.

Table 5: Select offences involving a knife in Queensland

	2016-17				2017-18				2018-19				2019-20			
	Offences		%		Offences		%		Offences		%		Offences		%	
Offence Group	Knife related	Non-knife related	Knife related	Non-knife related	Knife related	Non-knife related	Knife related	Non-knife related	Knife related	Non-knife related	Knife related	Non-knife related	Knife related	Non-knife related	Knife related	Non-knife related
Armed in public to cause fear	241	293	45.13%	54.87%	255	271	48.48%	51.52%	235	342	40.73%	59.27%	259	324	44.43%	55.57%
Attempted homicide	25	50	33.33%	66.67%	16	18	47.06%	52.94%	23	29	44.23%	55.77%	16	17	48.48%	51.52%
Common assault	60	5951	1.00%	99.00%	54	7010	0.76%	99.24%	68	6918	0.97%	99.03%	72	7080	1.01%	98.99%
Grievous bodily harm	42	409	9.31%	90.69%	43	424	9.21%	90.79%	42	398	9.55%	90.45%	51	403	11.23%	88.77%
Homicide	11	29	27.50%	72.50%	10	31	24.39%	75.61%	21	25	45.65%	54.35%	16	37	30.19%	69.81%
Robbery (armed)	452	428	51.36%	48.64%	483	537	47.35%	52.65%	599	590	50.38%	49.62%	663	600	52.49%	47.51%
Serious assault	954	13117	6.78%	93.22%	761	13595	5.30%	94.70%	871	13617	6.01%	93.99%	850	14044	5.71%	94.29%
Wounding	277	153	64.42%	35.58%	265	180	59.55%	40.45%	334	178	65.23%	34.77%	324	159	67.08%	32.92%
Total	2062	20430	9.17%	90.83%	1887	22066	7.88%	92.12%	2193	22097	9.03%	90.97%	2251	22664	9.03%	90.97%

MONITORING AND OVERSIGHT OF REFORMS

A Deputy Director-General / Executive level, Youth Justice Senior Officer Reference Group (YJSORG), led by the QPS, will provide leadership and oversight of the reforms and other pertinent issues.

Assistant Commissioner Cheryl Scanlon chairs the YJSORG. The YJSORG includes representatives from DCYJMA, Department of Justice and Attorney-General (DJAG), QCS, the Department of the Premier and Cabinet, Queensland Treasury and the Queensland Family and Child Commission.

Assistant Commissioner Scanlon is also leading the Youth Justice Taskforce. The purpose of this Taskforce is to bring together government agency representatives at an operational level. The Taskforce comprises representatives from YJSORG agencies and other government agencies, including the Department of Aboriginal and Torres Strait Islander Partnerships, Department of Education, Queensland Health and others.

Additionally, former QPS Commissioner Bob Atkinson will undertake an independent evaluation on the efficacy of the full suite of reforms over a six-month period. Mr Atkinson will report independently to the new Youth Justice Cabinet Committee.

The DCYJMA Youth Justice Reference Group of key community stakeholders will ensure emergent issues from the sector are brought to the attention of the YJSORG and will contribute to Mr Atkinson's report on progress after six months.

The DCYJMA Youth Justice Program Management Office will gather data, monitor and report on implementation progress of reforms to the YJA and the QPS will do likewise on implementation progress of reforms to the PPRA.

[end]

ATTACHMENT 1

Interjurisdictional analysis electronic monitoring of children pre- and post-conviction					
Jurisdiction	**Electronic monitoring of children**	**Act**	**Pre- or post-conviction**	**Requirements**	
QLD	No	-	-	-	-
NSW	No	-	-	-	-
VIC	No[1]	-	-	-	-
SA	Yes	*Sentencing Act 2017* subject to the *Young Offenders Act 1993*	Post-conviction	When can device be used	Electronic monitoring may be ordered: • if the court imposes a sentence of home detention • as a condition of an intensive correction order • as a condition of a suspended sentence bond • as a condition of temporary or conditional release from the Adelaide Youth Training Centre.
		Bail Act 1985	Pre-conviction	When can device be used	Section 11(2) outlines the conditions of bail that may be granted and includes 'any other condition as to the applicant's conduct that the authority considers should apply while on bail'. The Regulations specify other restrictions that can be imposed include submitting to electronic monitoring (r 8).
WA	Yes	*Young Offenders Act 1994*	Post-conviction	When can device be used (Part 7, Div 7)	If an intensive youth supervision order (IYSO) is made and a sentence of detention imposed—referred to as a conditional release order (CRO)—and: • Offender consents to the CRO; and • Court considers a CRO is suitable for the offender. CROs expire at the end of the term for which the person would have been detained but cannot exceed 12 months.
				Conditions for use of device (s 109B)	When making the CRO, the court must indicate whether the offender is a suitable person to have an electronic monitoring device and conditions requiring the person to remain at specified places for specified periods (s 103(3)). YJ report given to court to inform suitability.

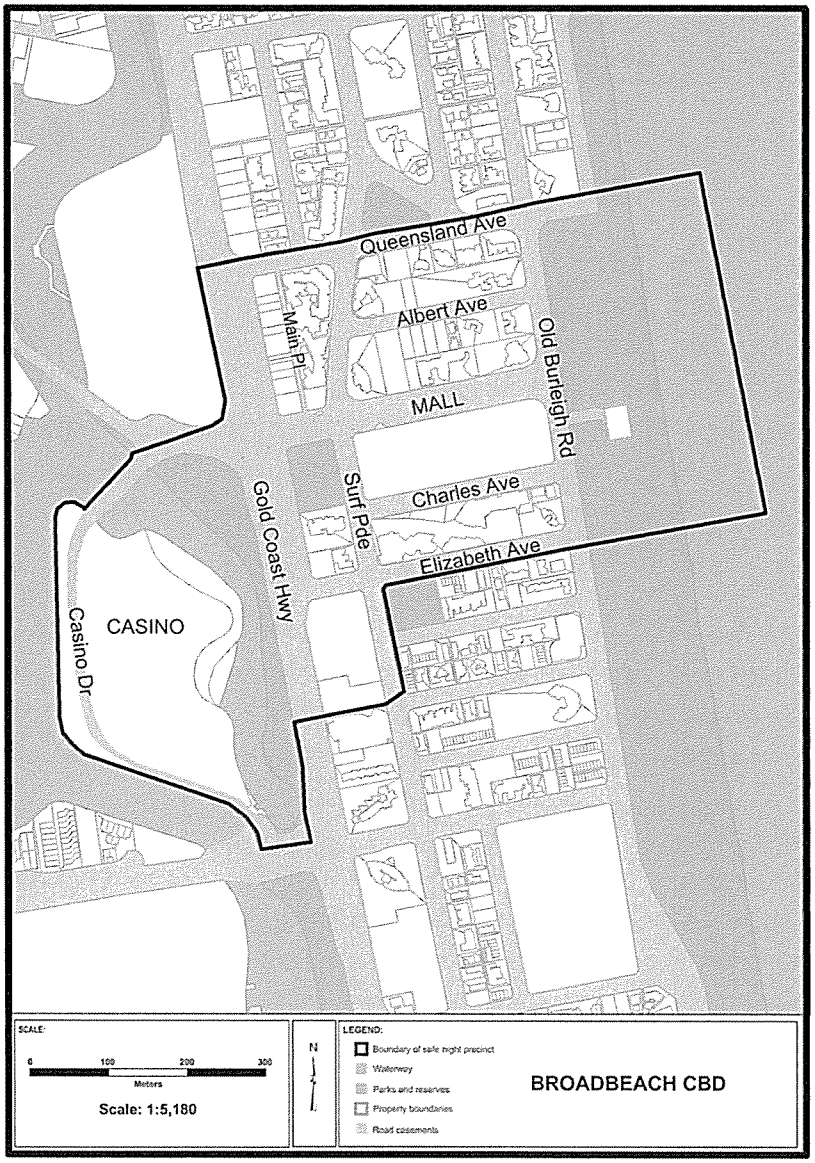
[1] The Children, Youth and Families Amendment (Youth Offender Compliance) Bill 2018 lapsed in the upper house. The Bill would have established a trial of electronic monitoring as a condition on parole orders for certain young people on parole for serious offences.

Interjurisdictional analysis electronic monitoring of children pre- and post-conviction					
Jurisdiction	**Electronic monitoring of children**	**Act**	**Pre- or post-conviction**	**Requirements**	
					If such indication is made, CRO may impose either or both of the following conditions (s 109B): • The offender must wear a device for monitoring purposes; • The offender must wear a device for the purpose of having a body sample taken or detecting the presence of a substance in the body of the offender.
NT	Yes	*Youth Justice Act 2005*	Post-conviction	When can device be used	If an alternative detention order (ADO) is made (s 100). An ADO must specify the place at which the youth is to reside. An ADO cannot exceed 12 months and the offender must consent to the order. ADO can be made if the court is satisfied that: • Suitable arrangements are available for the youth to reside at the premises/place; • The premises/place is suitable for the purposes of the order; • The making of the order is not likely to inconvenience or put at risk other persons living in those premises or at that place or the community generally; and • The youth is a suitable person for alternative detention. YJ report is given to court to inform suitability.
				Conditions for use of device (s 102)	An ADO may include conditions that the youth: • Not leave the premises/place except at times prescribed or otherwise permitted; • Wear or have attached an approved monitoring device and allow the placing, or installation in, and retrieval from, the premises/place of a machine, equipment or device necessary for the efficient operation of the approved monitoring device.
NT cont.		*Bail Act 1982*	Pre-conviction	When can device be used	If bail is granted subject to the condition that the person enter into a conduct agreement (s 27(2)(a)), that conduct agreement may require the accused to (s 27A(ia)):

Interjurisdictional analysis electronic monitoring of children pre- and post-conviction					
Jurisdiction	**Electronic monitoring of children**	**Act**	**Pre- or post-conviction**	**Requirements**	
					• wear or have attached, and to not tamper with, destroy or otherwise interfere with, an approved monitoring device while on bail or a lesser period ordered by the court • allow the placing or installation in, and retrieval from, a specified place of anything necessary for the effective operation of the monitoring device. The court must also take into consideration an assessment report in relation to the suitability of the person before making the order.
				Specific provision for youths	If a conduct agreement requires use of a monitoring device, Part 6AA of the *Youth Justice Act 2005* applies in relation to the accused as if a reference: • to a youth who is subject to a monitoring order were a reference to the accused; and • to a monitoring order were a reference to the conduct agreement. Part 6AA provides powers for community youth justice officers for ensuring the accused person is complying with the conduct agreement. For youths, court must take into consideration the following specific matters when imposing conditions: • the need to ensure the conditions of the grant of bail are no more onerous than are necessary and do not constitute unfair management of the youth; • the age, health, maturity and circumstances of the youth, including the youth's home environment; • the capacity of the youth to comply with the conditions.
ACT	No	-	-	-	-
TAS	No	-	-	-	-

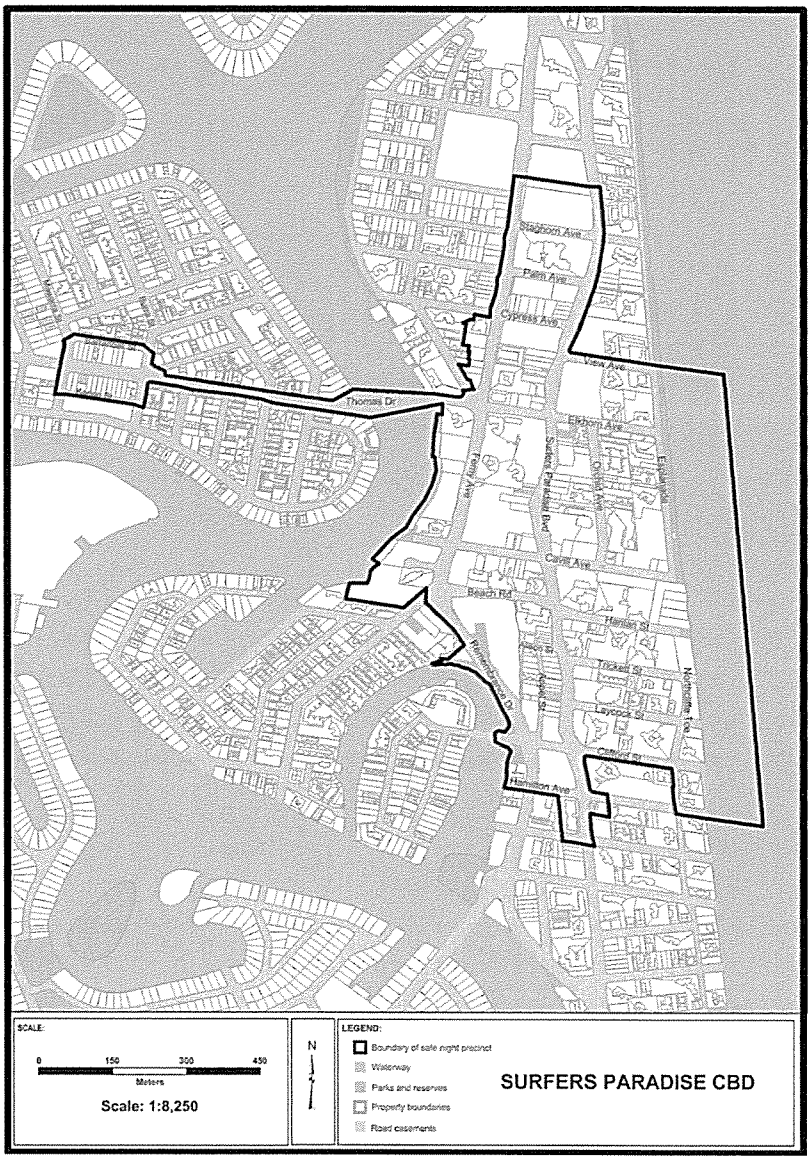
Schedule 4 Broadbeach CBD safe night precinct

section 3B(1)(c)



Schedule 14 Surfers Paradise CBD safe night precinct

section 3B(1)(m)



Interjurisdictional table on metal detector scanning powers[1]

	South Australia	Victoria	Western Australia	Queensland
	Summary Offences Act 1953	***Control of Weapons Act 1990***	***Criminal Investigation Act 2006***	**Youth Justice & Other Legislation Amendment Bill 2021**
Are police powers to scan contained within the same provisions as police search powers?	Yes For metal detector searches in declared public precincts see s 66R 'Power to conduct metal detector searches etc'. For metal detector searches in licensed premises, public place holding an event declared by the Commissioner by published notice, a car parking area for licensed premises see s 72A 'Power to conduct a metal detector searches etc'.	Yes. Section 10G 'Power to search person in designated area' of the *Control of Weapons Act 1990* (Vic) is read with power to scan and search in schedule 1.	No. For a basic search (which includes a metal detector search) based on reasonable suspicion see s 68 'Searching people for things relevant to offences'. For a basic search (which includes a metal detector search) with consent only see s 69 'People and vehicles in public places, search of for security purposes'. See also s 63 'Basic search, meaning of'.	No. The power to use a metal detector on a person is not a search under the *Police Powers and Responsibilities Act 2000* (PPRA). The Bill will introduce a new Part 3A to Chapter 2 of the PPRA to allow scanning of persons in public spaces in Surfers Paradise and Broadbeach safe night precincts. NB. For existing legislation to scan persons at watchhouses and govt buildings see s 550 'Use of electronic screening devices in state buildings' and s 643 'Use of electronic screening devices in watch-houses'.

[1] New South Wales police may use a metal detection device as part of a search with requisite suspicion (see s 30 'Searches generally' of the *Law Enforcement (Police Powers and Responsibilities Act 2002* (NSW)).

	South Australia	Victoria	Western Australia	Queensland
	Summary Offences Act 1953	***Control of Weapons Act 1990***	***Criminal Investigation Act 2006***	**Youth Justice & Other Legislation Amendment Bill 2021**
Threshold for the area that must be met before police can exercise scanning powers.	s 66N - (1) The Attorney-General may, by notice in the Gazette, declare a defined area comprised of 1 or more public places to be a declared public precinct for a period, or periods, specified in the declaration. (2) The Attorney-General may only make a declaration in relation to an area under subsection (1) if satisfied that— (a) there is, during the period or periods specified in the declaration, a reasonable likelihood of conduct in the area posing a risk to public order and safety; and (b) the inclusion of each public place in the area is reasonable having regard to that identified risk.	s 10D – The Chief Commissioner may declare an area to be a designated area, if satisfied: (a) either: (i) more than one incident of violence in the area in the previous 12 months involving use of a weapon; or (ii) an event is to be held in that area and violence or disorder involving the use of weapons have occurred at previous occasions of the event; and (b) there is a likelihood that the violence or disorder will recur. S 10E - An unplanned designation of an area because the Chief Commissioner is satisfied that: (a) there is a likelihood that violence or	s 68 – Reasonable suspicion that a person has in his or her possession or under his or her control anything relevant to an offence. s 69A – Reasonable suspicion a person in a public place is prohibited by a prohibited behaviour order (no suspicion of possession of a prohibited thing required). s 69B – Reasonable suspicion that a person in a public place is prohibited by an interim control order (no suspicion of possession of a prohibited thing required). s 69 - The powers in this section may be exercised by consent in a public place by a police officer in: (i) a prescribed place;	s 39C - Prescribed area defined as the Surfers Paradise CBD and Broadbeach CBD Safe Night Precincts. The boundaries of the Safe Night Precinct are defined in the *Liquor Act 1992.* A senior police officer (Insp or above or an authorised SSgt) must authorise the use of hand held scanners in a public place in a prescribed area.

	South Australia	Victoria	Western Australia	Queensland
	Summary Offences Act 1953	***Control of Weapons Act 1990***	***Criminal Investigation Act 2006***	**Youth Justice & Other Legislation Amendment Bill 2021**
	(3) A declaration under subsection (1) may be made on the Attorney-General's own motion or on the recommendation of the Commissioner.	disorder involving weapons will occur in that area during the period of the declaration; and (b) it is necessary to exercise search and powers to prevent the occurrence of violence or disorder.	(ii) a place is subject of a written declaration made by a senior police officer who is of the opinion that it is necessary to safeguard a particular public place/ persons in the place; (iii) any public place where an officer reasonably suspects that it is necessary to exercise the powers for the purposes of safeguarding the place/people.	
Who/what may be subject to the powers:	s 66R – any person present within a declared public precinct including property in their possession. s 72A – any person who is in, or is apparently attempting to enter or leave a licensed premises, declared public event etc	s 10G - Any person and anything in the person's possession or control.	s 69 - A person entering the place or a person within the place. If the person does not consent to the search, the person must be refused entry or asked to leave the place.	s 39B - Any person and anything in the person's possession or control.

	South Australia	Victoria	Western Australia	Queensland
	Summary Offences Act 1953	***Control of Weapons Act 1990***	***Criminal Investigation Act 2006***	**Youth Justice & Other Legislation Amendment Bill 2021**
	including property in their possession.		Motor vehicles are included.	
Threshold suspicion for conducting scanning upon an individual:	s 66R – Nil threshold but must be in a declared public precinct (SAPOL website as at 02/03/2021 advise declared public precincts are designated areas in Adelaide City West 6:00pm to 6:00am Friday and Saturday. Adelaide Fringe 2021, 12 hours form 6:00pm each night to 6:00am Monday 22 March 2021). s 72A - Nil threshold but must be in, attempting to enter licensed premises, declared public event etc.	Nil threshold but must be in a designated area.	s 69 – Consent.	s 39D - Nil threshold but must be in a public place in the prescribe area.
Powers which may be exercised:	s 66R -A police officer may, for the purpose of detecting the commission of an offensive weapon or article offence or a weapons	s 10G and schedule 1 - Person may be stopped and initially searched using a metal detector. If, after an initial search using a metal detector, the police officer considers that the person may be	s 68 - A basic search (which may include the use of a metal detector) may be conducted.	ss 39C and 39D - A person may be stopped and detained and a hand held metal detector passed in close

	South Australia	Victoria	Western Australia	Queensland
	Summary Offences Act 1953	***Control of Weapons Act 1990***	***Criminal Investigation Act 2006***	**Youth Justice & Other Legislation Amendment Bill 2021**
	offence, carry out a search in relation to— (a) any person present within a declared public precinct; and (b) any property in the possession of such a person. (2) The following provisions apply to a search carried out in accordance with this section: (a) the search must, in the first instance, be a metal detector search; (b) if the metal detector search indicates the presence or likely presence of metal, a police officer may require the person to produce items detected by the metal detector (and, for the purpose of determining whether or not the person has produced such items,	concealing a weapon, the person may be asked to empty their pockets, produce or empty the contents of a bag, pat down the area of the person's pockets. Anything produced may be examined by the police officer. If, after an initial search using a metal detector, the police officer considers that the person is concealing a weapon, then the police officer may conduct a further search by running their hands on the outside of the person's clothes. A request to remove outer garments may be made and those garments may be examined and be subject to a metal detector search. Strip searches may be conducted if the urgency and seriousness dictate it. Motor vehicles may be searched.	s 69 – a basic search (which may include the use of a metal detector) may only be conducted with the consent of the person. Person inside the place must be advised that if they do not consent, they will be asked to leave.	proximity to the person and their belongings.

	South Australia	Victoria	Western Australia	Queensland
	Summary Offences Act 1953	***Control of Weapons Act 1990***	***Criminal Investigation Act 2006***	**Youth Justice & Other Legislation Amendment Bill 2021**
	may conduct further metal detector searches); (c) if the person refuses or fails to produce any such item, a police officer may, for the purpose of identifying the item, conduct a search in relation to the person or property (which need not be a metal detector search but may be conducted as if it were a search of a person who is reasonably suspected of having on or about his or her person an object, possession of which constitutes an offence). (3) In this section— metal detector search means a search conducted— (a) using only a metal detector of a kind approved by the Commissioner; and			

	South Australia	Victoria	Western Australia	Queensland
	Summary Offences Act 1953	***Control of Weapons Act 1990***	***Criminal Investigation Act 2006***	**Youth Justice & Other Legislation Amendment Bill 2021**
	(b) in accordance with any directions issued by the Commissioner. s 72A – For the purposes of detecting the commission of an offence under Part 3A (Weapons). Same powers as above but apply to licensed premises including hotels, clubs, casinos, restaurants; public place holding an event declared by the Commissioner by published notice; a car parking area for licensed premises.			
Duration of powers:	s 66N - An area may not be a declared public precinct for more than 12 hours in any 24 hour period unless the Attorney-General is satisfied that special circumstances exist in the particular case.	s 10D and s 10E - For both planned and unplanned designations, not longer than is necessary to respond to threat of violence and disorder and not no longer than 12 hours. For planned designated area there must be 10 days between declarations with respect to the	s 69 - No more than 48 hours.	s 39E - 12 hours.

	South Australia	Victoria	Western Australia	Queensland
	Summary Offences Act 1953	***Control of Weapons Act 1990***	***Criminal Investigation Act 2006***	**Youth Justice & Other Legislation Amendment Bill 2021**
	s 72A – No time restriction except for the duration specified in a declaration applying to a public place holding an event.	same area, unless an unplanned declaration is required to be made.		
Notification requirements for the declared area:	66N – The Attorney-General must cause notice of a declaration under this section to be published on a website determined by the Attorney-General to which the public has access free of charge. The Attorney-General may, by subsequent notice in the Gazette, vary or revoke a declaration made under subsection (1). 72A – only if Commissioner intends to declare a public place holding an event. Notification must be made in the gazette and in a newspaper with statewide	s 10D - For a planned declaration, the Chief Commissioner must publish: (i) the duration, (ii) a description of the area including a map; (iii) powers authorised to be used; and, (iv) any event the declaration is made in respect of. The declaration must be published in the gazette, a newspaper circulating across Victoria and, if in a regional area, in a newspaper circulating in that area. s 10E - If the declaration is not planned, the authorised officer must ensure that a notice of	s 69 - The senior police officer must make a written record of the declaration providing the area and reasons for making the declaration. The declaration must not be for longer than 48 hours.	s 39E – No requirement for the senior police officer's authorisation to be published. The QPS will undertake a communication and public education campaign in the trial area, including through the QPS website and social media channels. NB. Police must offer and if accepted give the person a notice advising the person is in a prescribed area and the police powers to require them person to be scanned and produce a thing that may cause the scanner to indicate metal and it is an offence not to comply with the requirement unless they have

	South Australia	Victoria	Western Australia	Queensland
	Summary Offences Act 1953	***Control of Weapons Act 1990***	***Criminal Investigation Act 2006***	**Youth Justice & Other Legislation Amendment Bill 2021**
	circulation or the Commissioner's website. Declaration must identify the event and public place and be made in accordance with any regulations. The times the powers will be in force must also be declared along with other conditions specified in the notice.	declaration is published on the Victoria Police website as soon as practicable.		a reasonable excuse (new section 39F(4)).
Who may authorise scanning:	Nil in legislation.	Chief Commissioner or no lower than an Assistant Commissioner may authorise the designation of an area for the purposes of searching.	s 69 - Inspector or higher.	s 39E - A police officer of at least the rank of Inspector; or a senior sergeant authorised by the Commissioner.
Other safeguards:	Nil in legislation.	s 10G and Schedule 1 - Search must be conducted in the least invasive way possible. Person may be detained for as long as reasonably necessary to conduct search. Areas of planned and designated must not be larger than is	s 70 – A police officer conducting the search must: (i) identify themselves; (ii) inform the person of the reason for the search;	s 39F - Search must be conducted in the least invasive way that is practicable in the circumstances. Person may be detained for so long as is reasonably

	South Australia	Victoria	Western Australia	Queensland
	Summary Offences Act 1953	***Control of Weapons Act 1990***	***Criminal Investigation Act 2006***	**Youth Justice & Other Legislation Amendment Bill 2021**
		reasonably necessary to effectively respond to the threat of violence or disorder. A strip search must be conducted by an officer of the same gender as the person being searched. During a pat down search, a police officer must ask for the person's cooperation. Any searches must be conducted in a way that provides reasonable privacy and be done as quickly as possible. A police officer conducting a search must upon request advise the person of their name, rank and station and, upon request, provide that information in writing and produce their identification unless in uniform. Inform the person that their intention is to search the person or car for weapons and provide,	(iii) request the person's consent to the search; and, (iv) inform the person that if the person does not consent to the search or withdraws consent, that it is an offence to obstruct the person doing the search. Searches must be done quickly as is reasonably practicable and must not be any more intrusive than is necessary. Reasonable privacy must be given. Before any item is removed from the person, the person must be advised why it is considered necessary to remove the item. Certain other safeguards apply to strip searches. The person must not be asked any questions about any offence they may be	necessary to exercise the power. If requested by the person, the police officer must provide their name, rank, station and identity card; and may be give the person the information in writing, if requested. Where practicable, the police officer must be of the same sex as the person being scanned. Offer and if accepted give the person a notice advising the person is in a prescribed area and the police powers to require them person to be scanned and produce a thing that may cause the scanner to indicate metal and it is an offence not to comply with the requirement unless they have a reasonable excuse (new section 39F(4)).

	South Australia	Victoria	Western Australia	Queensland
	Summary Offences Act 1953	***Control of Weapons Act 1990***	***Criminal Investigation Act 2006***	**Youth Justice & Other Legislation Amendment Bill 2021**
		if accepted, a search notice stating that: (i) the person is in a public place within a designated place; (ii) a declaration is in force; (iii) police officers are empowered to search within the designated place; (iv) it is an offence to hinder or obstruct the police officer in exercising the search.	suspected of having committed while being searched. The police officer conducting the search must be the same gender as the person being searched.	If after a scan, a police officer has grounds to search a person then the existing legislative safeguards apply. See s 624 ' General provisions about searches of persons' and ss 625 to 632 of the PPRA.
Children	No special provisions	Schedule 1 - Police can search a child with a metal detector as they would an adult. Subsequent searches arising because of the metal detector search must be conducted in the presence of a parent or guardian, or in the presence of an independent person who is capable of representing the interests of the child and is acceptable to the child.	No special provisions.	No special provision. After a scan, if a police officer has grounds to search a child, the existing safeguards in the PPRA apply (see s 631 'Special requirements for searching children and person with impaired capacity').

	South Australia	Victoria	Western Australia	Queensland
	Summary Offences Act 1953	***Control of Weapons Act 1990***	***Criminal Investigation Act 2006***	**Youth Justice & Other Legislation Amendment Bill 2021**
		This also applies to people with impaired intellectual functioning.		
Reporting requirements	For s 72A - search of a declared public place holding an event: The Commissioner must include in their annual report: (i) the number of declarations, (ii) number of wanding searches conducted, (iii) number of occasions wanding searches indicated the presence of metal, (iv) number of occasions in which weapons were detected and the type of weapons detected, and, (v) any other information required by the Minister. (see s 72A(5))	Police who conduct a search on the basis of reasonable suspicion or a subsequent strip search must make a written record of the search containing the prescribed particulars. The Chief Commissioner must provide to the Minister in the annual report the number of: (i) searches without warrant conducted; (ii) subsequent strip searches; (iii) declarations of designated areas; (iv) of weapons found and their type; and, (v) charges laid.	A senior police officer who declares a place by written declaration must record: (i) the place to which the declaration applies; (ii) the date and time the declaration was made; (iii) the period with which it will be in force; and, (iv) the reasons for making it.	A scan is not a search and therefore not an 'enforcement act' under the PPRA (schedule 6 definition). The QPS will collect and retain data on the use of the power to inform a 12-month review of the power. If following a scan, police have grounds to undertake a search of the person, the search is an enforcement act and existing reporting obligations under the PPRA apply.