




Speech By
Hon. Bill Byrne

MEMBER FOR ROCKHAMPTON

Record of Proceedings, 19 April 2016

COUNTER-TERRORISM AND OTHER LEGISLATION AMENDMENT BILL

Introduction

 **Hon. WS BYRNE** (Rockhampton—ALP) (Minister for Police, Fire and Emergency Services and Minister for Corrective Services) (2.53 pm): I present a bill for an act to amend the Corrective Services Act 2006, the Police Powers and Responsibilities Act 2000, the Public Safety Preservation Act 1986 and the Terrorism (Preventative Detention) Act 2005 for particular purposes. I table the bill and the explanatory notes. I nominate the Legal Affairs and Community Safety Committee to consider the bill.

Tabled paper: Counter-Terrorism and Other Legislation Amendment Bill 2016 [\[528\]](#).

Tabled paper: Counter-Terrorism and Other Legislation Amendment Bill 2016, explanatory notes [\[529\]](#).

I am pleased to introduce the Counter-Terrorism and Other Legislation Amendment Bill 2016. For the Palaszczuk government, public and community safety is paramount. These laws will provide stronger safeguards to deal with and prevent acts of terrorism. Importantly, they will help keep Queenslanders safe. The threat of terrorism and violent extremism is not something that can only happen overseas or somewhere else.

Terrorist organisations, such as al-Qaeda and ISIL, have repeatedly advocated attacks on people of Western nations at home as well as abroad. The shocking events in Paris last year and recently in Brussels highlight the very serious risks to public safety and the dangers ordinary people face from acts of such terrorism.

Thankfully, Queensland's preventative detention laws and terrorist emergency powers have never had to be used, but they have been tested in national and state counterterrorism exercises. These exercises, as well as terrorism linked incidents in New South Wales and Victoria, have highlighted the need for the changes we are now proposing.

The new laws will equip police with the powers they need to swiftly respond to any public emergency. Due to the nature of terrorism, police will often need to intervene early to prevent a terrorist act or act on less information than would normally be the case in their more traditional policing responses.

The priority for police is community safety. However, this should not come at the cost of being able to fully identify the nature of the attack, the persons involved in the attack or collecting sufficient evidence to prosecute those intent on causing harm. Not all threatened or actual acts of violence against the community will be immediately identifiable as acts of terrorism. In fact, it may be some time after an attack that it is identified that the act was carried out with the intent of advancing a political, religious or ideological cause and that the attack was done with the intention of coercing or influencing, by intimidation, a government or the public more broadly.

Threats to the community are not the sole domain of terrorism. There are natural disasters, criminal acts, such as mass murder, sabotage and the destruction of critical infrastructure that also have a devastating impact on our community. This bill will address the current legislative impediments which hinder a rapid policing response in times of crisis by providing police with the capacity to quickly acquire information that is critical to the effective management and resolution of any public emergency.

Privacy concerns or legislation that restricts getting and using crucial information can hamper police efforts in being able to swiftly and effectively manage and resolve critical incidents and public emergencies. Despite any other law, this bill provides police with the power to require any person, including government agencies, to provide information which is necessary for the management or resolution of a declared emergency situation, terrorist emergency or chemical, biological and radiological emergencies under the Public Safety Preservation Act 1986.

This bill creates offences with penalties comparable with the level of risk to the community. For instance, it will be an offence to contravene an information requirement, to provide false and misleading information or to disclose to any person that an information requirement has been made and/or the nature of the information sought as part of that information requirement. These offences impose a maximum penalty of 40 penalty units or 12 months imprisonment. Each of these offences has a circumstance of aggravation which carries a maximum penalty of 10 years imprisonment. However, it is important to note that a person who provides information in compliance with the information requirement provisions in this bill will be protected from criminal, civil and other forms of liability.

The new information requirement powers are balanced by a range of safeguards. They include an information requirement can only be made during the period of the declared emergency and the relevant commander must be satisfied on reasonable grounds that, firstly, the person may be able to provide the information; secondly, the information is necessary for the management or resolution of the declared emergency; finally, it is not practicable to obtain the information from the person in another way. Other safeguards include an information requirement cannot be made of a person who is a suspect; privilege against self-incrimination and legal professional privilege is maintained; disclosure offences can only be committed during the period of the declared emergency; and a notice authorising specific disclosure or removing disclosure prohibition may be given.

This bill also amends part 2A 'Terrorist emergency' of the Public Safety Preservation Act 1986. These amendments will provide for the appointment of a terrorist emergency reception centre commander if it is necessary to establish a terrorist emergency reception centre outside of the declared area for a terrorist emergency. This bill will enable the TERC commander to do the following if they are satisfied on reasonable grounds that terrorist emergency powers are necessary: manage and control the evacuation of persons from a declared area; or be responsible for the reception, identification and assessment of persons at a terrorist emergency reception centre; or declare as a 'declared evacuation area' a stated area in which the terrorist emergency reception centre is to be established; or declare the route or vehicle used for the evacuation of persons and a stated area to where persons have self-evacuated from the 'declared area'.

The bill also provides that a terrorist emergency officer has the power to give directions to control the movement of persons, including a direction to go to the terrorist emergency reception centre. When the commander is satisfied the direction is no longer reasonably necessary for the prescribed purposes, the TERC commander must ensure that a direction is withdrawn.

This bill enables the Premier and the minister to extend a terrorist emergency under the Public Safety Preservation Act 1986 beyond the initial seven days—up to a maximum of 28 days and by up to seven-day increments—in circumstances where it is necessary to protect life or health or protect critical infrastructure. This bill also enables a terrorist emergency to be extended beyond 28 days by regulation if the circumstances of the terrorist act or threats of further terrorist acts require the continuation of the terrorist emergency.

Each regulation can only extend the terrorist emergency by a maximum of 14 days. This provides the Premier and the minister with the flexibility to ensure that terrorist emergency powers are available to police to protect the Queensland community in circumstances where the state is subjected to multifaceted and protracted terrorist attacks or if a terrorist attack is imminent and the intended target of the attack is unknown.

The bill provides a power for a terrorist emergency officer to stop and search a vehicle without warrant including a vessel, aircraft or railway rolling stock that is in, about to enter or is reasonably suspected of having recently left a declared area or a declared evacuation area for a terrorist emergency, and to seize anything that may provide evidence of the commission of an offence or that may be used to cause harm to any person. The amendment will also ensure the exercise of this power is not an enforcement act for the purposes of the Police Powers and Responsibilities Act 2000.

This bill seeks to clarify existing section 8G of the Public Safety Preservation Act 1986 which provides for the declaration of a terrorist emergency under part 2A. Subsection 8G(3) enables the declaration of an area surrounding a moving activity to be a declared area for a terrorist emergency. The bill amends the example of what may be a moving activity to clarify that a declared area may be a stated area surrounding a specified person.

This bill also amends section 8Q of the Public Safety Preservation Act 1986 to remove the obligation for the Police Commissioner to consult with a government agency prior to giving an employee of that agency a direction to do or not do certain things during a terrorist emergency. This power will only be exercised where compliance is urgent or for the safety of the officer or another person. Section 8Q is further amended to allow the Police Commissioner to delegate the requirement to consult with a government agency prior to directing an officer of that agency to do or not do certain things during a terrorist emergency.

The bill amends the search powers for terrorist emergencies declared under the Public Safety Preservation Act 1986 by replacing the words 'the person intends to use the thing to cause harm' with 'the person may use the thing to cause harm'. This amendment ensures that police who are responding to an imminent terrorist act or a terrorist attack which has just occurred are able to seize anything that they reasonably suspect may be used to cause harm to any person. This amendment recognises that police may be acting on very limited information when a terrorist attack is imminent or has just occurred. The current threshold, which requires a police officer to reasonably suspect that a particular person intends to use the thing to cause harm, is considered far too high. The purpose of this power relates to the safety of persons and not evidence collection.

The bill further amends the Public Safety Preservation Act 1986 to clarify that the protection of employment rights applies to a person who is absent from their work because of a resource operator direction or a help direction given under part 2A 'Terrorist emergency' in the same manner that may apply to a relevant direction under part 2 'Emergency situation' and part 3 'Chemical, biological and radiological emergencies' of the Public Safety Preservation Act 1986.

The bill also amends section 46 of the Public Safety Preservation Act 1986 to clarify that a person who has surrendered their property to a terrorist emergency officer under a resource surrender direction can seek compensation due to suffering a financial loss because of the use, damage or destruction of the property. This amendment ensures that the owner of the said property has a similar ability to seek an ex gratia payment as would apply under part 2 'Emergency situation' and part 3 'Chemical, biological and radiological emergencies' of the Public Safety Preservation Act 1986. The claimant must make application to the minister within 28 days of the terrorist emergency ending.

The bill amends the general protection from liability and evidentiary provisions under the Public Safety Preservation Act 1986. The bill amends section 47 of the Public Safety Preservation Act 1986 to provide protection from liability in relation to things done or omitted to be done by a terrorist emergency commander, terrorist emergency forward commander, TERC commander, the commissioner or a deputy commissioner exercising the powers of the above commanders and an officer acting under any of the commander's instruction under part 2A of the Public Safety Preservation Act 1986.

The bill also amends section 48 of the Public Safety Preservation Act 1986 to extend the evidentiary provisions to appointments and signatures made under part 2A 'Terrorist emergency' of the Public Safety Preservation Act 1986. The definition of 'emergency situation' in the schedule of the Public Safety Preservation Act 1986 is extended by the bill to include, in addition to any accident, any incident that causes or may cause a danger of death, injury or distress to any person, a loss of or damage to any property or pollution of the environment.

This bill amends the Terrorism (Preventative Detention) Act 2005 to enable an initial and final preventative detention order to be made in circumstances where the full name of the person is not known but the person can be adequately identified by other means such as a partial name, nickname, alias, physical description or photograph. This bill will also allow a police officer to require a person to state their name, address and date of birth and, furthermore, allow a police officer to require a person who is detained under a preventative detention order to state the person's name, address and date of birth. A further amendment to the Terrorism (Preventative Detention) Act 2005 will enable an urgent application for an initial preventative detention order and a prohibited contact order to be made without the need to prepare a prior written application.

Section 69 of the Terrorism (Preventative Detention) Act 2005 is amended by inserting a note into subsection (1) to clarify that the restrictions on taking identifying particulars, other than under this section, do not apply when a person has been released from detention under the preventative detention order, even though that order may still be in force.

This bill also includes amendments to the Corrective Services Act 2006 to support efficiencies in the operational practices of Queensland Corrective Services. Under the Corrective Services Act 2006, Queensland Corrective Services may collect and store biometric information, such as fingerprints, of a prisoner for the purposes of identification. The bill makes amendments to clarify that the collection of such information from prisoners includes the collection of information by way of biometric identification systems. The amendment is intended to accommodate technological advances in the collection of identifying information and does not expand the existing power.

The bill also expands the offence for a prisoner to fail to obtain the written permission of the Chief Executive of Corrective Services before applying to change the person's name so that it applies to a name change application in any Australian jurisdiction, not just Queensland. The purpose of the amendment is to ensure that at all times the chief executive has accurate identity information in relation to any prisoner.

The amendments to the Corrective Services Act 2006 will also enable registered nurses, as an alternative to doctors, to examine at the prescribed intervals prisoners who are under safety orders, maximum security orders, criminal organisation segregation orders and separate confinement orders. The purpose of these checks is to ensure the medical needs, including mental health, of such prisoners are not neglected or overlooked. Empowering registered nurses to carry out this function reflects the applied nurse led service model for prisoner health services and will support greater efficiencies in the delivery of prisoner health services.

Lastly, the bill clarifies that the existing exception to a prisoner's entitlement to request reconsideration of a transfer decision includes a decision to move a remanded prisoner following sentence to another Corrective Services' facility for the purpose of determining the most suitable facility for the prisoner's initial placement. These new laws balance a person's rights and liberties with the need to keep Queenslanders safe, and they provide stronger safeguards to deal with and prevent acts of terrorism and public emergencies in Queensland. I commend the bill to the House.

First Reading

Hon. WS BYRNE (Rockhampton—ALP) (Minister for Police, Fire and Emergency Services and Minister for Corrective Services) (3.12 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to the Legal Affairs and Community Safety Committee

Mr DEPUTY SPEAKER (Mr Elmes): Order! In accordance with standing order 131, the bill is now referred to the Legal Affairs and Community Safety Committee.