Speech By

Hon. Bill Byrne

MEMBER FOR ROCKHAMPTON

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AUSTRALIAN CRIME COMMISSION (QUEENSLAND) AND OTHER LEGISLATION AMENDMENT BILL

Introduction

Hon. WS BYRNE (Rockhampton—ALP) (Minister for Police, Fire and Emergency Services and Minister for Corrective Services) (12.41 pm): I present a bill for an act to amend the Australian Crime Commission (Queensland) Act 2003, the Fire and Emergency Services Act 1990, the Police Powers and Responsibilities Act 2000, the Weapons Act 1990 and the legislation mentioned in schedule 1 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: Australian Crime Commission (Queensland) and Other Legislation Amendment Bill 2016 [755].

Tabled paper: Australian Crime Commission (Queensland) and Other Legislation Amendment Bill 2016, explanatory notes [756].

I am pleased to introduce the Australian Crime Commission (Queensland) and Other Legislation Amendment Bill 2016. This bill enhances public safety through a diverse range of amendments. The impetus for the bill is the Commonwealth's merger of CrimTrac, Australia's policing information sharing agency, into the Australian Crime Commission, Australia's national criminal intelligence agency, which will take effect from 1 July 2016. The collaboration of the agencies will provide significant law enforcement and national security benefits. The combined resource will enhance understanding not only of major and organised crime but also in regard to volume crimes such as domestic violence. This will, in turn, provide an evidence base for policy makers, enabling effective decision-making in the response to crime. The bill facilitates the merger by replacing references in Queensland legislation to 'CrimTrac' with references to 'the ACC'.

Alongside the merger there has been an increase in the Australian Crime Commission board's membership from 14 to 15 members. The bill amends the Australian Crime Commission (Queensland) Act 2003 by increasing the quorum at board meetings from seven to nine board members so as to constitute a majority. The increase in the quorum will also ensure a more even representation between Commonwealth representatives and representatives from each state and territory on the ACC board.

This bill also provides an opportunity to address operational priorities within the public safety portfolio. One of the primary concerns of the Queensland Fire and Emergency Services is to ensure that the Queensland community and visitors to the state are accommodated in buildings compliant with fire safety standards. Students, backpackers and itinerant workers, such as those in the fruit-picking industry, are vulnerable to being housed in accommodation that does not conform with fire safety standards relating to maximum occupancy, exit access and lighting, maintenance of fire safety equipment such as extinguishers and provision of functioning smoke alarms. Too often, unscrupulous persons in charge of budget accommodation place financial gain above the safety of their tenants. In these instances, QFES will seek to identify the owner or person in charge of the accommodation in order for the safety breaches to be rectified and, in cases where there is continued transgressions, commence a prosecution.

Persons responsible for maintaining fire safety and who are aware of QFES scrutiny will often actively avoid identification. QFES has in the past sought assistance from the Residential Tenancies Authority in order to identify the lessor or person in control of a premises. In 2015 the RTA advised QFES that it could no longer provide this assistance due to concerns over confidentiality provisions. The bill will address this by providing a power for an authorised fire officer to require information about the identity of an occupier where it is reasonably suspected a contravention of the Fire and Emergency Services Act 1990, or chapter 7 or 7A of the Building Act 1975, has been committed in relation to premises.

The authorised fire officer can require information that will identify or help identify an occupier of the premises from a government entity, an occupier of the premises or a person who may reasonably be expected to give the information. The bill creates an offence for failure to comply with the information requirement without reasonable excuse. The maximum penalty for the offence will be 20 penalty units. It is a reasonable excuse for a person not to comply with the requirement if compliance might tend to incriminate the person.

The Queensland Police Service currently has the capability to use drug detection dogs, without warrant, in a number of places to which the public has access. Specifically, a drug detection dog may carry out detection duties at a public place, a place at which an event is being held, licensed premises or a tattoo parlour. An explosives detection dog can only carry out explosives detection at a tattoo parlour. The bill amends the Police Powers and Responsibilities Act 2000 so that explosives detection dogs can carry out detection at the same places as drug detection dogs. The amendment will enhance the safety and security of Queensland residents and infrastructure and will be particularly invaluable for events such as the 2018 Commonwealth Games, where explosives detection dogs will be used in areas of large public gatherings. The bill will also change the reference to 'explosives detection dogs' to 'firearms and explosives detection dogs'. This will ensure terminology is consistent in the PPRA and will better reflect the duties which the dogs perform.

The QPS is often involved in large operations or emergency situations such as public order incidents which culminate in the arrests of large numbers of persons. In such situations, a police officer may witness the commission of an offence through CCTV or from a distance. The police officer who witnesses the offence may have the requisite reasonable suspicion to make an arrest in accordance with section 365 of the PPRA. However, there may be another police officer who, because of their location or their specialist role, is better placed or more qualified to make the physical arrest of an offender. A recent Queensland Court of Appeal decision found an arrest to be unlawful, as police had arrested the appellant upon the direction of another police officer rather than forming their own reasonable suspicion about the commission of the offence. This has implications for police who are required to make an arrest in urgent circumstances or where it is otherwise not possible or practical for the arresting officer to be adequately briefed about the circumstances of an offence by an investigating officer.

The bill inserts a new section that permits a police officer to instruct another police officer to make an arrest where the instructing officer holds the requisite reasonable suspicion to make a lawful arrest. The bill will place a number of safeguards around the provisions. An instruction to arrest, without warrant, will only be lawful where it is not practicable for the instructing officer to personally arrest the person and it is not practicable, because of an emergency situation, or other particular circumstances for the arresting officer to form the suspicion mentioned in section 365(1), (2) or (3) of the PPRA. Further, the instructing officer must make a record of the instruction and the reasons for giving it, and take reasonable steps to give a copy of the record to the arresting officer. Also, the instructing officer must inform the arresting officer at the earliest reasonable opportunity if the instructing officer stops holding the reasonable suspicion that prompted the instruction to arrest.

When a person arrested under the new section is released from custody a police officer must give to the person, in writing: the name, rank and station of the arresting officer and the name, rank and station of the instructing officer. It must be emphasised the new section does not replace the historical obligation incumbent upon a police officer to form their own reasonable suspicion about the commission of an offence. Rather, the new section provides flexibility for when dynamic circumstances or the use of technology makes it difficult to abide by a traditional method of arrest.

When investigating an indictable offence, a police officer must comply with safeguards in the PPRA with regard to the recording of admissions or confessions. On occasion, due to circumstances beyond the control of police, there may not be full compliance with safeguards. For example, in a matter regarding the unlawful trafficking of drugs, the defendant refused to make admissions during a recorded interview due to a fear of retribution but after the interview made admissions to police. At trial, even though the admissions made were not disputed or in any respect unreliable, police were prevented from providing oral testimony of the admissions. In these instances, it is intended that section 439 of the

PPRA provides the judiciary with the discretion to admit evidence. However, the current wording of the section does not permit this. The bill amends section 439 of the PPRA, allowing the judiciary to admit evidence where there is noncompliance or insufficient evidence of compliance with relevant safeguards. This will address judicial concerns that, without the discretion, people guilty of serious crimes may go free.

This government is committed to protecting the community from crimes involving the use of knives, firearms and other types of weapons. Due to their ready accessibility, knives are the most commonly used weapon in armed robberies. Knives are also carried by gang members and drug dealers who are willing to use a knife to fight, or to defend a stash of unlawful drugs or tainted money that may be in their possession. The Weapons Act 1990 restricts the use of weapons generally, as well as the possession of weapons in public.

Under Section 51 of the Weapons Act it is an offence to physically possess a knife in a public place or school without reasonable excuse. Under section 57 of the Weapons Act, particular conduct with a weapon in a public place is prohibited, for example, carrying a loaded firearm without reasonable excuse. Section 50 of the Weapons Act makes it an offence to possess a short firearm, for instance a handgun, in a public place. The section further clarifies that a public place includes a vehicle that is in, or on, a public place. The bill inserts the same clarifying definition of public place into sections 51 and 57 of the Weapons Act. This creates conformity between sections 50, 51 and 57 of the Weapons Act. This will ensure a person who unlawfully carries a short or long firearm, a knife, or another type of weapon in a vehicle, in public, will not be immune from the reach of the law.

It is acknowledged that people in the community can possess knives or weapons in public for a number of legitimate reasons, such as for work, recreation and entertainment purposes. The bill maintains protection of people with these legitimate purposes, while closing a loophole on those who carry a knife or weapon without reasonable excuse.

Lastly, the bill inserts the power for a police officer to search a vehicle where it is reasonably suspected an occupant of the vehicle is in unlawful possession of a knife. The amendment sends a strong message to those who believe they can possess a knife without lawful reason, with impunity. I commend this bill to the House.

First Reading

Hon. WS BYRNE (Rockhampton—ALP) (Minister for Police, Fire and Emergency Services and Minister for Corrective Services) (12.54 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

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