




Speech By
Hon. Mark Ryan

MEMBER FOR MORAYFIELD

Record of Proceedings, 15 February 2018

**POLICE AND OTHER LEGISLATION (IDENTITY AND BIOMETRIC CAPABILITY)
AMENDMENT BILL**

Introduction

 **Hon. MT RYAN** (Morayfield—ALP) (Minister for Police and Minister for Corrective Services) (12.27 pm): I present a bill for an act to amend the Criminal Code, the Liquor Act 1992, the Police Powers and Responsibilities Act 2000, the Police Service Administration Act 1990, the Transport Operations (Road Use Management) Act 1995 and the Transport Planning and Coordination Act 1994 for particular purposes. I table the bill and the explanatory notes and I nominate the Legal Affairs and Community Safety Committee to consider the bill.

Tabled paper: Police and Other Legislation (Identity and Biometric Capability) Amendment Bill 2018 [\[166\]](#).

Tabled paper: Police and Other Legislation (Identity and Biometric Capability) Amendment Bill 2018, explanatory notes [\[167\]](#).

I rise to introduce the Police and Other Legislation (Identity and Biometric Capability) Amendment Bill 2018. Over the term of the previous Palaszczuk government, this House passed into law three important wideranging amendment bills that have given police enhanced powers to combat terrorism and respond effectively to emergencies. On every occasion that we have addressed the threat of terrorism, the House has unanimously supported the legislation. While we have never had to use these new laws, we must ensure that, as threats to community safety continue to evolve and the technology to combat them evolves, police and emergency responders have all the tools they need to keep the Queensland community safe.

The ability to identify people via their facial features is the latest in a catalogue of forensic tools that have been used over more than a century—tools like fingerprints and DNA matching. All are biometric matching capabilities available to police to prevent and solve crime. Facial recognition is the newest addition to this catalogue of police investigation and crime prevention tools.

On 5 October 2017, the Premier, along with all Australian first ministers, signed the Intergovernmental Agreement on Identity Matching Services. This agreement commits Queensland to further boosting the powers and tools available to our state and national police and security agencies by agreeing to establish a National Facial Biometric Matching Capability. This capability will be delivered through the implementation of the identity matching services. Identity matching services is an overarching term used to describe a number of specific services. Those services include—

- the Face Verification Service—to enable an image associated with an individual to be compared with an existing government record to confirm their identity;
- the Face Identification Service—to enable an image of an unknown person to be matched against multiple images to determine their identity; and

- the One Person One Licence Service—to enable comparison of images across jurisdictions to prevent an individual holding multiple licences.

Identity matching services will be available through a central hub or exchange, which will be hosted by the Commonwealth and linked to the systems of participating agencies.

While jurisdictions already share identity information on a manual and ad hoc basis, the identity matching services will make it simpler and faster for law enforcement and security agencies to share information in the interests of national security, law enforcement and community safety. The capability will also be of significant benefit in preventing identity crime, which is a key enabler of terrorism and organised crime. Identity crime impacts one in 20 Australians every year. The annual cost of identity crime to the Australian community is estimated to be \$2.2 billion.

Ultimately, all jurisdictions will be able to access driver licence, passport, visa and citizenship images from across the country. The sharing of identity information, including facial images, between approved agencies will help meet a number of national security, law enforcement, community safety, road safety and identity assurance objectives.

Signing the Intergovernmental Agreement on Identity Matching Services represented the first step in Queensland's participation in the National Facial Biometric Matching Capability. The next step is making the legislative change detailed in this bill to allow for this important new level of information sharing.

To achieve the necessary legislative change, the bill amends the Transport Planning and Coordination Act, the Police Powers and Responsibilities Act, the Police Service Administration Act and the Transport Operations (Road Use Management) Act. The amendments to the Transport Planning and Coordination Act and the Transport Operations (Road Use Management) Act will enable the sharing of identity information collected under transport legislation, including digital photographs, to support Queensland's participation in the identity matching services. The bill authorises the Commonwealth host agency, which will be the Department of Home Affairs, to use or share the information with other participating entities. Identity information can only be disclosed or used for a permitted purpose. The permitted purposes are consistent with the intergovernmental agreement and encompass national security, law enforcement, identity assurance, protective security, road safety and community safety.

These new provisions will allow identity information to be disclosed to the host agency and will authorise further disclosure of identity information by the host agency. However, the disclosure will only be made to other entities that Queensland has entered into an agreement with. It will also authorise the Department of Transport and Main Roads to collect and use data from the hosting entity and other entities that are parties to an agreement under the identity matching services. The amendments also create a new offence provision for the collection, disclosure and use of information for a purpose that is not a permitted purpose.

In conjunction with amendments to the Transport Planning and Coordination Act, the amendments to the Police Powers and Responsibilities Act allow for improved access to images for the Queensland Police Service. Specifically, the amendments remove the current need for the Queensland Police Service to obtain the authority of a justice of the peace to access images for non-transport law enforcement purposes. The amendments will instead ensure that information provided directly by the Department of Transport and Main Roads to the Queensland Police Service is treated consistently to that shared via the identity matching services with other policing jurisdictions.

The bill amends the Police Service Administration Act to create a specific legislative framework to facilitate Queensland Police Service participation in the identity matching services. Division 1A of the Police Service Administration Act currently contains provisions governing the disclosure of information by the service to external agencies. However, existing provisions are not adequate to authorise the disclosure of information in the manner required for the use of the identity matching services. Therefore, the bill expressly authorises the Queensland Police Service to disclose information to the hosting agency for the purposes of the identity matching services. It also makes provision for the on-disclosure of that information to government agencies with whom a participation agreement has been signed.

There are a range of robust privacy safeguards in place at the state and Commonwealth level that protect individual and community rights while still giving full effect to this nationally consistent approach to the exchange of biometric facial information. The Commonwealth has introduced legislation to implement a framework that will include criminal penalties for unauthorised use and disclosure and reporting requirements. The intergovernmental agreement also details a range of privacy safeguards that will be in place for the capability, both in terms of participant obligations to have data security measures in place and in-built system controls. Detailed data access policies will also be required for

participating entities, such as the Department of Transport and Main Roads and the Queensland Police Service. The Commonwealth will retain discretion to refuse, modify, suspend or terminate access should an agency breach any of the associated conditions.

An authorisation regime will be developed for Queensland Police Service and Department of Transport and Main Roads personnel to access the capability. Access by authorised staff will be auditable through the IT system and any access or disclosure breaches would be dealt with through either internal discipline processes or criminal charges as appropriate. Staff are subject to a rigorous statutory framework that governs improper disclosure.

If this bill is enacted, it is anticipated that during the Gold Coast 2018 Commonwealth Games the Queensland Police Service will, at a minimum, have access to components of the identity matching services through collaboration with relevant federal law enforcement and intelligence agencies. The Queensland Police Service is currently examining options to accelerate access to some components of the capability for the games. Apart from enacting this proposed legislation, significant further activity is required prior to the capability becoming fully operational and available in Queensland. These issues include finalising the participation agreements across Australia and data access policies; modifying information technology systems; and updating internal agency policies around access control and oversight.

It is anticipated that access to the identity matching services will be of real, practical benefit to law enforcement and community safety, particularly in relation to terrorism and serious and organised crime investigations. These services will also boost police capabilities with regard to community safety by assisting in identifying missing persons, deceased persons or human remains and victims of disaster events; in road safety by assisting in the detection of people holding multiple licences across jurisdictions; and also with identity verification to combat identity theft and fraud.

I have said it before in this House that the safety of the community is of paramount importance to our government. The intergovernmental agreement and this bill, as a first step in establishing a new identity and biometric matching regime, will ultimately provide a simple, speedy and practical tool to our police for the entire community's benefit. It will enhance law enforcement and community safety, particularly in relation to terrorism and serious and organised crime investigations. It will also enhance police capabilities with regard to identity crime, community safety, road safety and identity verification. New technologies, coupled with existing sources of data and biometrics and a nationally consistent approach to the threat of terrorism and serious crime, must now be harnessed to provide new responses to challenges. This bill helps us take another step on this unwanted and unsolicited journey.

The bill also amends the Criminal Code to strengthen the penalties associated with particular offence provisions that address the unlawful possession and manufacture of explosives.

The unlawful possession and manufacture of explosives, including highly volatile homemade explosives, pose an increasing risk to the safety of the community and emergency services personnel. Section 470A of the Criminal Code makes it an offence to unlawfully deposit explosives and noxious substances. This offence currently attracts a maximum penalty of two years imprisonment. The bill increases the maximum penalty for this offence to seven years imprisonment. The bill also extends the application of this existing offence provision to ensure that the making of explosives in circumstances where there is a risk of injury to a person or damage to property is captured.

The bill further increases the maximum penalty associated with the offence in section 540 of the Criminal Code from three to seven years imprisonment. This offence provision addresses the possession of explosives and dangerous or noxious things with an intent to commit a crime. The current maximum penalties associated with these offences are not consistent with other criminal offences that target the misuse of explosives or deal more generally with conduct that poses a serious threat to community safety. By increasing the maximum penalties associated with these offences, the bill will address this inconsistency and ensure that appropriate penalties exist to deter this dangerous conduct and protect the community.

Strengthening these Criminal Code explosives offences will better protect the Queensland community by providing a strong deterrent to anyone contemplating this type of criminal activity. It also reflects community expectations that offences of a serious nature should carry an appropriate maximum penalty.

The bill also includes amendments to the Liquor Act 1992 to provide an extra hour of liquor trading during the 2018 Commonwealth Games in the Gold Coast safe-night precincts of Broadbeach and Surfers Paradise. The Commonwealth Games in April represents a once-in-a-lifetime event that will demonstrate to the world the great things Queensland has to offer. In particular, the Palaszczuk

government recognises that the Commonwealth Games presents a significant opportunity for restaurants, pubs, clubs, bars and nightclubs to showcase their exceptional hospitality to visitors from around the world. The government also recognises that, due to the massive influx to the Gold Coast in particular, demand for these services will be high.

That is why the bill amends the Liquor Act to create the Commonwealth Games Extended Liquor Trading Hours Authority. The authority will automatically grant all licensees of liquor licensed premises located in the Broadbeach CBD and Surfers Paradise CBD safe-night precincts the ability to sell liquor for an additional hour beyond their permanently approved liquor service hours for each day between 3 April 2018 and 17 April 2018 inclusive. For instance, if a restaurant has approval to serve liquor until midnight every day, the licensee will be able to serve liquor until 1 am every day during the games period. Similarly, if a pub has approval to serve liquor until 2 am on weeknights and 3 am on weekends, the authority will allow the licensee to serve liquor until 3 am on weeknights and 4 am on weekends during the games period. This change will allow Commonwealth Games visitors extra time to enjoy a meal with a liquor service or attend entertainment venues after the conclusion of evening sporting events. The amendments also ensure that application fees or risk-criterion fees that would otherwise be charged for post-midnight liquor service approval will not apply in respect of the extra hour granted by the authority.

With regard to ID scanning, the bill clarifies that licensees who are currently required to scan patron photo IDs at the point of entry will continue to be subject to this requirement during the extra hour granted by the authority. The bill also clarifies that licensees who are not currently required to scan patron photo IDs will not be required to do so during the games period, despite being able to serve liquor beyond midnight under the authority. This recognises that it would be unreasonable to require licensees not currently required to scan IDs to install an ID scanner for a two-week period for an extra hour of liquor service between midnight and 1 am.

This government acknowledges that allowing licensed premises in the two Gold Coast safe-night precincts to serve liquor for an additional hour each night of the games has the potential to increase the risk of alcohol related violence and public disorder. That is why the bill amends the Liquor Act to create a power for the Commissioner for Liquor and Gaming to issue a public safety restriction notice to a licensee to restrict liquor trading in a licensed premises operating under the authority in the Gold Coast safe-night precincts, if it is considered necessary to minimise harm. A restriction notice can only be issued by the Commissioner for Liquor and Gaming upon receiving advice from the Police Commissioner or an assistant police commissioner that the operation of a licensed premises is or is likely to adversely affect public safety or public order. The restriction notice can immediately revoke the extra hour of liquor service, further reduce liquor service hours, impose conditions on the licence or suspend the licence for a premises. A restriction notice only has effect for a stated period, which cannot be longer than the Commonwealth Games period. The Commissioner for Liquor and Gaming can also lift or vary the restriction notice if he is satisfied there is no longer a risk to public safety.

The amendments further provide that a restriction notice cannot be reviewed by the Queensland Civil and Administrative Tribunal and no compensation is to be paid in respect of persons affected by the issuing of a restriction notice. These very stringent provisions recognise that public safety must be paramount during the celebration of the games.

Additionally, the bill amends the Liquor Act to waive the application fee for temporary late-night extended hours permits sought by Gold Coast safe-night precinct licensees on days during the Commonwealth Games. This will facilitate licensees in being able to apply to serve liquor to 5 am to cater for increased tourism during the games. Licensees will still only be able to be granted a maximum of six of these permits per calendar year. However, as the Commissioner for Liquor and Gaming considers the Commonwealth Games is a special occasion that spans the 15-day period, permits will be able to be granted for multiple and consecutive nights during the games. The government has provided for licensees who want to be able to serve liquor for a longer period during the Commonwealth Games celebration. We have also provided police with the power to immediately address any problems that might occur. The bill balances these concerns and achieves an outcome that reflects the government's commitment to showcase Gold Coast hospitality to the world.

In closing, the amendments contained in this bill are directed at making the 2018 Commonwealth Games a secure, safe and enjoyable event for all Queenslanders, visiting athletes and spectators, in addition to, of course, ensuring our police have the necessary powers and legal framework to keep Queenslanders safe. I commend the bill to the House.

First Reading

Hon. MT RYAN (Morayfield—ALP) (Minister for Police and Minister for Corrective Services)
(12.47 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 Legal Affairs and Community Safety Committee

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