



Speech By  
**Hon. Mark Ryan**


**MEMBER FOR MORAYFIELD**

---

Record of Proceedings, 12 June 2018

## **POLICE POWERS AND RESPONSIBILITIES AND OTHER LEGISLATION AMENDMENT BILL**

### **Introduction**

 **Hon. MT RYAN** (Morayfield—ALP) (Minister for Police and Minister for Corrective Services) (12.07 pm): I present a bill for an act to amend the Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004, the Corrective Services Act 2006, the Criminal Code, the Maritime Safety Queensland Act 2002, the Motor Accident Insurance Act 1994, the Police Powers and Responsibilities Act 2000, the Police Powers and Responsibilities Regulation 2012, the Police Service Administration Act 1990, the State Penalties Enforcement Act 1999 and the Transport Planning and Coordination Act 1994 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:* Police Powers and Responsibilities and Other Legislation Amendment Bill 2018 [\[780\]](#).

*Tabled paper:* Police Powers and Responsibilities and Other Legislation Amendment Bill 2018, explanatory notes [\[781\]](#).

I am pleased to introduce the Police Powers and Responsibilities and Other Legislation Amendment Bill 2018 to the House. This bill introduces a suite of amendments aimed at enhancing front-line policing services to the Queensland community and, importantly, keeping Queenslanders safe.

Community safety is one of the top priorities of the Palaszczuk government, and I am very proud to be introducing this bill today which backs in that priority. The Queensland Police Service works with many others to ensure the safety and security of the community by upholding the law, preserving the peace, preventing and detecting crime, and bringing people who offend to justice. It is important for the government, police, families and the community to work together to break the cycle of criminal offending and violence, because together we can make our communities a safer place.

We know that Queenslanders want to feel safe in their homes and their communities without the threat of personal and property crime. We know that more can be done to enhance community safety and reduce the number of victims of crime. That is why our government is committed to advancing Queensland's priorities of keeping communities safe by reducing the number of victims of crime and by also breaking the cycle of youth offending. We also want to advance Queensland's priorities by being a responsive government. The measures in this bill will help us achieve safer communities and a responsive government by supporting our policing service with the laws that they need to respond to contemporary community needs.

The explanatory notes outline the purposes and objectives of the bill. As members will see from the bill, this bill introduces a number of new considerations for police and provides additional powers for our Queensland Police Service in respect of community safety. One of the first initiatives contained in this bill is the new, high-risk missing person scene framework, which is an Australian first. This Australian first will help police investigate the disappearance of missing persons who are at high risk in

circumstances where they may suffer serious harm if not found as quickly as possible. Circumstances which can make a missing person high risk include their age, their impairment, a history of domestic violence or relationship problems, a need for medication or recent behaviour that is out of character.

In most missing person investigations family and friends will assist police by allowing entry into the missing person's home, workplace or vehicle to search for the person or by providing information that may help police find their loved one. However, in some cases, people either do not or cannot cooperate and, unless there is some evidence that the missing person is the victim of a serious crime, police cannot apply for a search warrant or a crime scene warrant to enter or search these premises.

Consent to enter a place and search for a missing person may not always be forthcoming or may not be possible. For example, in one instance, two people were reported as missing after embarking on a long road trip. These two people failed to reach their destination and had failed to return to work and make appointments. Before it was apparent a crime had been committed, police attended the missing persons' residence, but there was no legislative authority to search the residence. Relatives had to be located so that an inspection could be made to determine if any evidence existed of the missing persons' whereabouts. Subsequent investigations in that example revealed those missing persons had been murdered.

To establish a missing person scene, police need the prior authorisation of a commissioned police officer. The commissioned police officer will assess and confirm whether the missing person is at high risk and then they will determine the need to apply for a missing person warrant. The police officer must then apply to a Supreme Court judge or a magistrate for a missing person warrant. A missing person warrant will allow police to enter and search the scene for the missing person or for any information which may lead to the person's whereabouts. Where necessary, it also allows police to exclude people from an area that is deemed to be a missing person scene. Police acknowledge that this may result in some people being displaced from their homes for the period the warrant is in place. If that is the case, police are required to make suitable accommodation arrangements.

That being said, a missing person warrant has a very short life. It is initially in place for up to 48 hours with a provision to allow the warrant to be extended by a Supreme Court judge or a magistrate for up to another 48 hours. In urgent circumstances, a missing person scene can be established under the authority of a commissioned police officer before obtaining a warrant. However, once the missing person scene has been established, an application for a warrant to confirm the missing person scene must be brought to a Supreme Court judge or a magistrate as soon as practicable. These are important and potentially lifesaving powers and this parliament should be proud to have a bill before it which provides an Australian first in respect of enhancing community safety and providing our police with those potentially lifesaving powers.

Last year more than 8,000 people were reported missing to Queensland police. As a community, we have seen firsthand how a missing person investigation can be hampered by people who have ended up murdering the very person they reported missing. We have seen those recent examples—tragedies on so many levels. Sadly, in recent years we have lost a young Brisbane mother and an innocent young schoolgirl in those circumstances. On both of those occasions they were reported as a missing person to police. Later, they were found dead. Both had so much to offer and so much still to achieve. Their brutal deaths will be long remembered by Queenslanders. That is why our government is acting to provide our police with those powers—to provide police with the power to act more quickly to establish crime scenes for those high-risk individuals—hopefully to save a life but certainly to ensure justice is delivered sooner for those people who may have come to an unfortunate end.

As well as the high-risk missing person provisions, this bill simplifies the complicated way in which crime scene powers are defined and operated. A single definition will incorporate key elements of the existing crime scene definitions. It will allow a crime scene to be declared at a place where a crime scene threshold offence has happened, or it will allow a crime scene to be declared at another place where there may be significant evidence of a crime scene threshold offence.

The maximum penalty for a crime scene threshold offence will be reduced by this bill from a seven-year imprisonment offence to a four-year imprisonment offence. This will allow crime scene warrants to be obtained for serious offences such as stalking or discharging a firearm in a public place. A good example under the current regime is that if someone discharges a firearm from a motor vehicle and those bullets from that firearm end up in a house or some other location—a secondary crime scene under the current definition—if there is an uncooperative witness police have great difficulty in obtaining the evidence, which would be the bullet from that secondary crime scene. The changes in this bill will allow police to be able to better investigate those offences, particularly where there may be uncooperative witnesses.

To continue to keep police powers contemporary, this bill allows police to apply to a Supreme Court judge or magistrate for an access information order for a storage device such as a computer or mobile phone under a crime scene warrant. This is modelled on existing powers under a search warrant. A person who fails to comply with the order may be dealt with under section 205A of the Criminal Code and may be liable to a penalty of up to five years imprisonment.

Our front-line police investigators have reinforced to me the very need to be able to access electronic storage devices seized from crime scenes. For example, police may be investigating the disappearance of a woman at her residence when it becomes apparent after initial investigations that the woman has been murdered. Police then declare the house as a crime scene and locate and seize the home computer, tablets, laptops and mobile phone prior to charging the husband with murder. If the offender refuses to provide police with access information to those devices, such as the pass codes to those devices, extensive delays can occur as specialist police attempt to gain access to those devices.

Gaining access to a locked electronic storage device may not always be successful due to offenders using the latest encryption technology to block access. In such cases, vital evidence that may be located on the storage device cannot be accessed and used in the investigation. This amendment will allow police to respond to the challenges of policing in a growing technological age. As police respond to criminal offending which more and more uses the latest technology, we need to ensure that not only our police have the latest technology but also they have the laws to ensure that they are able to investigate any criminal offending which may be associated with that technological advancement or are able to gain evidence from that technological device and advancement.

The Palaszczuk government remains committed to supporting front-line police as they work day in, day out to keep Queenslanders safe. We all know that policing is an inherently difficult and potentially dangerous job. In 2017 more than 4,600 drivers evaded a police traffic interception. That is an average of around 90 evade offences each week. Drivers may evade police for a number of reasons. They may be intoxicated or they may have committed a crime and are evading capture. Their behaviour places everyone on the road at risk, and we can never forget those great tragedies of many years ago involving people evading police and contributing to road fatalities. They are very sad stories, and we can never forget the little girl in the member for Redcliffe's electorate who died as a result of a person evading police and contributing to her fatality.

In 2011 the former Crime and Misconduct Commission reviewed the evade police provisions and made 13 recommendations for change in their final report which was titled *An alternative to pursuit*. Seven of those related to strengthening the evade provisions in the Police Powers and Responsibilities Act. In its 2011 report the then CMC included the following comments—

Earlier work in this area by both the CMC and the State Coroner has shown that pursuits can create situations far more dangerous to the public than the original offence. Sadly, over the past decade, 19 people were killed as a result of police pursuits, including three community members who were not involved in the pursuits.

Most significantly, in 2006 the Queensland Police Service changed its pursuit policy to more closely link police pursuits to community safety, limit the circumstances in which police can pursue drivers who flee and shift the focus from pursuits to other methods of apprehension. Also in 2006 the evade police provisions were introduced to support the restrictive pursuits policy—which is an operational policy of the Queensland Police Service—with the specific aim of reducing the need for police to commence a pursuit even when a pursuit is permitted by policy. The provisions provide police with powers to identify and prosecute the driver after the fact and, in doing so, avoid a potentially dangerous pursuit.

The rate of police pursuits has substantially decreased since 2006, as have injuries and property damage resulting from pursuits. These are positive outcomes. The evade police provisions and the restrictive pursuit policy were among a range of factors that contributed to these outcomes along with other factors such as coronial inquests, police union advice to members not to pursue and increasing Queensland Police Service oversight of pursuits. While we recognise that these evade police provisions are not the solution for all matters, we believe that the provisions and the Queensland Police Service framework that guides their use can be improved to make them a more effective policing tool. The majority of our recommendations address legislative weakness that have undermined the effective use of the powers.

In its report the then CMC noted that during the period 1 January 2000 to 30 April 2011 police pursuits were associated with the deaths of 19 people and the injury of an additional 737. I will just say that again. From 1 January 2000 to 30 April 2011, police pursuits were associated with the deaths of 19 people and the injury of an additional 737. At present, section 746 of the Police Powers and

Responsibilities Act fails to explain the central aim of the evade police provisions to reduce police pursuits, so the recommendation of the then CMC was that the explanatory clause for the evade police provisions be amended to describe the aim of the evade police provisions to improve community safety by reducing the need for police to pursue drivers and how the evade police provisions aim to assist police to investigate evade police offences.

The then CMC also recommended a tightening of the information that a registered owner has to provide when their vehicle is involved in an evasion offence, such as who has access to their vehicle, their frequency of use and whether the vehicle is used for business or private purposes. The then CMC remarked—

This is basic information that is within the knowledge of every responsible vehicle owner. It is also essential information to assist a police investigation to identify an offending driver.

These recommendations were supported by Labor then and they are supported by Labor now. The amendments will place a greater onus on owners of vehicles to assist police investigate an evasion offence. When served with an evasion offence notice, vehicle owners will now have 14 business days from receipt of the notice to respond with a statutory declaration. This was previously only four days. If the owner cannot identify the person driving the vehicle when the evasion offence happened, they will be required to advise police where they were when the offence happened; the usual location of the vehicle when it is not being used; the name and address of each potential driver known by the owner to have access to drive the vehicle when the evasion offence happened and how they had access; how often each potential driver normally uses the vehicle and for how long; whether each potential driver uses the vehicle in connection with a business or for private use.

I recognise that being obliged to provide this additional information within 14 business days places an increased onus and responsibility on owners, but I say again that on average around 90 times a week a driver deliberately creates a dangerous, potentially deadly situation on Queensland roads by evading police. It is the responsibility of all vehicle owners to play their part in making our roads safer for all Queensland road users.

Another then CMC recommendation that forms part of this bill is precluding the owner or nominated person who has been deemed the driver of the vehicle because they failed to provide information to the police within 14 business days from relying on the rebuttal provision to claim they were not the driver. Police are continually frustrated in their attempts to solve evasion offences. For example, when a vehicle fails to stop as directed by police, police identify that the driver is male. Police attend the address where the vehicle is registered and serve an evasion notice on the owner of the vehicle, who is female. Under current provisions, there is no incentive for the owner to assist police in identifying the driver of the vehicle at the time of the evasion offence. The owner can provide no response to the evasion notice and then rely on the defence that they were not the driver of the motor vehicle when the offence happened.

The changes in this bill will mean that the owner or nominated person is required to provide assistance to police by completing a statutory declaration which includes the details of the driver at the time of the evade offence. If the driver is unknown to the owner, they will be required to provide police with the details I have just mentioned. This will ensure that the owner of a vehicle cannot simply rely on alibi evidence to avoid liability where they have failed to provide police with the required assistance in identifying the driver of their vehicle at the time of the evasion offence. This is balanced by allowing the person to apply for leave of the court to use that information if the court so allows.

In addition to the then CMC recommendations, there is a new offence for vehicle owners or nominated persons who fail to comply with the requirement to give a statutory declaration in response to an evasion offence notice. Not only could they be deemed to be the driver of the vehicle involved in the evasion offence; they may also be liable to a penalty of up to 100 penalty units. This new penalty is an indication of how seriously this government takes the investigation of these offences. People who commit traffic offences and engage in dangerous behaviour on our roads put the lives of other road users and pedestrians at risk. This should not be tolerated and will not be tolerated. These provisions in the bill confer powers that have been requested by the Queensland Police Service and those powers are supported by one of the key stakeholders, the Queensland Police Union. They are powers which I hope this parliament will support by passing this bill.

The bill will also ensure that a notice to appear that is issued for traffic offences and sent by registered post will no longer be restricted to just the vehicle registration or driver licence address. Rather, police will also be able to send a notice to appear for a traffic offence to the person's last known place of business or residence.

The bill also amends the existing numberplate confiscation provisions to remove any doubt that police can attach a numberplate confiscation notice to a vehicle without numberplates. Existing numberplate confiscation provisions operate when a vehicle has been involved in an offence which has resulted in the potential impoundment of that vehicle. While impoundment generally occurs at a holding yard, the numberplate confiscation provisions allow the vehicle to be held at a place other than a holding yard, for example the owner's residence.

Additionally, to support the use of the existing numberplate confiscation powers the bill introduces a new offence for the owner of the vehicle subject to a numberplate confiscation notice to modify, sell or otherwise dispose of the vehicle during the numberplate confiscation period. A maximum penalty of 40 penalty units will apply in respect of this offence.

The bill also extends and enhances a number of police powers. Again, these amendments are aimed at improving front-line efficiencies and community safety and supporting our police. For example, police will be able to search a person who has been detained for breaching the peace where it is necessary for police to transport that person. It is essential that police search people who are in their custody prior to them being transported to ensure that those persons are not in possession of anything that could cause injury to anyone, including themselves or the police.

The bill will also clarify that police have a power to transport a person subject to a police banning notice, because of their inappropriate behaviour, to a police vehicle, police station or watch house to have their photograph taken. The photograph is a visual reminder to licensees and their staff that the person is banned and cannot enter for the period of the banning notice.

The bill will also create a new offence where a person assaults or obstructs a civilian watch-house officer in the performance of their duties. It is an unfortunate reality of modern-day policing that the personal safety of our civilian watch-house officers may be threatened by persons who assault or obstruct them. Unlike our police officers, who may charge an offender who assaults or obstructs them with a simple offence under the Police Powers and Responsibilities Act, the only option for taking criminal action against an offender who assaults or obstructs a civilian watch-house officer is to prefer the more serious assault and obstruct charges under the Criminal Code. In some instances, the circumstances of the assault or obstruct against the civilian watch-house officer may not be so serious as to warrant proceedings under the Criminal Code.

I take this opportunity to acknowledge our watch-house officers for the work they do. Whenever I travel across the state I make a point of visiting our watch houses—in addition, of course, to our police stations—to acknowledge the hard work of our civilian watch house officers and the police who support them in our watch houses. It is a very important job, dealing with some of the most complex and challenging Queenslanders.

This bill introduces a new simple offence under the Police Powers and Responsibilities Act to appropriately deal with offenders in cases where they assault or obstruct a civilian watch-house officer. This new offence has the benefit of ensuring that when a person does assault or obstruct a civilian watch-house officer the charge against that person can be proportionate to what actually occurs within the watch-house environment. It gives the police the option of what to charge an individual with, depending on the level of violence or obstruction a watch-house officer is presented with.

There is also a benefit to offenders in that they now may only have to deal with a simple offence instead of the more serious offence provisions of serious assault or wilful obstruction of a public officer under the Criminal Code that they currently would be charged with. In practical terms, a person who shows some resistance to a watch-house keeper or who hinders or obstructs the watch-house keeper can, with this amendment, be charged with the simple offence of 'obstruct a watch-house officer in the performance of the officer's duties'—a much more appropriate offence than what would occur normally, which is a serious charge under the Criminal Code of 'serious assault or wilful obstruction'. The new offence has a maximum penalty of 40 penalty units, or six months imprisonment, which is the same penalty for the offence of assaulting or obstructing a police officer under section 790 of the Police Powers and Responsibilities Act.

For similar reasons, the existing offence under section 790 of the Police Powers and Responsibilities Act of assaulting or obstructing a police officer in the performance of their duties will be separated into two distinct offences. Currently, the offences of obstructing a police officer or assaulting a police officer are combined in one offence provision. The offence is prevalent, and the joining of the two offences makes data analysis difficult. Additionally, members of the community have advised that their criminal history may not reflect the offence committed when the word 'assault' appears in their conviction for obstructing a police officer. Separating the existing offences into two offences is fair to all concerned. Make no mistake about it: any assault on our front-line emergency workers, including our

police, is entirely unacceptable and those people who assault our front-line emergency workers, including our police, attack not only them but also our legal system. They attack our community and they attack all of us. That conduct is unacceptable and those people will feel the full force of the law.

This government is also cracking down on people who organise and operate unlicensed bookmaking in Queensland by allowing approved police to engage covertly with operators to disrupt their illegal activities. Three offences under the Racing Integrity Act 2016 in relation to unlawful bookmaking will be included as controlled operations and controlled activities under schedules 2 and 5 of the Police Powers and Responsibilities Act. The bill also extends the types of offences which will be considered as reportable offences under the Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004. A further 10 Commonwealth child sex offences, such as trafficking in children and sexual intercourse with a young person outside of Australia where the defendant is in a position of trust or authority, have also been included as reportable child sex offences in Queensland. These 10 offences target offenders who use their position to either engage in sexual conduct or allow others to engage in sexual conduct with a young person outside of Australia.

Also, reportable offenders who have been convicted of offences involving the administering of a child exploitation material website or encouraging a person to use such a website have also been targeted in this bill. We know that technology is continuing to evolve at a rapid rate. The Taskforce on Organised Crime Legislation, established by our government, noted that the internet has provided an environment for the proliferation of online child abuse and child exploitation material. The use of technology has led to the emergence of a child abuse market which seems to know no boundaries and offenders who establish and run these websites not only commit a reportable offence but also commit a prescribed internet offence which allows police to inspect any and all electronic devices in their possession four times a year every year for a minimum of five years. It is about protecting our children from the clutches of the dark net.

Following the commission of inquiry into organised crime, our government announced a funding boost to support the capabilities of our investigators working tirelessly to target those who commit atrocious sexually based crimes against children. Our new organised crime legislation allows police to further crack down on online child sex offending and exploitation. The new offence covers child exploitation and extends to other crimes where access to information is required.

Between the commencement of the offence and February this year, almost 60 charges had been preferred by the Queensland Police Service as police interstate and internationally take their cues from Queensland's world renowned Task Force Argos. Because it is such an outstanding achievement, it is worthy of me to again acknowledge that the head of Task Force Argos received an international award for his dedication to fighting and investigating crimes against children—a job that he has been doing for more than 20 years. This award is well deserved and a great example of the great work that our Police Service does.

For the first three months of this year, Task Force Argos was behind the arrest of 251 offenders on 2,853 charges for various crimes including rape and the possession, making, production and distribution of child exploitation material. The team at Task Force Argos are recognised internationally for their incredible work and for saving lives—the lives of children—and they are to be acknowledged. There is a victim focus to this bill. We are protecting victims of serious crimes, victims of criminal road behaviour and child victims of online predators. Community safety is our top priority as a government.

The amendments to the Corrective Services Act 2006 will allow the Parole Board of Queensland to conduct its business more efficiently. Members may remember that in August 2016 the Premier announced a review of the parole system in Queensland after an elderly Townsville woman was murdered by a man on parole. That review was undertaken by Walter Sofronoff and recommendations for change were made. Last year we passed amending legislation to support those amendments which brought in widespread changes to Queensland's probation and parole system, including the establishment of a full-time, centralised, fully independent and professional parole board, the Parole Board Queensland.

This bill makes some minor changes to the 2017 legislation to ensure the Parole Board Queensland continues to conduct its business more efficiently. For example, the bill will change the way in which the Parole Board Queensland can consider an urgent request to suspend a person's parole. At the moment it requires a two-stage decision-making process. The request must first be considered by a single prescribed board member and then forwarded to the board for a final decision to be made.

The intent of the 2017 framework was to allow an urgent suspension request to be considered by a single board member when the full board was not available. The single board member was also required to issue a warrant for the prisoner's return to Corrective Services custody, regardless of whether this had already occurred. The intent of the 2017 legislation has not been fully realised and a minor change is required to allow an urgent suspension to be considered by the board as a whole without first being considered by a single member and to remove the obligation for a warrant to be issued where the prisoner has already been returned to Corrective Services custody.

The bill also removes the current practice which allows life sentence prisoners to reapply for parole every six months when they continue to pose a risk to the community. The Parole Board Queensland will have the power to set an appropriate time within 12 months in which the prisoner must not reapply for parole after a previous application has been refused. Exceptional circumstances parole applications will not be affected by the amendment and nor will the parole reapplication periods for other prisoners. This amendment reflects the significance of the Parole Board's decision-making when considering parole for these prisoners.

Other amendments to the Corrective Services Act provide the Parole Board Queensland with the ability to better deal with prisoners who do not comply with their parole conditions or pose risks to the community or themselves. Currently, the Parole Board Queensland must sit as five members to consider the cancellation of a prescribed prisoner's parole. However, the board only requires three members to consider a suspension of a prescribed prisoner's parole. Prescribed prisoners are those prisoners convicted of serious offences. This bill amends the current process to allow the Parole Board Queensland to consider all matters pertaining to the cancellation or suspension of a prescribed prisoner's parole while sitting as three members. These amendments ensure that swift and certain action is taken to ensure the safety of Queenslanders is not compromised.

As I mentioned, the Palaszczuk government has delivered sweeping reforms to our state's probation and parole system following Mr Sofronoff's reviews and these reforms continue to be the most comprehensive in history. These reforms will ultimately enhance community safety by increasing the rehabilitation of prisoners once they have completed their sentence and are returned to the community. This means that before a prisoner is released on parole they will undergo intensive one-on-one case management. This is about creating a safer community.

The bill also seeks to simplify administrative practices, create efficiencies for government and its departments and achieve red-tape reduction, savings and benefits. Currently, officers from the Queensland Police Service, the State Penalties and Enforcement Registry, the Department of Transport and Main Roads and the Motor Accident Insurance Commission are required to provide a certified copy of a delegation on every occasion an evidentiary certificate is tendered in a court proceeding. This results in the need to update, copy and certify thousands of pages of delegations each year. Delegations are also required to be updated, reprinted, recopied and resent to each prosecution corps each time they change. The bill addresses this ongoing administrative issue by removing the requirement to automatically provide a proof of delegation on each occasion an evidentiary certificate is tendered. However, we will ensure that proof of a delegation is made available to defendants who want it. As such, the defendant can choose to challenge the delegation if they so wish and, if this is the case, a copy of the delegation will be made available to them.

Finally, the bill amends the Police Powers and Responsibilities Regulation 2012 to support amendments made to the Police Powers and Responsibilities Act 2000. These are process amendments which support the policy in relation to the new high-risk missing persons scheme and the changes to the crime scene provisions. As I said at the outset, this bill supports the government's Advancing Queensland priorities of keeping our community safe. It is a bill worthy of the support of this House and I commend the bill to the House.

### **First Reading**

**Hon. MT RYAN** (Morayfield—ALP) (Minister for Police and Minister for Corrective Services) (12.48 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**

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