



Speech By  
**Hon. Mark Ryan**


**MEMBER FOR MORAYFIELD**

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

### **Introduction**

 **Hon. MT RYAN** (Morayfield—ALP) (Minister for Police and Minister for Corrective Services) (11.30 am): I present a bill for an act to amend the Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004, the Crime and Corruption Act 2001, the Criminal Code, the Domestic and Family Violence Protection Act 2012, the Police Powers and Responsibilities Act 2000, the Prostitution Act 1999, the Public Safety Preservation Act 1986, the Weapons Act 1990, the Weapons Categories Regulation 1997 and the Weapons Regulation 2016 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 2019 [[1503](#)].

*Tabled paper:* Police Powers and Responsibilities and Other Legislation Amendment Bill 2019, explanatory notes [[1504](#)].

I am pleased to introduce the Police Powers and Responsibilities and Other Legislation Amendment Bill 2019. This bill will amend legislation to improve community safety and the operational efficiency of both the Queensland Police Service and the Prostitution Licensing Authority. It will provide legislative clarity for police and Crime and Corruption Commission officers that they can lawfully obtain any information accessible on or via a digital device that may reveal evidence of a broad range of serious crimes.

Child sex offenders, drug dealers and perpetrators of other serious crimes often conceal evidence of their offences on digital devices such as computers or mobile phones. Police officers and officers of the Crime and Corruption Commission presently have powers to require a person to hand over the password or encryption code to their digital device under a suite of Queensland legislation including the Police Powers and Responsibilities Act, the Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004, the Public Safety Preservation Act 1986 and the Crime and Corruption Act 2001. These existing powers are balanced by appropriate safeguards which balance the privacy of persons with the need to effectively detect and investigate crime.

Amendments in this bill to powers which permit access to password protected devices ensure that the suite of legislation I have referred to keeps pace with advancing technology. The bill ensures that terminology used in the provisions of the act is sufficiently broad to ensure that, no matter how incriminating evidence is contained on or through a device, it can be lawfully accessed. Whether evidence of crimes is stored physically on a device, in the cloud, in email accounts or in social media applications, police and commission officers will have access to the evidence upon meeting existing criteria.

The proposed amendments will ensure that state laws are enforced effectively and that evidence of crimes including homicide, sexual assault, drug trafficking, child abuse, cybercrime such as fraud and revenge pornography, and terrorism related offences cannot be concealed. These amendments will ensure access information provisions continue to operate as intended.

The bill proposes a number of other sensible amendments to the Police Powers and Responsibilities Act, the Weapons Act, the Prostitution Act and the Domestic Violence and Family Protection Act. These amendments enhance the efficiency and operability of the Queensland Police Service, the Prostitution Licensing Authority and the Weapons Licensing Branch of the Queensland Police Service.

The bill makes the following amendments to the Police Powers and Responsibilities Act. The definition of 'controlled activities' is outdated as it refers to meetings, which implies the physical presence of the police officer and a person at the same location. The word 'meetings' will be replaced with the term 'communications between the officer and a person'. By replacing the word 'meetings' with this term, all methods of communication including email, mobile phone text messaging, social networking communications or meetings may be contemplated when considering the application of the controlled activity provisions.

Controlled operations are similar to controlled activities insofar as they authorise conduct which would otherwise be unlawful. However, whereas controlled activities may target an individual target—for example, an undercover police officer covertly purchasing drugs from an individual drug supplier—controlled operations target more complex matters or larger criminal enterprises such as organised crime syndicates. The approval process for controlled operations is justifiably rigorous, and applications must progress through a number of steps before reaching the Controlled Operations Committee, which consists of an independent person who is a retired judge, the detective superintendent of the Drug and Serious Crime Group, and the chairperson of the Crime and Corruption Commission. Upon this committee's recommendation, the application can progress for final approval to the assistant commissioner for crime operations or a deputy commissioner.

The bill proposes to broaden the delegated officers who can approve, vary or cancel an operation to any deputy commissioner, any assistant commissioner or the detective chief superintendent of statewide crime operations. The proposed amendment maintains the final approval at an appropriate high rank of delegated officers; however, the change will enhance the process to ensure the Queensland Police Service can act on timely intelligence. Furthermore, the amendments will better align the authorisation level with those in other Australian jurisdictions.

This government takes road safety seriously. As a result, Queensland has tough laws whereby the commission of certain traffic offences can result in the immobilisation, impoundment and ultimately forfeiture of an offender's vehicle. Impoundment costs are not cheap, and an audit by the Queensland Police Service's Road Policing Command revealed that a large percentage of impounded vehicles are worth less than \$500. When impoundment expenses exceed the value of a person's vehicle, this can result in unfairness to the person as well as to impoundment yard operators, who may be out of pocket. Present laws permit the voluntary transfer of a motorcycle to the state for impoundment related offences or the voluntary transfer of a vehicle to the state but only for an evasion offence. This bill sensibly proposes an amendment that would allow the transfer of an impounded vehicle to the state for any impoundment related offence under chapter 4 of the Police Powers and Responsibilities Act to alleviate any unfairness arising out of impoundment fees.

The Queensland Police Service comes into possession of a large volume of found property such as bicycles, backpacks, clothing, mobile phones and other digital devices. Current laws stipulate that the Queensland Police Service must hold the property for 60 days before disposal and must give a person 30 days notice before disposal of property. In cases where the owner of the property is unknown, notice and a description of the property is provided via the Queensland Police Service website. Due to advances in technology, the 60-day holding period stipulated in the law is outdated. Reports of lost property may be made online and over the phone, and online search capabilities allow quick comparison of lost property reports against found items. The Queensland Police Service capability to advertise lost property to the community is far reaching through the Queensland Police Service social media sites and blogs, traditional media channels and formal advertising on the Queensland Police Service website. In fact, the Queensland Police Service website has recently been upgraded, and this has markedly increased the usability level for the public when they are seeking to make inquiries about policing matters including lost property. For these reasons, it is proposed to reduce the requirement for the Queensland Police Service to hold the property for at least 60 days to at least 30 days.

Finally, with regard to the Police Powers and Responsibilities Act, the bill repeals sober safe centre trial laws which were not continued after the 12-month trial concluded in 2015. There are also some minor but fair and practical changes proposed for the Weapons Act 1990. The current definition of 'magazine' in the Weapons Act and the Weapons Categories Regulation are inconsistent. The proposed amendment will address this inconsistency by changing the definition of 'magazine' in the Weapons Act to include receptacles for ammunition that are an integral part of the firearm.

The bill proposes to expand the period for which a weapons licence can be suspended from 30 days to 90 days. The Weapons Act currently allows an authorised officer to suspend a person's weapons licence where they suspect the licence holder is no longer a fit and proper person. The suspension period is designed to provide the licensee more time in which to demonstrate that they are in fact a fit and proper person. When a person's licence is suspended because they may no longer be a fit and proper person on the grounds of mental or physical health, the licensee may engage the services of a psychologist or a medical practitioner to demonstrate their fitness. However, delays can mean that a person is unable to provide the required evidence within the currently imposed 30 days. This statutory window of 30 days disadvantages licensees and is an administrative impost on the Queensland Police Service and QCAT. Consequently, it is proposed to amend the Weapons Act to mitigate this issue by extending the time for which a licensee can be suspended to 90 days.

Currently, armourers who modify a firearm in such a way that it changes the category of that firearm under the Weapons Categories Regulation are under no obligation to ensure the owner has the required licence to possess the modified firearm or to notify Weapons Licensing about the modification. The bill amends the Weapons Act to include an express obligation on armourers who are modifying firearms in a way that alters the category of the firearm to confirm that a person can possess the new category of firearm by sighting the person's weapons licence. The amendments will also require armourers to record such changes in their weapons register and report such modifications to the Weapons Licensing Branch to ensure that the firearms register can be accurately maintained.

A number of amendments are also proposed for the Prostitution Act 1999. These amendments will rectify the three-year ineligibility period for brothel licensees who have not paid annual fees; authorise the Prostitution Licensing Authority to enter, search, seize and require the production of documents at a licensed brothel; create the offence of obstruction of an authorised officer in the Prostitution Act; and make the offence of contravening a condition or restriction of a licensed brothel a simple offence which may make the offence suitable for the prescription of a penalty infringement notice in the future.

The bill will also amend the Domestic and Family Violence Protection Act. This government considers the safety of our police officers and the broader community to be paramount. Police are required to transport persons in a variety of circumstances, for example because they are arrested, detained or otherwise in lawful custody. Prior to transport, police have a broad range of powers to search a person for items that may be used to harm police, themselves or others. The proposed amendments to the Domestic and Family Violence Protection Act will close a gap where police are currently unable to search a person whom they are transporting under section 134A of that act.

Under that act, a police officer may direct a person to move to another stated location—for example, a police station, police beat or courthouse—to enable the officer to carry out various functions, for instance serving a person with a domestic violence application or order. The direction to move to another location only applies if in the police officer's opinion it is necessary to separate people. Separating the parties can assist to de-escalate domestic violence situations, provide the opportunity for a respondent to better understand the conditions of an order or a police protection notice, and reiterate the seriousness of the domestic violence that has occurred. It is important that police are able to give effect to that policy intent by transporting persons in a safe manner.

Recent amendments were made to the Domestic and Family Violence Protection Act to enhance information sharing between government agencies. The current provisions allow a police officer to share information with other agencies. However, this does not reflect the reality of the operational environment where many civilian staff are employed by the Queensland Police Service in back office style roles. The proposed amendment to the domestic violence legislation will permit authorised civilian staff to share information, enhancing the assessment and response to serious threats to life, health or safety of people because of domestic violence, and the referral of people who fear or experience domestic violence or who commit domestic violence to specialist service providers.

This government is committed to enhancing the safety of the people who work and live in or are lucky enough to visit Queensland. We remain committed to providing the Queensland Police Service and other agencies with the laws they need to prevent and detect crime in this fast-changing world. Of special importance are the clarification laws concerning their ability to access data on digital devices. Sex offenders, organised crime members, those who use social media for pornography and a range of other crimes are reminded that police will have the most up-to-date and effective laws to detect evidence of offences concealed on digital devices. The bill demonstrates our government's dedication to advancing the state of Queensland by keeping our community safe. I commend the bill to the House.

## **First Reading**

**Hon. MT RYAN** (Morayfield—ALP) (Minister for Police and Minister for Corrective Services) (11.45 am): 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 Kelly): Order! In accordance with standing order 131, the bill is now referred to the Legal Affairs and Community Safety Committee.