Queensland Community Safety Bill 2024

Explanatory Notes

Short title

The short title of the Bill is the Queensland Community Safety Bill 2024.

Policy objectives and the reasons for them

The overarching objective of the Queensland Community Safety Bill 2024 (the Bill) is to enhance community safety by implementing comprehensive measures to optimise and strengthen law enforcement capabilities and efficiencies, improve crime prevention strategies, and address key issues affecting public security and wellbeing. Through a combination of proactive strategies and targeted interventions, the proposed measures in this Bill support the Queensland Government's commitment to enhancing public safety and security.

The Bill achieves this objective by enacting a range of amendments to the following legislation:

- the *Childrens Court Act 1992* (CC Act);
- the *Corrective Services Act 2006* (CS Act);
- the Criminal Code;
- the *Disaster Management and Other Legislation Amendment Act 2024*;
- the *Domestic and Family Violence Protection Act 2012* (DFVP Act);
- the *Explosives Act 1999* (Explosives Act);
- the *Judicial Review Act 1991* (JR Act);
- the *Police Powers and Responsibilities Act 2000* (PPRA); ,
- the *Police Service Administration Act 2000* (PSAA);
- the *Public Safety Preservation Act 1986*;
- the *Summary Offences Act 2005* (SO Act);
- the *Transport Operations (Road Use Management) Act 1995* (TORUM);
- the *Weapons Act 1990* (Weapons Act); and
- the *Youth Justice Act 1992* (YJ Act).

Amendments to the Childrens Court Act 1992

The Bill amends the CC Act to enable Childrens Court criminal proceedings to be more open to victims, the family of deceased victims, victims' representatives, people with a proper interest in the proceedings, and the media.

Expanding the trial of hand held scanner provisions in public places in the Police Powers and Responsibilities Act 2000 (Jack's Law)

The *Youth Justice and Other Legislation Amendment Act 2021* (YJOLAA) received assent on 4 May 2021 and introduced amendments to the PPRA to grant police officers with powers to use hand held scanners in specified Safe Night Precincts (SNPs) to detect unlawfully possessed knives.

The YJOLAA introduced these powers as part of an initial trial which commenced in early May 2021 and continued until 30 April 2023. The objective of the trial was to minimise the risk of physical harm caused by knife crime in SNPs. The trial was limited to Surfers Paradise and Broadbeach SNPs.

On 2 April 2023, the *Police Powers and Responsibilities (Jack's Law) Amendment Act 2023* (Jack's Law Amendment Act) received assent, introducing amendments to the PPRA to:

- extend the expiry date for the scanning provisions to 30 April 2025;
- increase the scope of prescribed public areas for scanning to include all 15 SNPs and all public transport stations, including public transport vehicles; and
- strengthen the criteria a senior police officer must consider before approving the use of a hand held scanner device.

Recent events in the community demonstrate that knife related crime continues to pose a risk to community safety. Queensland Police Service (QPS) statistical data derived from the Jack's Law framework demonstrates its effectiveness, with at least 532 weapons seized since April 2023 as a result of over 5050 authorised wanding operations.

The Bill introduces amendments to further support police efforts to address the increasing prevalence of knife related crime and reflect the seriousness of this type of offending and the community's denunciation of such conduct by:

- expanding the prescribed public places to which the hand held scanner provisions may apply; and
- extending the expiry date of the scanning provisions to allow the expanded framework to be independently evaluated.

Introducing a Firearms Prohibition Order scheme in Queensland

Despite Australia's robust firearm regulation, significant harm from illegal gun use continues, resulting in the Australian Criminal Intelligence Commission (ACIC) reporting the trafficking and use of firearms as a serious national threat and a significant safety concern for Australia. The ACIC has conservatively estimated there are at least 200,000 firearms in the illicit market with an increasing number of organised crime groups, including outlaw motorcycle gangs engaging in the trafficking of illicit firearms.

Queensland has experienced an increase of more than 60% in the number of registered firearms within the community since 2013, with the number of registered firearms increasing to over 1 million firearms in early 2024. The increased availability of firearms within the community grants further opportunities for these deadly weapons to be misappropriated. The rate of firearms reported as stolen has also increased by at least 21% within the last decade, with over 779 firearms reported stolen in 2023. Coupled with continuing challenges in recovering stolen firearms and the longevity of a functioning firearm, there is a corresponding increase in the risk that these weapons come into the possession of high-risk individuals and are used in the commission of an offence. The risk to the community is apparent when considering the

increased number of reported offences involving firearms in Queensland, which has risen at least 30% in the last decade, with approximately 3,352 reported firearm offences in 2023.

In recognition of this increasing threat, the National Organised Crime Response Plan 2015-2018 proposed each jurisdiction consider introducing a Firearm Prohibition Order (FPO) scheme to address increasing concerns regarding the rising number of stolen firearms, the use of illicit firearms in the commission of offences, and the impact on the Australian community because of increasing firearm related offending.

The Bill seeks to address the increasing risk of firearm related offences by introducing an FPO scheme in Queensland. An FPO prohibits an individual subject to the order from possessing, using, or acquiring a firearm or firearm related item and empowers police officers to conduct warrantless searches of the individual, their vehicle or residence, to ensure compliance with the order. Under this scheme, an FPO can be issued against high-risk individuals if the decision maker is satisfied it is in the public interest to make the order. Currently, Queensland is one of the few jurisdictions in Australia that has yet to introduce an FPO scheme.

Introducing a new verification process for purchasing small arms ammunition

The Bill introduces a safeguard in relation to the sale of small arms ammunition by amending the Explosives Act to introduce a new offence which requires sellers engage in a new verification process to ensure a buyer of small arms ammunition possesses a valid licence or authority to purchase the ammunition. Whilst it is already an offence under section 42 of the Explosives Act to sell an explosive (including small arms ammunition) to an unauthorised person, this provision does not prescribe the steps to be taken to ensure the buyer possesses a valid licence or authority.

Implementing recommendations from the Queensland Audit Office report *Regulating firearms (Report 8: 2020-21)*

On 27 November 2020, the Queensland Audit Office (QAO) tabled a Performance Audit report *Regulating firearms* (QAO Report) which identified that the regulation of firearms under the Weapons Act could be more effective, and the community is not as well protected as it should be. The QAO made several recommendations in this report, including that the QPS review the Weapons Act to identify opportunities for improvement and provide greater focus on public safety, and implement appropriate controls to ensure firearm licence decisions are consistent and made in accordance with relevant standards.

The QPS accepted all the QAO recommendations, and since the release of the report the QPS has made operational changes and amendments to subordinate legislation have occurred to give effect to the recommendations.

Recommendation 3 of the QAO Report was that the QPS review the Weapons Act to identify opportunities for improvement and provide greater focus on safety. In particular, the QAO recommended consideration be given to the appropriateness of the current exclusion period, identifying that the Weapons Act does not adequately support the rejection of applications from people with a history of criminal offending outside of the current five year exclusionary period. The QAO identified further clarity and public protection was required to support decision making regarding firearm licences and that a greater focus should be placed on public safety.

The QPS has considered the QAO's findings and recommendations and conducted an internal review of the Weapons Act.

The Bill introduces amendments to further improve the efficiency and effectiveness of the Weapons Act with a focus on enhancing firearm regulation and firearm licence decisions, prioritising public interest and safety. As part of this package, the Bill amends the Weapons Act to better support the exclusion of people who have committed relevant offences outside the five-year mandatory exclusion period that would make them unsuitable to possess a firearm.

Increasing the maximum penalty for possessing a knife in a public place or school

The possession of knives in public places poses a significant risk to community safety with the potential for incidents to quickly escalate to the use of the weapon to commit serious and violent crimes. This has been evidenced by recent events in the community which have resulted in the tragic loss of life. The Queensland Government remains committed to reducing unlawful possession of knives and other weapons in public places to minimise the risks of harm associated with knife related crime.

The predominant legal mechanism available in Queensland to combat the predilection of knives within our community is section 51 of the Weapons Act, which prohibits a person from physically possessing a knife in a public place or school, without reasonable excuse.

Currently, the maximum penalty for this offence is 40 penalty units or one year imprisonment. By comparison, section 50(1)(c)(iii) of the Weapons Act provides that a person must not unlawfully possess a category M weapon (which includes certain serious knives) which carries a maximum penalty of 100 penalty units or two years imprisonment.

The Bill will increase the maximum penalty for this offence to reflect the seriousness of this type of offending and send a strong deterrent message to potential offenders.

Removal of criminal online content and advertising offences

In 2023, a circumstance of aggravation for publishing images or recordings of offending behaviour on social media platforms was inserted in section 408A of the Criminal Code (Unlawful use or possession of a motor vehicle).[1] The circumstance of aggravation applies where the offender publishes material online to advertise the offender's involvement in the offence, or to advertise the act or omission constituting the offence.

The trend of offenders posting images and recordings of their offending online and on social media platforms continues. The distribution of this material online is unacceptable.

By publishing images and recordings of their criminal acts, offenders encourage others, particularly young people, to engage in similar criminal behaviour. The QPS has detected that some offenders are engaging in escalating serious offences, motivated by a desire to compete through publishing images and recordings. Further, seeing the material can be re-traumatising for victims and can evoke or perpetuate sentiments of fear among the community resulting in an increased perception of the risk of crime or feelings of unsafety.

[1] *Strengthening Community Safety Act 2023* section 8.

Once material is published online, it can be difficult to control how it is shared and by whom it may be accessed. The prevalence and rapid spread online of material depicting unlawful conduct, particularly following events of major criminal offending, has highlighted that some social media companies put profits above the community by not consistently self-applying standards relating to content removal. The removal of material becomes untimely, leading to further traumatisation of the community as well as victims and their families.

The Bill establishes a framework for authorised officers to require the provider of an online service to remove material depicting unlawful content from the service, and will create a new offence for publishing material depicting a prescribed offence.

The Bill will also increase the maximum penalties for a range of offences through the amendment of existing, and introduction of new, circumstances of aggravation where an offender has published material of their offending behaviour on social media. The increases to maximum penalties reflect the seriousness of this type of offending and the community's denunciation of such conduct.

Cracking down on serious vehicle offending

Some drivers show reckless disregard for the directions of police and the welfare of other people in the community. It is very serious offending where this disregard results in the death or grievous bodily harm of another person.

Despite existing penalties, offenders continue to drive dangerously and cause death or grievous bodily harm. This risk-taking behaviour places the offender, emergency workers and the community at risk of serious injury or death. Its consequences create significant devastation for individuals, families and the broader community.

The Bill will increase the maximum penalty for dangerous operation of a vehicle where it causes the death of or grievous bodily harm to another person. The Bill will also insert a new circumstance of aggravation for dangerous operation of a vehicle where the offender was evading police and causes the death of or grievous bodily harm to another person.

Keeping emergency workers safe

Every day, emergency workers keep Queenslanders safe in challenging situations. Violent and dangerous behaviour by drivers—through ramming emergency vehicles or endangering the safety of police officers—puts emergency workers and other community members at risk.

Emergency workers in Queensland routinely perform their duties in volatile and dangerous situations where they are exposed to an increased risk of work-related violence and aggression. There is a need to provide strong safety protections for emergency workers while they perform vital roles for all Queenslanders, providing ambulance, emergency, fire, policing and protective services to the community.

Emergency workers deserve to be safe at work when they are taking care of Queenslanders. They should be protected from irresponsible and dangerous behaviour.

Ramming emergency vehicles

Ramming an emergency vehicle is a particularly dangerous act with a high risk of causing damage to the vehicle or injuring passengers in, or people near, the vehicle. In Queensland, there have been several incidents involving people operating vehicles in a way that intentionally causes damage to an emergency vehicle. This act, commonly referred to as "ramming", has serious impacts on community safety. Injuries suffered by emergency workers, alongside health and personal impacts, mean an emergency worker cannot return to work for some time. Ramming can also cause considerable damage to emergency vehicles, rendering them inoperable until repairs are completed.

The Bill will create a new offence to damage an emergency vehicle when operating a motor vehicle.

Endangering police officers

Police officers frequently work on the roadside or other places where people drive motor vehicles. It is the duty of police officers to attend volatile and dangerous situations. Police officers stay at these situations until they are resolved. While there, they can be exposed to an increased risk of work-related violence and aggression. Where a police officer is a pedestrian, they are especially vulnerable to vehicles. This is particularly so where the driver operates the vehicle in a way that deliberately puts the police officer's safety at risk.

Examples of this dangerous behaviour include:

- swerving in a vehicle towards a police officer on foot;
- driving at a police vehicle in an attempt to ram the vehicle, requiring the officer to conduct emergency driving where they have limited control and are at high risk of suffering injury;
- swerving on the road in an attempt to ram a police vehicle; or
- crashing into a police vehicle that is standing at a traffic signal.

The Bill will create a new offence to drive a motor vehicle in a way that could injure or endanger the safety of a police officer.

Protecting emergency vehicles

To deliver the world-class emergency services that keep our communities safe and healthy, emergency workers rely on emergency vehicles to travel around Queensland.

Wilful damage of emergency vehicles

Emergency vehicles can also be damaged through means other than ramming. For example, a person may throw objects (such as rocks) at an emergency vehicle, kick the windows of the vehicle or hit the vehicle with a weapon (such as a bat).

This damage, although lesser in culpability and severity than ramming, still has a significant impact on the community by impeding service delivery while the vehicle is unavailable for use awaiting repairs.

The Bill will increase the maximum penalty for wilful damage where the property is an emergency vehicle.

Entering or taking an emergency services vehicle

Some offenders have unlawfully used police vehicles to commit offences and to evade police.

There are several obligations of road users that arise when they see an emergency vehicle displaying a flashing warning light, including keeping clear of, and giving way to, the emergency vehicle. Although these obligations will not factually arise when the person using an emergency vehicle is authorised to do so, other drivers who are not aware that the emergency vehicle is not being operated by an emergency worker may have an inadvertent and erroneous understanding that the obligations have arisen. This can create serious safety risks for the community.

There is also a considerable safety risk when a person enters an emergency vehicle without consent to commit offences. This can occur by the person being able to access restricted items kept in the vehicle that cannot be lawfully possessed by other people.

The Bill will increase the maximum penalty for:

- unlawful use or possession of motor vehicles, aircraft or vessels where the vehicle is an emergency vehicle;
- unlawful entry of vehicles for committing an indictable offence where the vehicle is an emergency vehicle.

Amendments to the Domestic and Family Violence Protection Act 2012

A pivotal component to service responses to domestic and family violence is the QPS. In response to significant and increasing demand and pressure on their services and increased awareness of the complex dynamics of relationships that involve domestic and family violence, the QPS requires agility and flexibility to respond efficiently and effectively to calls for service. Of paramount consideration is the requirement to ensure service responses accord with the principles for administering the DFVP Act outlined in section 4 of the Act.

Relevant relationship involving children

In the DFVP Act a child under 18 years old is included in the definition of a 'family relationship.' When it is reasonably suspected an act of domestic violence has been committed, a police officer is required by section 100 of the DFVP Act to investigate. However, section 22 provides that a minor child cannot be named as the aggrieved or respondent where there is a family relationship. This does not abrogate the responsibility for a police officer to investigate as domestic violence.

The QPS responds to calls for service involving parent–child disciplinary matters that are entirely unrelated to domestic and family violence. However, due to the circumstance of the incident, it is still necessary to investigate these with a domestic and family violence lens.

Enable a court hearing an appeal to make a temporary protection order

When a court is hearing a domestic and family violence matter on appeal, it can set aside a decision and remit a matter to the original jurisdiction for consideration. However, there is no

power for the court to make a Temporary Protection Order (TPO) to protect the victim-survivor in the period between the remittal and a fresh decision by the inferior court. This leaves the aggrieved with no protection in place.

Enable police to nominate the first mention date of a police protection notice

To provide immediate protection to a victim-survivor, a police officer can issue a Police Protection Notice (PPN) when initially responding to a DFV incident. The PPN is taken to be an application to court for a protection order.

Section 105 of the DFVP Act requires the first mention of a PPN to be within five business days, providing minimal flexibility and preventing the police officer from producing well-informed material to the court. In some regional courts the next sitting day could be a matter of hours from the incident and not sitting again for more than the five day time period. This means that the material provided to inform the court can be rushed and not as fulsome as may be considered necessary resulting in adjournments or minimised protections for the aggrieved.

Amendments to the Corrective Services Act 2006

Many prisoners in the custody of Queensland Corrective Services (QCS) are subject to ongoing criminal justice proceedings. In some circumstances, a police officer may be required to personally serve a document on a prisoner. Access to correctional centres for police officers to serve documents on prisoners can be impacted by safety and security measures at corrective services facilities.

To improve operational efficiencies, the Bill includes amendments to the CS Act to enable a trial of arrangements for corrective services officers to serve prescribed domestic and family violence documents on prisoners in corrective services facilities in prescribed circumstances.

Modernising document authentication and service requirements

There are a range of circumstances in which police officers are obligated to assist courts in effecting service of documents, which is unable to be sustained. Policing approaches are continually evolving to appropriately balance responsiveness in ensuring community safety and holding offenders to account, whilst protecting victims' rights and needs. Developments and improvements in technological advancements provide increased opportunities for law enforcement agencies to engage electronic communications to support traditional policing methods, whilst maintaining community expectations in the administration of justice. In addition to these societal trends, there has been a growing voice in the community for frontline police officers to direct resources and efforts to respond to, and investigate, crime.

The QPS focus on continued improvements in service delivery has leveraged opportunities to introduce administrative efficiencies across everyday duties, particularly involving automated data processes in existing systems to reduce time spent on administrative tasks. However, these changes have not yielded substantial results in responding to the increased demand for service.

The modernisation of document authentication and service requirements to expand the options available to police officers when undertaking these administrative duties will improve efficiencies allowing for a reallocation of resources to the increased demand on frontline services.

Electronic service of documents

A significant portion of frontline police capacity is spent on the service of documents. For example, in the financial years between 2020-21 and 2022-23 there were an average of 247,377 notices to appear issued. It takes a police officer between 10 minutes to 4 hours to issue a Notice to Appear and complete related data entry. A police officer either fills out a handwritten document or returns to a police station to draft and then print documentation. The police officer must re-locate the subject person to effect service by giving the printed copy of the document to them. Inefficiencies exist in the need to re-locate the subject person.

Further time is required to deliver the physical document to a police prosecutions corps and file it in the relevant court, which is estimated to take between 30 minutes to an hour, and even up to 10 days in remote areas of Queensland depending on the location and the availability of officers.

Police officers are empowered to serve particular documents electronically and have done so for many years. For example, penalty infringement notices (PINs) issued under the *State Penalties Enforcement Act 1999* are served electronically using QNotices on QLiTE devices. Expansion of this technology is available in the medium-term and new technological solutions are being sourced to operationalise an expansion of electronic service of documents.

The existing electronic service provisions in the PPRA enable service to a unique electronic address. Schedule 6 of the PPRA defines ‘unique electronic address’ as a fixed designation on a communication network assigned to the person for the purpose of receiving information. Examples to that definition are an email address, mobile phone number or user account.

Across various statutes, documents that require personal service may be electronically served on the recipient. However express provisions are required for each type of document.

Recommendation 22 of the Independent Commission of Inquiry into Queensland Police Service responses to domestic and family violence recommended the Department of Justice and Attorney-General consider the feasibility of amending the DFVP Act to allow electronic service of PPNs and TPOs in appropriate circumstances.

Significant time savings in administrative duties are available if the electronic service of select documents becomes an option for police officers. It is estimated that electronic service of a notice to appear would save approximately 10 minutes per notice through auto-population into QPRIME. If there is a 70% uptake in the electronic service of notices to appear, an estimated 28,861 hours of police time would be saved on administrative tasks.

The QPS is committed to increasing the capability of frontline police officers to spend more time on crime prevention, disruption, investigation, and response. There is a need to modernise document service requirements to increase police efficiencies. The ability to effect document service electronically aligns with the commitment to prioritise the resourcing of frontline police.

Electronic signatures

COVID-19 prompted a need to adapt to, and engage with, digital technology to find new ways of working remotely to support social distancing, self-quarantine and self-isolation requirements under the Queensland Chief Health Officer's public health directions. Initially, the Queensland Government introduced a range of temporary electronic measures such as the witnessing and signing of important documents electronically and by audio visual link, modernising the way important legal documents were made. Some of these temporary measures were made permanent through the *Justice and Other Legislation Amendment Act 2021* (the Justice Act) which allows individuals, businesses and government to continue to use digital technology to meet their needs. The Justice Act made permanent the temporary electronic arrangements applicable to affidavits, statutory declarations, general powers of attorney, deeds and particular mortgages.

The Justice Act also contained important reforms to the DFVP Act and the *Domestic and Family Violence Protection Rules 2014* to adopt technology to allow greater flexibility in domestic and family violence proceedings. The changes intended to increase access to justice for domestic and family violence victims by giving Magistrates the discretion to conduct all or part of proceedings by audio visual link or audio link.

Victoria and South Australia have legislated to enable select documents to be signed and witnessed via electronic signature. In Victoria, electronic signatures can be used for affidavits, statutory declarations, and other transactional documents under the *Electronic Transactions (Victoria) Act 2000*. The scheme extends to Victorian police officers.

Many documents created by Queensland police officers require a police officer's signature. The *Electronic Transactions (Queensland) Act 2001* permits electronic signatures and electronic communication for a wide variety of purposes. However, it has a comparatively limited application to police-related documents because it excludes transactions dealing with a person filing, signing and producing documents with a court or tribunal for a proceeding. Many documents created by police officers are produced for that purpose and are therefore excluded.

To modernise the framework, amendments are necessary to enable police officers to sign documents electronically. Amendments must ensure that both existing and future forms that police officers are required to complete can be created and dealt with fully electronically.

Compensation payments

As per relevant authorising instruments including the *Financial Accountability Act 2009* and the PPRA, powers to authorise special payments up to the monetary value of $100,000 are delegated to specific persons and subject to certain conditions

The QPS Financial Management Practice Manual (FMPM) defines special payments for which there is no legal, contractual or constructive obligation, where payments are made on moral grounds or equitable grounds.

There are different classes of Special Payments under the FMPM including compensation payments which include personal risks and damage to property as a result of an authorised operation conducted. One of these classes of payments is for compensation claims arising from the deployment of Tyre Deflation Devices (TDD).

However, whilst this financial delegation exists for officers of a specific rank or Senior Executives, section 804 (5) of the PPRA provides that Ministerial approval for TDD payments is required.

Harmonising statutory timeframes

There are more than 100 reporting requirements that apply to the QPS. Many of these reports are required to be tabled in the Legislative Assembly by the Minister at different times. Some reports have mandated reporting due dates. This can be challenging to manage and is not administratively efficient.

There are several reports under legislation administered by the QPS that require annual reporting through the Minister to the Legislative Assembly about particular police operations. These include the following provisions under the PPRA and the *Public Safety Preservation Act 1986* (PSPA):

- PPRA section 314;
- PPRA section 358;
- PPRA section 808A;
- PPRA section 808B; and
- PSPA section 43I.

The amendments in the Bill provide administrative efficiency by harmonising statutory reporting timeframes.

Hooning and low-range drink-driving amendments

Amendments to the Summary Offences Act 2005

Despite the strong measures already legislated by the Queensland Government, including vehicle impoundment and confiscation, hooning is a persistent problem in many areas. Its continuation is driven by unlawful events and gatherings at night attracting hoons at locations such as industrial estates, shopping centre car parks, and other public car parks. Organised groups record and upload images and videos on social media which encourages and glorifies the antisocial behaviour.

In 2023, the Queensland Government introduced a suite of new offences to deter hooning behaviour through the *Police Powers and Responsibilities and Other Legislation Amendment Act (No. 1) 2023.* The Act introduced new offences for unlawful conduct associated with the commission of a racing, burn out or other hooning offence by inserting new section 19C into the SO Act to specifically target spectators and distributors of online materials that promote hooning.

The intention of the offence under section 19C of the SO Act was a broad application to capture persons merely spectating or watching hooning activities. The intention was not to restrict the offence only to persons intentionally encouraging or supporting the principal offender by taking active steps, such as using expressions, gestures or actions intended to signify approval. However, the drafting of the offence includes the words ‘willingly participate’ which suggests the offence requires positive actions to be taken in support of hooning for the offence to apply.

Amendments to the Transport Operations (Road Use Management) Act 1995

Drink driving is a high-risk fatal five behaviour and is a factor in up to 25 per cent of lives lost on Queensland roads. These deaths have a significant impact on communities, witnesses, first responders and on the family, friends and loved ones who lose their lives. For survivors, drink driving related serious injuries often have a long-lasting impact on individuals in terms of physical and emotional trauma, which is reflected in pressure on the healthcare system. In 2022, 823 hospitalised casualties (10.7 per cent of road crash casualties) involved a drink driver.

Since random breath testing was introduced in 1988, coupled with a progressive reform agenda to align ‘offender management’ with global best practice, Queensland has made significant gains in reducing drink driving. The rate of drink driving in the community is highly sensitive to the perception of being caught by police and the subsequent severity of the penalty.

If a person is charged with drink driving, they are served with a notice to appear in court. Initiating a court process requires a range of administrative tasks for police officers, registry staff, judicial officers, legal aid services and the Department of Transport and Main Roads (DTMR). In relation to police officers in particular, the increased demand on police officers means the increased administrative burden of sending an occurrence to court is diverting police resources from the frontline impacting community safety.

For low range drink driving, where the blood/breath alcohol concentration (BAC) is between 0.05 and 0.10 grams of alcohol per 100 millilitres of blood, the maximum penalty is 14 penalty units or 3 months imprisonment and the court has the discretion to impose a licence disqualification of between 1 and 9 months, depending on the person’s personal circumstances and criminal and traffic history.

Where a drink driving offence is considered low range, such as the offence of driving over the general alcohol limit but not over middle alcohol limit in sections 79(2)(a) and (b) of the TORUM, efficiencies may be gained by exploring alternatives to issuing a notice to appear, rather than relying on the court process.

Rewording of youth justice principle 18

There has been ongoing misrepresentation of principle 18 of the charter of youth justice principles in the YJ Act. This misrepresentation has suggested that the principle means courts are unable to impose detention if other penalties are available to the court. This is not correct.

The Bill clarifies principle 18 to state a child should be detained in custody, where necessary, including to ensure community safety, where other non-custodial measures of prevention and intervention would not be sufficient, and for no longer than necessary to meet the purpose of detention.

Once a court has considered all options reasonably available, and if satisfied that other options are not appropriate in the circumstances, then detention can be imposed.[2]

[2] See for example *R* v *SDW* [2022] QCA 241 at [16-17]

Expansion of electronic monitoring (EM) trial

The *Youth Justice and Other Legislation Amendment Act 2021* amended the YJ Act by inserting a new section 52AA to allow a court, in certain circumstances, to impose on a grant of bail to a child a condition that the child must wear an EM device. The criteria were designed to target serious repeat offenders. Two of the criteria are that the child is seeking bail on a charge of a prescribed indictable offence, and that the child has been previously found guilty of at least one indictable offence. Section 52AA was introduced to facilitate a trial, and included a two year sunset clause (subsequently extended by a further two years, to 30 April 2025).

The EM trial is intended to assess the advantages and disadvantages of EM, and draw overall conclusions as to its effectiveness at reducing reoffending by serious repeat offenders on bail. A number of jurisdictions use EM for children, but the evidence of its effectiveness is equivocal. In the studies showing it has been ineffective, the model has generally been a broad and indiscriminate application, with minimal consideration of the child's individual circumstances, and punitive approaches to matters such as forgetting to charge the device. The Queensland model is different.

The current sample size for the Queensland trial is too small to support reliable conclusions, and it is not projected to increase in the near future under existing trial conditions. The use of EM limits human rights, but has benefits which may enhance human rights such as avoiding the need for intrusive police curfew checks (involving entering the child's residence at night, waking someone in the household if necessary, to see the child in the home), and in some circumstances, keeping a child out of custody.

The purpose of expanding the trial is to determine whether electronic monitoring reduces reoffending among certain children who appear to be serious repeat offenders, and whether electronic monitoring is an effective alternative to detention.

Clarification of the bail decision-making process

Section 52A of the YJ Act provides the framework for decisions about bail conditions. There has been confusion among some stakeholders about the operation of this provision, which could be interpreted as meaning that bail conditions such as electronic monitoring, curfews and residence cannot be considered until after a decision is made to release the child from custody. This could potentially be limiting the use of electronic monitoring. Section 52A(1) is inconsistent with other provisions in the YJ Act, such as sections 52A(2)(a) and (b) and 48AAA(2), which make it clear that risks, and conditions that may mitigate those risks, are all to be considered in the same decision-making process.

Streamlining processes for the transfer of detainees over the age of 18 years to adult custody

Arrangements for the transfer of 18-year-old detainees from youth detention centres to adult custody were amended in 2023. The prerequisite that a remandee have two clear months without a court date at the time a prisoner transfer notice is issued was intended to protect against transfers taking place only a short time before matters are finalised (and the remandee possibly released). However, the prerequisite has significantly limited eligibility for transfer when often it is known, or can be ascertained, that the scheduled court matters (for example a simple mention) are highly unlikely to result in the person's release.

The policy objective is to more effectively implement the policy that detainees should generally transfer to adult custody shortly after becoming adults, with flexibility for exceptions in special circumstances.

Enabling temporary transfers from watchhouses to youth detention centres to facilitate participation in programs and physical exercise at youth detention centres

Detaining children in watchhouses has drawn widespread media coverage and significant criticism from advocacy and oversight groups. Capacity constraints continue in youth detention centres in Queensland. Although every effort is made by the Queensland Police Service (QPS) and the Department of Youth Justice (DYJ) to provide age-appropriate programs in watchhouses, they are limited by the watchhouse built environment and the need for specialised staff. In some circumstances it would be possible to transport children to a nearby youth detention centre (YDC) during the day to participate in programs and physical exercise, but this is not permitted under current legislative arrangements.

Regulating the use of cameras and smart phones in youth detention centres

Section 263 of the YJ Act provides a broad head of power for the chief executive in relation to the security and management of detention centres and the safe custody and wellbeing of children detained in detention centres. Under a DYJ operational policy pursuant to that section, mobile phones and cameras are ‘restricted items’, and permission is required to bring these items into YDCs. This is different from the arrangements for adult custody, with the CS Act including an express provision about photographs (s.132), but the practical effect is the same: mobile phones and cameras cannot be taken into YDCs or prisons without permission.

With smart phones now ubiquitous, the policy objective is to secure the position in legislation.

Enabling the recording of detainee phone calls

Detainees in YDCs can make personal telephone calls for a minimum amount of 120 minutes per week to family and friends from an approved phone list and unlimited telephone calls to professional support officers, such as lawyers, Office of Public Guardian, and Child Safety. The YJ Act prohibits the recording of the detainee’s telephone conversations but allows the calls to be monitored and terminated in certain circumstances.

Intelligence officers in YDCs have identified circumstances where offences are being committed or the safety of other detainees or staff are being compromised via phone calls. Examples include breaches of domestic violence orders; intimidating witnesses; communicating with associates in other units in the centre or even in other detention centres, risking the good order and safety of detention centres; and being on telephone calls with associates while the associates are committing offences. This happens when the recipient of a phone call forwards the call, or facilitates a conference call. Only some of these examples meet the threshold for staff to monitor the call, and there is still no ability to record at all, meaning there is limited opportunity to take action.

In the course of considering this issue, it was recognised that as a result of an oversight, the Human Rights Commissioner has not been included in s.263A(3), the protection against recording of communications generally, with other similar entities such as the Ombudsman and the Inspector of Detention Services.

Women's Safety and Justice Taskforce amendments

In March 2021, the Queensland Government established the independent Women's Safety and Justice Taskforce (WSJT), chaired by former President of the Queensland Court of Appeal, the Honourable Margaret McMurdo AC. The WSJT's second and final report, *Hear Her Voice – Report Two – Women and girls' experiences across the criminal justice system* (Report Two), published on 1 July 2022, examined the experiences of victim-survivors, accused persons and offenders. The report makes 188 recommendations to improve women's and girls' experiences of the criminal justice system.

The Government's response to Report Two, released on 21 November 2022, includes responses to four recommendations concerning the YJ Act:

87 clarify victims of sexual violence committed by, or alleged to have been committed by, a child offender may disclose information to obtain therapeutic counselling and support

(Government response: *amend* the YJ Act)

88 enable relevant government and non-government agencies to share information, including confidential information, to co-ordinate and provide services to sexual violence victims, with necessary safeguards and protections

(Government response: *review* the YJ Act)

143 ensure Youth Justice services are required to take reasonable steps to ensure girls in youth detention centres are managed in an appropriate way to specified standards

(Government response: *review* the YJ Act)

149 remove any doubt that participation in a program or service while on remand in custody cannot be used in evidence in any criminal, civil or administrative proceeding relating to the offence for which the detainee has been charged

(Government response: *amend* the YJ Act).

The Bill makes amendments in relation to recommendations 87, 143 and 149. A review of relevant sections of the YJ Act, and consultation with key external stakeholders, determined that legislative amendments were not required to give effect to recommendation 88.

Recommendation 87

Report Two states that it is unclear whether the restrictions under YJ Act s.288 (preservation of confidentiality) limit the ability of the victim of offending by a child offender to tell others about their experiences, or the outcome of proceedings, even for the purpose of obtaining counselling or medical assessment or treatment (page 377). This issue was not specifically raised by victim-survivors involved in WSJT consultation processes, but Report Two notes a general view among victims and their families that the youth justice system is primarily focused on outcomes for offenders, with little consideration of the impacts on victims.

There are no barriers in the YJ Act to a victim disclosing information for the purpose of obtaining counselling and support. However, an on-disclosure provision applying to the counsellor is considered appropriate.

Recommendation 143

Recommendation 143 is to ensure certain minimum standards are met in detention. However, there is almost complete overlap between the proposed standards (listed in recommendation 142) and the youth justice principles in Schedule 1 of the YJ Act. One identified gap is that disability needs are not specifically mentioned in principle 21. The policy objective is to rectify this.

Recommendation 149

Report Two notes that one barrier to participation in programs while on remand is a concern that to do so may be perceived as an admission of guilt. Participation in programs often requires admitting offending behaviour; incarcerated women and those who support them fear detrimental impacts on their defence (page 640). The WSJT found that the Government could remove this anxiety by providing legislative confirmation to women and girls that participation in rehabilitation programs and any admissions made will not be used against them in future legal proceedings.

The Bill amends the YJ Act to remove any doubt that participation in a program or engagement in a service by a detainee while remanded in custody cannot be used in evidence in any civil, criminal or administrative proceedings relating to the offence for which the child has been remanded in custody. Given that the same issues arise for children on bail, and DYJ strives for continuity in service provision whether the child is in custody or in the community, the provision will also apply to participation in programs and engagement in services while on bail.

Legal stakeholders identified that the levels of cognitive functioning common among children who have reached the point in their offending trajectory where they are engaged in rehabilitative programs are such that it is unrealistic to expect those children to be able to remember which charges relate to the program they are participating in at any given time. Stakeholders therefore recommended that the protection apply in relation to any unresolved offence, not just an offence for which the child has been charged, and to programs also delivered following sentencing, in order to facilitate free and open discussion by the child about the behaviours that both the program and the child are attempting to change. Without this broader application, legal stakeholders identified that it would be difficult to advise a client to participate in a program.

Achievement of policy objectives

The Bill will achieve the policy objectives by implementing the reforms outlined below:

Amendments to the Childrens Court Act 1992

Clause 112(1) of the Bill amends section 20 of the CC Act to ensure a victim, a relative of a deceased victim, a victim's representative, an accredited media entity and a person who, in the court's opinion, has a proper interest in the proceeding can be present during Childrens Court criminal proceedings where a matter is not heard on indictment. Definitions are also inserted into the section.

Clause 112(4) of the Bill enables the court to, on its own initiative or on application from a party to the proceedings, exclude a representative of a victim, an accredited media entity or a person who, in the court's opinion, has a proper interest in the proceeding from the courtroom if one or more of the following grounds is satisfied:

- the order is necessary to prevent prejudice to the proper administration of justice; or
- the order is necessary for the safety of any person, including the child.

In considering whether to make an exclusion order, the court must consider a number of prescribed matters.

Clause 112(4) also provides that parties to the proceeding and the person proposed to be excluded may make submissions to the court in relation to the order. Another person present in the court under section 20(1) of the CC Act may, with the court's leave, make submissions.

Clause 112(7) of the Bill provides that when the court is hearing a matter under sections 172 or 173 of the *Mental Health Act 2016*, the courtroom must exclude a victim, a relative of a deceased victim, a victim's representative, accredited media entity and a person who, in the court's opinion, has a proper interest in the proceeding unless the court is satisfied it is in the interests of justice for the person to be present. This is generally consistent with section 695 of the *Mental Health Act 2016* which provides that where a reference to the Mental Health Court is about a child, the proceedings is not open to the public unless it is in the interests of justice to permit a person to be present during the hearing.

Clause 112(2) and clause 112(5) of the Bill also makes minor amendments to section 20 of the CC Act to facilitate the attendance of Child Safety and Youth Justice representatives and persons undertaking research approved by those departments in Childrens Court proceedings.

Expanding the trial of hand held scanner provisions in public places in the Police Powers and Responsibilities Act 2000 (Jack's Law)

The Bill amends chapter 2, part 3A of the PPRA to expand the existing Jack's Law framework to additional venues and areas, including shopping centres and retail premises; sporting and entertainment venues; licensed premises; and Queensland Rail trainlines, including Gold Coast Light Rail.

The expansion of the framework is designed to capture other public places characterised by, amongst other factors, high pedestrian density and greater risk of an offence occurring. These amendments will increase public safety in key areas and reduce the risk of knife related offences occurring in these areas. Additional safeguards have also been incorporated into these amendments in relation to the issuing of an authority for retail premises and licensed premises.

With respect to licensed premises, a senior police officer will be required to be satisfied, prior to issuing an authorisation, that there is a risk of a prescribed offence happening at the licensed premises again in the next 6 months. In relation to retail premises, the retail outlet must ordinarily, at least 2 days each week, be open for business between midnight and 5am, or at least 2 prescribed offences must have been committed in the immediate vicinity of the retail premises within the previous 6 months. These additional factors are in addition to the current safeguards provided for under section 39C of the PPRA.

The amendments send a clear message to potential offenders that the community condemns knife related crime and is focused on the apprehension of offenders. The amendments do not

remove the existing accountability mechanisms, including that the QPS annual report must contain information about the number of hand held authorities issued during the financial year and the names or addresses of the relevant places to which they applied.

The Bill also includes an amendment to section 39L to extend the sunset provision to allow the expanded framework to be independently evaluated. The YJOLAA introduced the wanding powers as part of an initial trial, which commenced in May 2021 and continued until 30 April 2023. An independent review of the trial and use of these powers was conducted by the Griffith Criminology Institute and the resulting report (Griffith Report) was tabled in the Legislative Assembly on 9 November 2022.

Whilst the Griffith Report provided a helpful analysis of the trial and provided clear and demonstrable evidence the wanding trial resulted in a large number of weapons being detected and confiscated by police, it noted the analysis was constrained by the limited timeframe available for the review.

On 2 April 2023, the Jack's Law Amendment Act received assent, introducing amendments to the PPRA, informed by the Griffith Report, to increase the scope of prescribed public areas for hand held scanning to include all 15 SNPs and all public transport stations, including public transport vehicles; strengthen the criteria a senior police officer must consider before approving the use of a hand held scanner; and extend the expiry date of the scanning provisions to 30 April 2025.

Prior to the Jack's Law Amendment Act being passed, it was reviewed by the Community Support and Services Committee (CSSC). Recommendation 4 of the CSSC's report on the Bill was that the expanded framework be independently evaluated. The CSSC supported the commission of the independent review at the conclusion of the expanded trial to assist the Government to determine if the trial is allowed to sunset or whether other legislative options are to be explored and introduced.

The amendment to section 39L will postpone the operation of the sunset provision to 30 October 2026 to ensure the appointed independent reviewer is provided sufficient time and data to conduct a meaningful and relevant review of the Jack's Law framework as expanded by the Bill.

Introducing a Firearm Prohibition Order scheme in Queensland

The Bill amends the Weapons Act to introduce an FPO scheme in Queensland that will strengthen public safety and security by prohibiting high-risk individuals from using or accessing firearms or firearm related items and empowering the QPS with appropriate search powers to ensure compliance with the order.

The Queensland FPO model broadly aligns with FPO schemes currently utilised throughout Australia. However, in formulating the Queensland model, consideration was given to the learnings and recommendations stemming from reviews and reports in relation to these existing FPO models. The proposed Queensland FPO model strikes an appropriate balance between the need to protect the community from high-risk individuals and safeguarding the rights of the individual.

Under the new FPO scheme the Commissioner of Police may make an FPO that has a maximum duration of 60 days if satisfied it is in the public interest to make the order. The Commissioner may revoke this order at any time. If a longer duration is necessary and appropriate, the Commissioner may apply to the court for a further FPO. If the Commissioner files an application with the court for a subsequent FPO prior to the expiry of the original order, the FPO remains in effect during the interim period unless the court otherwise orders, or, if the court decides to make an FPO, until the subsequent order takes effect, or the application is otherwise determined.

A court may make an FPO upon application of the Commissioner or on its own initiative, if satisfied it is in the public interest to make the order. A court issued FPO remains in effect for either 10 years if the person is an adult, or 5 years if the person is a child. The court can make an order with a shorter duration if satisfied it is appropriate in the circumstances having regard to the risk the individual poses to public safety or security. The court may revoke this order upon application of the Commissioner, or if the order is made in relation to a child, upon the annual review of the order if satisfied it is appropriate to revoke the order.

When considering if it is in the public interest to make an FPO in relation to an adult, the decision maker may have regard to:

- the individual's criminal or domestic violence history (including, but not limited to, whether the person has been subject to a domestic violence order);
- the individual's behaviour, particularly violent or aggressive behaviour or behaviour involving the use of a weapon;
- whether the individual has been a participant in a criminal or terrorist organisation;
- whether the individual is an associate of a recognised offender (meaning a person who has a recorded conviction for a relevant offence);
- whether the individual has communicated in a public forum, or to another individual, that they intend or wish to commit a serious offence;
- whether the individual has ever been subject to a relevant court order, such as a Commonwealth control order or an order made under the *Dangerous Prisoners (Sexual Offenders) Act 2003*;
- the risk the individual poses to public safety or security, and the extent to which making the order will reduce this risk; and
- any other matter or information which indicates the possession of a firearm by the individual would be likely to pose a risk to public safety or security.

The above factors for consideration support decision making regarding identifying high-risk individuals to ensure individuals who pose a serious risk to the community do not have access to deadly firearms or firearm related items.

When considering whether it is in the public interest to make an FPO in relation to a child, the decision maker is supported in making this assessment by providing a more tailored list of matters which may be considered, which includes:

- the child's criminal history;
- the behaviour of the child, particularly violent or aggressive behaviour, domestic and family violence or behaviour involving the use of a weapon;
- the risk the child poses to public safety or security, and the extent to which making the order will reduce the risk; and

- any other matter or information that indicates possession of a firearm by the child would be likely to pose a threat or risk to public safety or security.

In addition to the above factors for consideration, before issuing an FPO against a child, the decision maker must have regard to the age and maturity of the child, and the desirability of:
- strengthening and preserving the relationship between the child and their parents and family;
- not interrupting or disturbing the child's living arrangements, education training or employment; and
- minimising adverse effects on the child's reputation that may arise from making the order.

An FPO comes into effect upon the personal service of the order by a police officer, or if the FPO is court issued and the respondent is present in court when the order is made, the order comes into effect when the court makes the order. However, acknowledging the likelihood of individuals subject to an order attempting to evade police and avoid the order coming into effect, police officers are empowered to issue a direction to an individual subject to an order to facilitate service of the FPO. The power to issue a direction will allow a police officer to direct a person to confirm their identify (if necessary), remain at an appropriate place, attend a police station, or accompany the police officer to the nearest police station for the purpose of service of the FPO. It is an offence to not comply with this direction without reasonable excuse, with the offence carrying a maximum penalty of 40 penalty units.

Numerous legislative safeguards have been incorporated into the Bill to ensure the appropriate use of this power, including:
- requiring a police officer to keep the person appropriately informed, for example, why the direction has been given and that the person is not under arrest;
- limiting the time in which a person may be directed to remain at an appropriate place to 1 hour, or a longer time that is not more than 2 hours which is reasonably necessary having regard to the circumstances;
- providing that the location a person is directed to move must be within a reasonable distance of the person's current location;
- requiring a police officer to warn the person that failure to comply with the direction without reasonable excuse may result in the person's arrest and give the person a reasonable opportunity to comply with the direction, and if practicable, requiring the officer to repeat the warning if necessary and give the person a further opportunity to comply; and
- stipulating that a person does not commit an offence by failing to comply with the direction if a police officer did not issue the appropriate warning.

The new power to direct an individual for the purpose of serving an FPO ensures that in circumstances where it is reasonably necessary, a police officer can prevent and disrupt high-risk individuals from averting the operation of an FPO by evading service.

An individual subject to an FPO must also immediately surrender any firearm or firearm related item to the police service, along with any relevant licence or authority related to a firearm or firearm related item that is subsequently revoked due to the issuing of an FPO. To ensure compliance with an FPO, this Bill empowers police officers to conduct warrantless searches, when reasonably required to ensure compliance with the order, of:ethe individual subject to the

FPO and anything else in their possession;eany vehicle registered to the individual subject to the FPO, or which the individual is driving or riding, or is in charge or control of, and any vehicle the individual is a passenger in or on;eany premises owned or occupied by, or under the care, control, or management of, the individual subject to the order. The ability to conduct these searches and ensure compliance with an FPO, not only enables police officers to seize illicit firearms and firearm related items from high-risk individuals, but it proactively safeguards the community by disrupting crime and deterring future criminal offending.

Strong penalties are associated with breaching an FPO to reflect the seriousness of the offence and to provide a strong deterrent. An individual subject to an FPO is liable to the following offences and penalties:

- if the person acquires, possess, or uses, or, attempts to acquire, possess or use:
  - a firearm – 500 penalty units or 13 years imprisonment; or
  - a firearm related item – 200 penalty units or 5 years imprisonment;
- if the person attends a prohibited place or event due to the risk of a firearm or firearm related item being present – 50 penalty units or 12 months imprisonment.

However, it is a defence to these offences if the person can prove that they did not know and could not reasonably have known that a firearm or firearm related item was in or on the place, and additionally in relation to the latter offence, if the person can prove they took reasonable steps to prevent the firearm or firearm related item from being on the premises.

The Bill also prohibits another person from knowingly supplying a firearm or firearm related item to an individual subject to an FPO. This offence carries a maximum penalty of:

- for a firearm – 500 penalty units or 13 years imprisonment; or
- for a firearm related item – 200 penalty units or 5 years imprisonment.

To support the introduction of an FPO scheme, the Bill expands the Public Interest Monitor’s (PIM) functions and responsibilities to provide an appropriate safeguard to the use and exercise of the powers associated with the scheme. In particular, the PIM must gather statistical information in relation to the use and effectiveness of FPOs and report on compliance by police officers with the new Part 5A, which includes police use of associated search powers.

Introducing a new verification process for purchasing small arms ammunition

The Bill introduces a new section 43A into the Explosives Act to prohibit the sale of small arms ammunition, unless the seller has physically sighted the buyer’s licence or authority and verified the authority through a verification system, if available. A verification system means an electronic system prescribed by regulation, which may include, for example, the online Queensland Weapons Licence Card Status Check, which allows sellers to verify that a purchaser’s weapons licence has not been revoked or suspended.

Implementing recommendations from the Queensland Audit Office report *Regulating firearms (Report 8: 2020-21)*

In accordance with the QAO’s recommendations, the Bill introduces amendments to the Weapons Act to ensure public and individual safety remains paramount. This is primarily achieved by strengthening decision making regarding issuing, renewing, suspending, or revoking a licence by reforming the ‘fit and proper person’ test contained within sections 10B and 10C.

Currently, under sections 10B(2) and 10C(2) of the Weapons Act, a person is deemed not to be fit and proper to hold a licence or be a licensed dealer's associate, if within the last 5 years, the person has committed a relevant offence, or a domestic violence order (other than a TPO) has been made against them. Whilst an authorised officer has discretionary decision-making power regarding licences in other circumstances, the mandatory 5-year exclusionary period makes clear that persons to which these provisions apply are not fit and proper to possess a licence or be a licensed dealer's associate.

The amendments in the Bill strengthen this mandatory exclusionary framework by expanding the types of serious offending captured and in certain circumstances extending the exclusionary period to 10 years.

The new sections 5A to 5D introduced into the Weapons Act introduce the following new categories of serious offences:

- a class A serious offence includes murder, manslaughter, grievous bodily harm, wounding and robbery in circumstances involving a weapon;
- a class B serious offence includes an offence mentioned in the new schedule 1AA. There are a wide range of offences listed in the new schedule 1AA and include offences under the Weapons Act, CS Act, Criminal Code, DFVP Act, *Drugs Misuse Act 1986* and SO Act. Offences mentioned in schedule 1AA involve a high degree of criminality and include, for example, attempted murder, torture, serious sexual offences, and serious offences involving a weapon; and
- a class C serious offence includes an offence involving the misuse of drugs, using or threatening violence, or the unlawful use of a weapon. This category incorporates the types of offending captured under the existing section 10B(2)(a), transposing it into the revised operation of section 10B(2).

Under the amended sections 10B and 10C, any person who has within the last 10 years been convicted, released from lawful custody, or subject to a supervision order, in relation to a class A or B serious offence will be considered not a fit and proper person. This same test applies to class C offences, although the exclusionary period is limited to 5 years.

Additionally, the Bill introduces a new category of disqualified persons who are deemed never to be fit and proper and are therefore prohibited from holding a licence or being a licensed dealer's associate. This category of persons is reserved for the most high-risk individuals within the community and would apply, for example, to a person who has been subject to a court issued FPO or a reportable offender under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

Increasing the maximum penalty for possessing a knife in a public place or school

The Bill increases the maximum penalty for the offence in section 51 of the Weapons Act to:

- for the first conviction of the offence – 50 penalty units or 18 months imprisonment; or
- if a person has previously been convicted of possessing a knife in a school or public place and is subsequently convicted of a further offence – 100 penalty units or 2 years imprisonment.

This amendment provides a strong deterrent and is proportionate to the risk posed by the unlawful possession of knives in a public place or school. Additionally, the greater penalty for

a second or subsequent conviction appropriately reflects the increased seriousness of recidivist offenders and broadly aligns with penalty structures in other jurisdictions, such as South Australia.

Removal of online content and advertising offences

Removal of online content scheme

The Bill introduces a scheme for the removal of online content depicting conduct that constitutes a prescribed offence.

The scheme empowers the Commissioner of Police to authorise a police officer of at least the rank of senior sergeant, or a staff member, to give removal notices. A removal notice may be issued if the authorised officer is satisfied that the material depicts conduct that constitutes an offence involving—

- driving or operating a vehicle;
- violence or a threat of violence;
- taking, damaging, destroying, removing, using, interfering with or entering property;
- a weapon.

The authorised officer must also suspect the person posted the material online for the purpose of glorifying or promoting the unlawful conduct, or increasing the person's (or another person's) reputation, because of their involvement in the unlawful conduct.

Additionally, a removal notice may only be issued where the material has been accessed by a person in Queensland and the authorised officer suspects either—

- the unlawful conduct happened in Queensland;
- the material was posted online by a person who was in Queensland or ordinarily a resident in Queensland.

The Bill establishes a scheme to enforce the compliance requirement and impose a court-ordered civil penalty on an online social network that fails to comply with a removal notice.

Advertising offences

New standalone offence

The Bill introduces a new standalone offence under the SO Act for publishing material on an electronic social media depicting conduct that constitutes a prescribed offence where the purpose of publication was to glorify the conduct or increase someone's reputation because of their involvement in committing the prescribed offence.

The Bill prescribes offences involving:

- driving or operating a vehicle;
- violence or a threat of violence;
- taking, damaging, destroying, removing, using, interfering with or entering property;
- a weapon.

This new offence will prohibit offenders and associated persons posting their offending behaviour online to promote and glorify the offence and evoke fear in the community. The

offence does not capture community members who share offending behaviour for the purpose of warning others in the community or journalists.

The amendments prevent offenders from publishing and glorifying offending behaviour and hold them to account for promoting such behaviour. The new offence applies to prescribed types of offending behaviour and has a maximum penalty of 2 years imprisonment.

Further circumstances of aggravation

The Bill also inserts a new circumstance of aggravation, modelled on the existing circumstance of aggravation for advertising in the unlawful use or possession of motor vehicles offence, to the following offences:

Offence	**Maximum penalty under circumstance**
Criminal Code section 69 Going armed so as to cause fear	3 years imprisonment
Criminal Code section 328A(1) Dangerous operation of a vehicle	400 penalty units or 5 years imprisonment
Criminal Code section 335 Common assault	4 years imprisonment
Criminal Code section 339 Assaults occasioning bodily harm	8 years imprisonment
Criminal Code section 419(1) Burglary	16 years imprisonment
Weapons Act section 51 Possession of a knife in a public place or school	for a first offence—100 penalty units or 2 years imprisonment for a second or later offence—150 penalty units or 30 months imprisonment

To avoid duplicity, it is expressly declared that a person cannot be convicted of both the new standalone offence under the SO Act and one of the circumstances of aggravation.

Cracking down on serious vehicle offending

The Bill increases the existing maximum penalty for offences against Criminal Code section 328A(4)(a) for dangerous operation of a motor vehicle causing death or grievous bodily harm

from 10 years imprisonment to 14 years imprisonment. The Bill also amends Criminal Code sections 328A(4)(b) and (c) to fix the maximum penalty as 20 years imprisonment for the offences where the aggravating circumstances apply. This is an increase from the current maximum penalty of 14 years imprisonment where aggravating circumstances apply.

The Bill also introduces a new circumstance of aggravation into Criminal Code section 328A(4) for dangerous operation of a motor vehicle causing death or grievous bodily harm where the offender, at the time of committing the offence, evades police. Consistent with the amendment to existing circumstances of aggravation, the proposed maximum penalty of 20 years imprisonment will apply.

These amendments ensure the penalties for dangerous operation of a vehicle causing death or grievous bodily harm reflects the seriousness of this behaviour and the risk of harm to the community.

Keeping emergency workers safe

Ramming emergency vehicles

To ensure the ramming of emergency vehicles can be appropriately addressed in all circumstances, the Bill introduces a new standalone offence to operate a motor vehicle in a way that damages an emergency vehicle with the intention to damage the vehicle or injure or endanger the safety of an emergency worker. The new offence reflects the seriousness of this type of offending and ensures that violent behaviour targeted at emergency workers, and its impact on the community, is appropriately recognised and addressed though Queensland legislation.

Chapter 29 of the Criminal Code outlines offences endangering life or health. The Bill inserts a new offence within Chapter 29 of the Criminal Code for a person to use a vehicle in a way that causes damage to an emergency vehicle, where a person may know, or ought to reasonably know that the vehicle is an emergency vehicle, and the person intends to—

- damage the emergency vehicle; or
- injure or endanger the safety of an emergency worker.

The Bill defines the term ‘emergency worker’ to mean—

- a member of the police service; or
- a member of the police service of the Commonwealth or another State; or
- a service officer under the Ambulance Service Act 1991; or
- a member of an ambulance service of another State; or
- a fire service officer or rural fire brigade member under the Fire and Emergency Services Act 1990; or
- a member of a fire brigade or service of another State; or
- an SES member under the Fire and Emergency Services Act 1990.

The Bill defines an ‘emergency vehicle’ as a motor vehicle being used, or ordinarily used, by an emergency worker in the course of their duties. For a proceeding against a person (the ***first person***) for an offence involving an emergency vehicle, unless the first person can prove otherwise, the first person is taken to know a motor vehicle is an emergency vehicle if—

- the vehicle bears the insignia of an emergency services entity or is otherwise clearly marked as a type of emergency vehicle; or
- the vehicle is displaying flashing blue and red lights or a flashing blue light; or
- a person inside the vehicle identifies themselves to the first person as a type of emergency worker.

While the provision clarifies that the person must have known that the vehicle was an emergency vehicle, it has the effect of capturing persons who may have been able to identify that a vehicle is an emergency vehicle, for example the driver may have seen the warning lights (without them being displayed) on the vehicle or may have seen a passenger in the vehicle wearing uniform.

Endangering police officers

The Bill introduces an additional new offence into Criminal Code Chapter 29 that prohibits the driving of a motor vehicle at or near a police officer in an attempt to threaten the officer's safety. Under the new offence, a person commits a crime if—

- the person injures or endangers the safety of a police officer by driving a motor vehicle towards or near the officer; and
- the person knows, or ought to reasonably know, the police officer is a police officer; and
- the police officer is acting in the performance of the officer's duties; and
- the person intends to injure or endanger the safety of the police officer or knows, or ought to reasonably know, the person is endangering the safety of the officer.

A maximum penalty of 14 years imprisonment is proposed to apply.

The Bill further specifies that, in this section, a police officer includes an officer of the police service and of the Commonwealth or another State. The amendments ensure the occupational vulnerability of police officers is adequately acknowledged at law.

Protecting emergency vehicles

Wilful damage to emergency vehicles

The Bill inserts a new special case in Criminal Code section 469 where the property in question is an emergency vehicle and the person knew, or ought reasonably to have known, the vehicle is an emergency vehicle. The Bill affixes a maximum penalty for the special case to 7 years imprisonment.

Entering or taking an emergency services vehicle

The Bill amends Criminal Code sections 408A (Unlawful use or possession of motor vehicles, aircraft or vessels) and 427 (Unlawful entry of vehicle for committing indictable offence) to insert a new circumstance of aggravation where the vehicle is an emergency vehicle and the person knew, or ought reasonably to have known, the vehicle is an emergency vehicle. It is proposed the maximum penalty for the aggravated offences will be set to 14 years imprisonment.

This ensures that offenders who actively target emergency service vehicles to commit an indictable offence are held accountable for their behaviour. The amendments further ensure the penalty for unlawfully entering or using an emergency vehicle reflects the significance of the offence and the risk of harm to the community.

Amendments to the Domestic and Family Violence Protection Act 2012

Relevant relationship involving children

The Bill will amend the definitions of ‘family relationship’ and ‘relative’ to indicate a minor child is not in a ‘relevant relationship’ other than for an ‘intimate personal relationship’ or ‘informal care relationship. This will remove parent–minor child relationships from domestic and family violence responses, allowing them to be more appropriately dealt with under child harm or youth justice provisions.

Enable a court hearing an appeal to make a temporary protection order

The Bill enables a court hearing an appeal to make a TPO when it is necessary or desirable. This will remove the necessity for the QPS to make further applications and serve documents when the matter could adequately be addressed by the appellate jurisdiction while parties are present.

Enable police to nominate the first mention date of a police protection notice

The Bill enables police officers to nominate the first mention date for a PPN within 14 days of the notice being issued, in the same way that currently happens for a notice to appear, allowing the officer to align with the customs of the local courthouse and setting appropriate timeframes for preparing application material. This ensures ongoing protection to the victim-survivor either by virtue of the PPN or via application for an urgent TPO.

Amendments to the Corrective Services Act 2006

The Bill amends the CS Act to enable a corrective services officer to serve a prescribed domestic and family violence document on a prisoner, that would otherwise be required to be served by a police officer, in prescribed circumstances.

The Bill enables the chief executive of QCS to decide which corrective services facility or facilities will adopt document service. This will enable QCS to trial document service at one location and evaluate the process prior to considering whether to expand to additional correctional centre locations.

The Bill provides that for document service to occur, the DFVP Act must require or permit a police officer to personally serve a document on a person and the person must be in a corrective services facility nominated by the QCS chief executive as being approved for document service to occur.

As a prerequisite for document service, the Bill authorises the chief executive of QCS to enter into an agreement with the Commissioner of Police. This will allow QCS and the QPS to specify the requirements for document service on prisoners and make provision for necessary operational arrangements.

The Bill maintains existing arrangements whereby police officers are empowered to personally serve prisoners in corrective services facilities and introduced a framework for corrective services officers to personally serve prescribed domestic and family violence documents on prisoners in approved locations.

Similar to the police Statement of Service, which plays an evidentiary role in confirming that service did occur, the Bill provides for an evidentiary certificate to be completed by the corrective services officer upon service being completed. The certificate will verify that the officer served a stated document on a stated prisoner at a stated corrective services facility on a stated date. The certificate will be taken to be evidence that the document was personally served on the prisoner unless the contrary is proven.

Modernising document authentication and service requirements

To achieve the policy objective of improving police efficiencies, the Bill delivers a suite of modernisations to document authentication and service requirements for police officers. The purpose of the reforms is to modernise the way in which important legal documents are created by police officers, in line with contemporary business practice, and to improve accessibility. The Bill embraces digital technology to provide alternative pathways for document execution, in addition to the ordinary physical approach, which will allow police officers flexibility to choose a method of document execution that best suits the circumstances. The reforms will make it easier for police to make, sign and serve important legal documents without the need of the physical presence of the subject person.

The amendments expand the capacity for police to meet other service demands in a more timely manner by implementing evidence-based practices already used in other Australian jurisdictions. The improved frameworks provided by the Bill support frontline officers and the community by reducing the administrative burden on police, thereby enabling police officers to divert their efforts to responding to calls for service, protecting victims and keeping the Queensland community safe. The amendments are expected to have a neutral financial impact as time saved will be reallocated to core frontline policing duties.

Electronic service of documents

The Bill expands the options available to police officers to effect document service to include a general provision for electronic service of prescribed documents, in limited circumstances. Electronic communication is defined in Schedule 6 of the PPRA to include data, text or images including, for example, email, multimedia message or SMS message. Depending on the technology used by the QPS in the future to implement the framework, the document may be attached to the email, text or data message or a link will be provided for the person to access and download the document. The Bill operates flexibly for future technology. For example, it enables service through any whole-of-government web portal that may be created and found suitable for the purpose.

The prescribed documents permitted to be served electronically are:

- an official warning for consorting under section 53BAC of the PPRA;
- a notice to appear under section 382 of the PPRA;
- an initial police banning notice under section 602D of the PRRA;
- an application for a protection order under section 34 of the DFVP Act;

- an application for the variation of a domestic violence order under section 88 of the DFVP Act;
- a PPN under section 109 of the DFVP Act;
- an application for a protection order, domestic family violence order, TPO, PPN or release conditions, when released from custody under section 124 of the DFVP Act;
- an urgent application for a TPO under section 133 of the DFVP Act;
- a domestic violence order or intervention order under section 184 of the DFVP Act; and
- a notice of proceeding to a named person under rule 18 of the Domestic and Family Violence Protection Rules 2014.

The Bill includes legislative safeguards to limit the use of electronic service to circumstances where a particular set of criteria are met. For example, prior to seeking consent from the subject person to engage in electronic service, a police officer must ask the subject person about their circumstances to determine whether the person satisfies each of the following criteria:

- the person is at least 16 years of age;
- the person understands the nature and effect of the service of the document;
- the person provides, or is able to provide a valid unique electronic address for the purpose of receiving a document electronically;
- the person is capable of receiving and retrieving documents from their electronic device; and
- the person is located or resides in an area that receives reliable internet services to enable documents to be readily accessed and retrieved.

The police officer is then required to obtain consent of the subject person to receiving documents electronically in relation to the originating proceedings. A person’s consent will apply to the electronic service of any subsequent documents related to the originating proceeding. In recognition of the mobility of communities, which includes electronic mobility, consent will automatically expire in the following circumstances:

- when the person revokes it in writing to the Commissioner of Police; or
- 6 months after the day the consent is given; or
- when the person enters a corrective services facility or a youth detention centre under sentence or on remand and this is specifically because electronic service requires that the person has nominated a unique electronic address; or
- in circumstances where the person is detained under the provisions of the Mental Health Act 2016 and either no longer has access to a phone or other device to view their emails and is being assessed for involuntary and compulsory treatment to address a mental illness or condition.

Additionally, the framework requires an originating process can only be electronically served on a subject person when they are in the presence of a police officer (recorded on body worn camera), who must ensure the subject person has received a copy of the document. When entering an email address or mobile phone number for electronic service, QPS QLiTE devices can undertake a validation of the email address or mobile phone number to identify the validity of the unique electronic address. Service is effected when the police officer has sent a document to the unique electronic address provided by the person. The police officer must make reasonable effort to ensure the recipient understands the nature of the document. Operational policies and procedures will provide requirements for police officers to ensure consequences

are discussed with the subject person at the time of obtaining consent, particularly failing to notify a change of email address.

In recognition of the digital divide in Queensland, which includes a lack of reliable access to the internet in some rural and regional areas, the impact of electronic service will be monitored to ensure there is no increased rate of contraventions in these areas. The impact on court appearances will be monitored and evaluated during the first 12 months of operationalising the framework. Existing methods of service will continue to be available to police officers, such as the delivery of physical documents, and it is anticipated that any affected individuals would not consent to electronic service and police officers will continue to assess the appropriateness of the method of service against the backdrop of community and victim safety.

In appreciation of varied communication styles and the vulnerability of First Nations and culturally and linguistically diverse communities, the QPS is committed to improving policing outcomes for multicultural Queenslanders. Police officers undertake cultural inclusion and multicultural responsiveness training, designed to promote cultural awareness, cultural responsiveness and enhance cultural capability. The outcome of this training is increased awareness about cultural issues surrounding the ability to give informed consent, such as gratuitous concurrence. Police Liaison Officers are roles developed to foster trust and understanding between police officers and specific cultural communities, by contributing to the organisational understanding of First Nations, multicultural and multifaith communities. They assist police officers to communicate effectively with cultural appropriateness to members of the local community by providing advice on a specific culture, customs and protocols. Another aspect of the Police Liaison Officer role is to assist community members to access policing services and provide advice to police officers about culturally appropriate referrals to community services where appropriate.

In 2023 the QPS established the First Nations Division to build cultural capability, trust and transparency, and provide leadership on First Nations policy matters including Closing the Gap. The QPS also established the First Nations Advisory Group to build cultural capability through education, collaboration and the implementation of objectives to improve policing outcomes for First Nations people. A specialised First Nations cultural capability training team is being established, which will focus on the centralised design, development and delivery of ongoing First Nations, Police Liaison Officer and culturally and linguistically diverse training for the QPS. All QPS staff undertake online cultural capability training, and a mandatory full day face-to-face training course is in development for implementation from the 2024-2025 training year for all QPS members (both police officers and staff).

The QPS is committed to protecting victims of crime and police officers have the function of engaging with and holding to account domestic violence respondents and defendants in other matters. In recognition of this function, the proposed amendments do not abrogate the police role in maintaining contact with, and therefore a level of accountability from, offenders. Internal policies and procedures will provide police officers with a framework to identify whether the option of electronic service is suitable in the circumstances of each case, or whether personal service would provide a police officer with an opportunity to engage with an offender.

In terms of information and communication infrastructure, the QPS will leverage existing electronic delivery platforms within QLiTE devices to streamline service delivery. Digitised forms on QLiTE devices will enable further efficiencies within the prosecution lifecycle. For example, information generated through an electronically served Notice to Appear could be

auto populated into the bench charge sheet and court brief. These documents could then be electronically transferred to the relevant prosecuting agency or the court (subject to court rules). This provides for significant time savings for frontline police officers, allowing them to spend more time in the community.

Legislatively, this approach will create a framework that is readily understandable and consistent across document types and equally promote compliance with the requirements. It will also reduce legislative burden by preventing the needless duplication of provisions across multiple statutes and address the piecemeal approach that exists across various statutes where express provisions are required for each document type.

Electronic signatures

The Bill inserts a general provision into the PPRA enabling electronic signatures to be affixed to all documents executed by police officers in the course of their duties. This modernises the way in which police officers manage documents and aligns Queensland with widely used and recognised practices. To safeguard against fraudulent use of electronic signatures, it is proposed that the method or system used for applying an electronic signature must require user validation. The method must also align with the accepted methods under section 13A of the *Oaths Act 1867*. The method of electronic signature is a matter of internal policy and procedures will be approved by the Commissioner of Police. This enables changes to the method to be made administratively to keep pace with technological developments. There is a rebuttable presumption that a document purporting to contain the electronic signature of a police officer is signed by the police officer.

Compensation payments

Clause 86 inserts a new sub-section in section 804 of the PPRA to provide for the Minister to sub-delegate compensation powers to the Commissioner of Police, consistent with threshold limits. This will be prescribed by way of an Instrument of Sub-delegation of Minister's powers and will be limited to compensation payments for a class of special payments for Tyre Deflation Device deployments compensation.

Harmonising statutory reporting timeframes

The Bill harmonises the reporting dates for several annual reports, changing the relevant dates from as soon as practicable after the end of the financial year to no later than 30 September annually.

The proposed reporting date is in line with the QPS Annual Report tabling requirements, providing efficiencies for the department, the Queensland Government and the Legislative Assembly more broadly.

The provisions relate to the following Annual Report requirements outlined in the table below:

Provision	Description	Current reporting date
PPRA section 314	Authorities for assumed identities	as soon as practicable after the end of each financial year

Provision	Description	Current reporting date
PPRA section 358	Operations related to the use of surveillance devices and tracking devices	as soon as practicable after the end of each financial year
PPRA section 808A	Device production and inspection powers	as soon as practicable after the end of each financial year
PPRA section 808B	Dangerous attachment devices	as soon as practicable after the end of each financial year
PSPA section 43I	Surveillance device authorisations	as soon as practicable after the end of each financial year

Hooning and low-range drink-driving amendments

Amendments to the Summary Offences Act 2005

The Bill clarifies the intended application of the offence of ‘unlawful conduct associated with commission of racing, burn out or other hooning offence’ under section 19C of the SO Act. The offence extends to a person who merely spectated a hooning group activity without reasonable excuse. There is no positive action required. The Bill defines ‘spectate’ to include remaining at a place where the hooning activity is occurring and watching the activity.

The offence also retains its application to a person:
- participating in a hooning activity;
- organising, promoting or encouraging participation in a hooning activity or spectating of a hooning group activity without reasonable excuse; or
- photographing or filming or publishing a photograph or film of a motor vehicle being used to commit a racing burn out or other hooning offence for the purpose of organising, promoting or encouraging participation in a hooning activity or spectating a hooning group activity.

This amendment aligns with the policy intention of the offence to target the encouragement of hooning behaviour by spectators. The Bill excludes drivers of vehicles from the offence as the driver would be charged for the substantive offence (type 1 vehicle related offence), rather than as a participant under section 19C.

The offence is not intended to capture involuntary viewers who are passers-by and incidentally witness a hooning group activity. For this reason, ‘spectate’ is defined to capture persons who remain at a location where a hooning group activity is occurring to watch the activity. Persons who are passing through the area or pause momentarily will not be captured by the offence.

Examples have been included in the Bill to clarify the types of circumstances that may amount to a reasonable excuse for someone remaining at a place where hooning activity is occurring, such as a journalist or a person gathering information for a police or news report.

To avoid duplicity, it is expressly declared that the driver of a motor vehicle who commits a racing, burn out or other hooning offence cannot be convicted of both the participation offence and the racing, burn out or other hooning offence.

Amendments to the Transport Operations (Road Use Management) Act 1995

To deliver efficiencies for police officers and the judicial system, by reducing court appearances and reallocating police officer resources to the front line, the Bill amends the TORUM Act to provide police officers with the option of issuing PINs for low-level drink driving offences. The option to issue PINs will apply where:

- the person drives or attempts to put a vehicle in motion while over the general alcohol limit but not over middle alcohol limit (section 79(2)(a) and (b) of the TORUM Act);
- it is the person's first drink driving offence in 5 years; and
- the person holds a current open Queensland driver licence.

The general alcohol limit is a blood/breath alcohol concentration of over 0.05 but under 0.10. Based on data from the 2022–23 financial year, approximately 5000 offences may be eligible for a PIN per year. The PIN will be set at 7.5 penalty units (where one penalty unit is $1,161). This fine amount aligns with other Fatal Five offences and reflects current research[3] conducted with Queensland drivers that indicates a higher penalty can act as a strong deterrent for drink driving.

The option to issue a PIN is not intended to extend to persons driving particular types of motor vehicles including trucks, buses, vehicles carrying a placard load of dangerous goods, tow trucks, public passenger vehicles, vehicles being used by a driver trainer to give driver training, and pilot or escort vehicles that are escorting an oversized vehicle. Drivers of these vehicles will continue to be given a Notice to Appear in court for all drink driving offences, due to the increased public safety risk of their offending.

As part of deterrence-based approaches to reduce high-risk behaviours on the road, it is important that the perceived severity of a penalty is sufficient to influence an individual's decision making. Research commissioned by the DTMR found that licence disqualification, is a significant deterrent. Based on this evidence, it is therefore critical that a move to PINs for low range drink drivers, rather than a court appearance, is accompanied with a strengthening of other penalties to ensure deterrence is maintained.

To maintain parity between offences dealt with by a PIN and through the courts, and to foster greater police efficiencies, the maximum fine amount that can be imposed by a court has also been increased. This will encourage persons charged with low level drink driving and who are issued a PIN, to accept the PIN and not simply elect to attend court to try to seek a lower penalty.

In consideration of the PIN amount for a section 79(2)(a) or (b) offence, the Bill increases the maximum penalties across section 79 of the TORUM Act to ensure fair and appropriate

[3] Department of Transport and Main Roads Queensland (2024), Drink Driving Deterrents Research, conducted by Footprints Market Research.

penalties can be issued by the court, reflecting the seriousness of each offence. The following table shows the increase in maximum penalties in section 79 of the TORUM Act.

Offence in section 79 of the TORUM Act		**Maximum penalty**	**Proposed maximum penalty**
79(1)	Offence of driving etc. while under the influence	28 penalty units (PU)	40 PU
79(1A)	Liability under subsection (1) if convicted within 5 years under subsection (1)	60 PU	72 PU
79(1B)	Liability under subsection (1) if convicted within 5 years on indictment or against Criminal Code, section 328A	60 PU	72 PU
79(1D)	Liability under subsection (1) if convicted within 5 years under other subsections	30 PU	42 PU
79(1E)	Liability under subsection (1) if 2 convictions within 5 years under other subsections	60 PU	72 PU
79(1F)	Offence of driving etc. while over middle alcohol limit but not over high alcohol limit	20 PU	28 PU
79(2)	Offence of driving etc. while over general alcohol limit but not over middle alcohol limit	14 PU	20 PU
79(2A)	Offence of driving etc. while over no alcohol limit but not over general alcohol limit if particular type of driver or licence	14 PU	20 PU
79(2B)	Offence of driving etc. particular motor vehicles while over no alcohol limit but not over general alcohol limit	14 PU	20 PU
79(2D)	Offence of driving etc. tram, train or vessel while over no alcohol limit but not over general alcohol limit	14 PU	20 PU
79(2F)	Liability under various subsections if conviction within 5 years under the subsections	20 PU	28 PU
79(2G)	Liability under various subsections if 2 convictions within 5 years under the subsections	28 PU	36 PU
79(2H)	Liability under various subsections if conviction within 5 years for other offences	30 PU	42 PU

Offence in section 79 of the TORUM Act		Maximum penalty	Proposed maximum penalty
79(2I)	Liability under various subsections if conviction within 5 years under the subsections and another conviction	60 PU	72 PU
79(2J)	Offence for particular licence holders if driving etc. while over no alcohol limit but not over general alcohol limit	20 PU	26 PU
79(2K)	Offence for class RE licence holders if riding etc. a motorbike while over no alcohol limit but not over general alcohol limit	14 PU	20 PU
79(2L)	Offence for class RE licence holders if learning to ride etc. a class R motorbike while over no alcohol limit but not over general alcohol limit	14 PU	20 PU

A court may impose a penalty that is lower than the maximum penalty, and the court may consider a range of factors in deciding a penalty, including an individual's socio-economic circumstances. Therefore, the Bill increases the minimum driver licence disqualification that a court must impose for certain drink driving offences from one month to two months. While this limits the court's discretion in sentencing, it is necessary to ensure consistency in the duration of licence disqualifications between those who pay an infringement notice, and those who choose to challenge it in court or who are issued a notice to appear.

Proposed adjustments to the maximum penalties for all drink driving offences and increasing the minimum court-imposed licence disqualification seek to maintain parity between offences dealt with by a PIN and through the courts, and to foster greater police efficiencies.

To align with court penalties, it is proposed to attach a licence disqualification of two months to a PIN, beginning on the day that is 28 clear days after the date the PIN is issued. This licence disqualification period recognises the research evidence that licence loss has the greatest deterrent effect for drink drivers. While all other Australian jurisdictions that issue PINs for low range drink driving offences currently apply a three-month licence disqualification period, the DTMR recognises the value of the proposed fine amount.

The existing provision whereby a drink driver is issued a probationary licence following disqualification, will also be retained. The restrictions of this licence include a four demerit point limit and zero BAC requirement for 12 months. Regression to a more limited licence type following a disqualification period being served, promotes appropriate deterrence of repeat dangerous driving behaviour. Other deterrents such as a 24-hour immediate driver licence suspension, the Alcohol Ignition Interlock Program and driver education programs will be retained under the new framework.

In recognition of pro-social personal and economic commitments and the need to maintain employment, restricted (work) licences will remain available to eligible drink driving

offenders. Work licences are granted by the court and authorise individuals to drive in limited circumstances directly connected to their work. Eligible drink drivers who receive a PIN will be able to apply to court for a work licence to enable them to continue driving for work purposes. Queensland is the only jurisdiction in Australia that has work licences. a
The proposed fine and licence disqualification period for the PIN will provide a consistent consequence for low range drink driving across the State. Both frameworks send a strong message and have a deterrent effect. Fines and licence disqualifications are key measures to help deter unsafe driving behaviours on our roads, that put the lives of other road users at risk. All drivers can avoid having to pay a fine or losing their licence by observing safe driving behaviours and obeying Queensland's road rules.

Amendments to the Youth Justice Act 1992

Rewording of youth justice principle 18

The Bill clarifies principle 18, in schedule 1 of the YJ Act, and makes a consequential amendment to section 150.

Expansion of electronic monitoring (EM) trial

The Bill makes changes to increase the number of participants in the EM trial by:

- expanding the list of prescribed indictable offences under section 52AA to include specified offences involving violence or threats of violence. The nature of these offences is intended to maintain the intended serious repeat offender target cohort for the trial.
- expanding the criteria for EM to include children who have been charged with a prescribed indictable offence in the preceding 12 months. This expansion is intended to capture children who become serious repeat offenders very quickly, before even being found guilty of an indictable offence. These children are currently excluded by the requirement for the child to have been previously found guilty of an indictable offence.

Clarification of the bail decision-making process

The Bill amends section 52A of the YJ Act to reflect the policy intent that the consideration of risks associated with granting bail, and any conditions that may mitigate those risks, should occur in the one process, prior to a decision to release the child.

Streamlining processes for the transfer of detainees over the age of 18 years to adult custody

The Bill amends arrangements for the transfer of remanded detainees over 18 years of age, to achieve the outcomes intended by the introduction of the provisions in the *Strengthening Community Safety Act 2023* in a more efficient way. The proposed new model:

- makes transfer within the month after turning 18 the norm, unless the chief executive decides there are special circumstances;
- retains the current factors for consideration for chief executive decisions;
- retains the requirement that the chief executive ensure the detainee has access to legal advice, and to consider any submission made by the detainee; and
- retains review of the chief executive's final decision by a Childrens Court judge.

For consistency, the Bill also introduces the same arrangements for sentenced detainees.

The effect of the proposed changes is to create a presumption of prompt transfer, with any undesirable outcomes (such as transfer only a short time before release, or of a highly vulnerable young person) managed by chief executive discretion, with judicial oversight. Practically, this would mean that remandees who have court dates scheduled within two months would be in scope for transfer, but the chief executive (with judicial oversight) may take into account the likelihood of imminent release when deciding whether or not to transfer. It would also mean that sentenced detainees would transfer earlier than under current arrangements, with the chief executive retaining discretion, and judicial oversight. The process for transfer could be 'triggered' from 17 years and 10 months, to allow time for the reviews that can occur.

It is intended that the 'special circumstances' test be distinguished from the 'exceptional circumstances' test in section 48A. 'Special circumstances' will still be a relatively high bar, but lower than 'exceptional circumstances'.

Enabling temporary transfers from watchhouses to youth detention centres to facilitate participation in programs and physical exercise at youth detention centres

The Bill establishes arrangements for the temporary transfer of custody from the police commissioner to the chief executive to allow children in watchhouses to access programs and physical exercise in YDCs that are not available in watchhouses due to the built environment and the need for specialised staff. The arrangements will be of greatest utility when a child has been in a watchhouse for an extended period.

The temporary transfers will not interfere with the existing arrangements under sections 56 or 210 for prioritising children for substantive transfer to a YDC as soon as beds become available. Children subject to temporary transfer will be returned to the watchhouse later the same day.

It is acknowledged that the use of the new arrangements will be limited by YDC capacity, and to watchhouses that are within reasonable proximity of a YDC to enable a transfer.

Regulating the use of cameras and smart phones in Youth Detention Centres

The Bill embeds in legislation the practical status quo that no person can take a camera or smart phone into a YDC without the permission of the chief executive.

The chief executive will not unreasonably refuse a request under the new provision; for example, where an entry permit holder under the *Work Health and Safety Act 2011* wishes to photograph or video an allegedly unsafe workplace and there is no suitable body-worn camera or CCTV footage that can be provided.

Enabling the recording of detainee phone calls

It is proposed to undertake work in the near future to develop a framework permitting the recording of detainees' phone calls in certain circumstances, with appropriate thresholds and safeguards. The framework will be placed in the *Youth Justice Regulation 2016* alongside the existing arrangements for monitoring and terminating calls. The Bill facilitates this by establishing a head of power in the YJ Act.

The Bill also extends the safeguards under s263A(3) to prohibit recording communications between a detainee and the Queensland Human Rights Commissioner. The Human Rights Commissioner can receive a complaint from a child in detention and should be able to communicate privately with the child.

Women's Safety and Justice Taskforce Amendments

The Bill amends relevant sections of the YJ Act in relation to recommendations 87, 143 and 149 of Report Two of the WSJT.

The amendment in relation to recommendation 87 does not directly implement the recommendation, as no legislation is needed, but clarifies that information disclosed to persons providing counselling or support is to remain confidential.

The amendment in relation to recommendation 143 inserts a reference to disability services into the youth justice principles to highlight that a child's disability needs must be met while they are in detention.

The amendment in relation to recommendation 149 provides that participation in a program or engagement in a service by children on bail or remand, or sentenced children, or anything said or done in the course of participation in a program or service, cannot be used in evidence in any proceedings. The amendments are broader than the recommendation, applying to charged or uncharged offences and also to participation in programs on bail and following sentence, not just on remand. This is because the same core principle identified by the WSJT applies in these other contexts – that children need to be able to participate in free and open discussion about the behaviours that both the program and the child are attempting to change in order for the program to be effective. The amendments will ensure legal representatives encourage their clients to participate in evidence-based programs aimed at addressing criminogenic factors to reduce offending and support their successful reintegration into the community.

The new provision will not apply to an offence allegedly committed during the program.

Miscellaneous amendments

The Bill also contains several amendments designed to correct drafting errors and provide further clarity regarding the operation of the respective Act.

Alternative ways of achieving policy objectives

There are no alternative ways to achieve the policy objectives.

Amendments to the Youth Justice Act 1992

The following alternatives to the expansion of the EM trial were considered:

- maintaining the trial essentially in its present form;
- expanding the geographical areas to which the trial applies, but otherwise maintaining the trial in its present form;

- removing the requirement in s 52AA(1)(c) of the YJ Act that the child has previously been found guilty of at least one indictable offence and replacing it with a requirement that the child has previously been charged with an indictable offence, but otherwise maintaining the trial in its present form; or
- extending the time within which the current trial is to be completed.

None of the above would effectively achieve the purpose of determining whether EM is effective in reducing recidivism among serious repeat offenders while on bail, and whether it would be an effective alternative to detention. In particular, maintaining the trial in its present form would not significantly increase the cohort of children upon whom EM may be imposed. The sample size would be likely to remain too small to elicit the answers that the trial is intended to provide. It is doubtful that, if taken in isolation, the other alternatives would increase the sample size for the trial.

It is intended to expand the geographical areas to which the trial applies in the near future, once appropriate support services are operational, by amendment to the *Youth Justice Regulation 2016*.

Estimated cost for government implementation

Costs arising from these legislative amendments will be met from existing agency resources. Any funding required beyond existing agency resources will be subject to normal budget processes.

Modernising document authentication and service requirements

While the modernisation of document authentication and service requirements will require the QPS to adapt existing policies, procedures and practices, the amendments are proposed to be implemented within existing budgets, however, given the minimal time to fully consider the impacts to service-system solutions to technical requirements, further funding may be required.

The amendments will create operational efficiencies for the QPS by re-focusing the time police officers spend on administrative tasks to traditional policing responsibilities such as law enforcement, crime prevention, community safety and victim protection. The amendments are expected to have a neutral financial impact as time saved will be reallocated to frontline policing tasks to strengthen community safety, provide victim support and hold offenders to account.

Amendments to the Corrective Services Act 2006

The amendments provide a framework for document service of prisoners by QCS to be trialled at one location. Resourcing requirements to deliver document service beyond a trial will be subject to normal budget processes.

Transport amendments

Amendments to the Transport Operations (Road Use Management) Act 1995

Funding to support the implementation of infringement notices for low range drink driving has not been secured. The DTMR is seeking additional funding through normal budget process to support the implementation of infringement notices for low range drink driving offenders. This includes funding for Information Communication Technology (ICT) system changes required across three agencies, a significant public education campaign to accompany implementation and an evaluation following implementation.

Amendments to the Youth Justice Act 1992

The YJ Act amendments will be implemented within agencies' existing resources.

Consistency with fundamental legislative principles

The Bill has been prepared with due regard to the fundamental legislative principles outlined in the *Legislative Standards Act 1992* (LSA) and is generally consistent with fundamental legislative principles (FLPs). Potential breaches of FLPs are addressed below.

Amendments to the Childrens Court Act 1992

The proposed legislative amendments may potentially infringe upon the rights and liberties of individuals, in particular the right to privacy and confidentiality. This is because the amendments may result in an increase in the number of persons present during criminal proceedings conducted in the Childrens Court. The departure can be justified on the basis that the amendments support the rights of victims of crime, open justice and transparency, public confidence in the justice system and promote informed scrutiny of existing laws.

The amendments are supported by appropriate safeguards. Admittance of the media is limited to accredited media entities. The court will have the ability to exclude a victim's representative, the media and a person with a proper interest in the proceeding if considered necessary to prevent prejudice to the proper administration of justice or for the safety of any person, including the child. The court will also retain other powers to exclude persons, for example where provisions of the *Evidence Act 1977* apply to a special witness giving evidence or where section 26 (Contempt) of the CC Act applies. The right of privacy and confidentiality of the child will continue to be protected under offences across various statutes which restrict the publication of identifying information. This includes the prohibition on publishing a child's identifying information, including publication through social media, under section 301 of the Youth Justice Act 1992.

Where the court is hearing a matter under section 172 (Power to dismiss complaint—unsound mind or unfitness for trial) or section 173 (Power to adjourn hearing of complaint—temporary unfitness for trial) of the *Mental Health Act 2016*, a person listed in proposed section 20(1)(c) of the CC Act must be excluded unless the court is satisfied it is in the interests of justice that the person be present. This will provide special protections to a child's privacy and confidentiality when dealing with mental health matters.

Expanding the trial of hand held scanner provisions in public places in the Police Powers and Responsibilities Act 2000 (Jack's Law)

As originally identified in Explanatory Notes for the Youth Justice and Other Legislation Amendment Bill 2021 and the Police Powers and Responsibilities (Jack's Law) Amendment

Bill 2022, the police powers to stop and detain a person and require them to submit to hand held scanning under chapter 2, part 3A of the PPRA may be seen to adversely affect the rights and liberties of individuals generally (section 4(2) of the LSA) as it interferes with the individual's freedom of movement and right to privacy. The expansion of locations in which authorised hand held scanning may be conducted will consequentially expand the scope of persons impacted by the interference.

The interference and inconvenience to a person is minimised as far as possible, noting scanning of the person can be completed in a short period of time and in a non-invasive manner as the hand held scanner passes over the exterior of the person's clothing and belongings. If the scanner indicates the presence of metal, the person may be required to produce any item likely to have caused the activation, after which the person may be scanned again.

Whilst the amendments expand the scope of where the use of hand held scanners may be authorised, the power to issue an authorisation is restricted and can only be made be a senior police officer who must be satisfied that, in the last 6 months in the relevant place, there was:

- at least 1 offence committed by a person armed with a knife or other weapon; or
- at least 1 offence involving violence against a person punishable by 7 years imprisonment or more under the Criminal Code; or
- more than 1 offence against section 50(1) (Possession of weapons) or section 51(1) (Possession of a knife in a public place or school) of the Weapons Act.

To further ensure the protection of the persons rights, the senior police officer must consider the use of scanning is likely to be effective to detect or deter the commission of an offence involving the possession or use of a knife or other weapon. Also, the senior police officer must consider the impact that scanning may have on any lawful activity at the relevant place; and whether scanning has previously been authorised in those relevant areas and any knives or weapons detected. Any authorisation given has effect for 12 hours.

A senior police officer means a police officer of at least the rank of inspector, or a police officer of at least the rank of senior sergeant authorised by the Commissioner to give an authority.

Additionally legislative safeguards exist within the PPRA to reduce the risk of unreasonable interference with an individual's rights and liberties, including that a police officer must -

- exercise the power under a hand held scanner authority in the least invasive way that is practicable in the circumstances;
- only detain the person for so long as is reasonably necessary to exercise the power;
- if reasonably practicable, be of the same sex as the person; and
- if requested, provide the person with relevant information, including the officer's name, rank and station, or offer a hand held scanner information notice.

Section 39K of the PPRA also makes clear that the power conferred by part 3A does not provide an independent authority to search persons without warrant and is limited to the specific circumstances set out under the Act.

While the person's liberty may be impacted by scanning activities, it is considered warranted in order to achieve the policy intent of minimising the risk of harm being caused by knives in those relevant public places.

Introducing a Firearms Prohibition Order scheme in Queensland

The Bill amends the Weapons Act to introduce an FPO scheme in Queensland which represents a potential departure from the FLP that requires legislation have specific regard to the rights and liberties of individuals, in particular, whether the legislation:

- makes rights and liberties, or obligations, depend on administrative power only if the power is sufficiently defined and subject to appropriate review (section 4(3)(a) of the LSA);is consistent with principles of natural justice (section 4(3)(b) of the LSA);allows delegation of administrative power only in appropriate cases and to appropriate persons (section 4(3)I of the LSA);
- confers power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officers (section 4(3)(e) of the LSA); and
- provides for the compulsory acquisition of property only with fair compensation (section 4(3)(i) of the LSA).

In considering the appropriateness of the FPO scheme in the Bill, it is noted that this framework introduces warrantless search powers that do not require the consent of an affected person subject to the FPO and will potentially interfere with an individual's rights, such as the right to privacy. However, any limitations on the rights and liberties of the individual have been carefully considered, are supported by appropriate legislative safeguards, and are reasonably justified as detailed below.

In developing this framework, consideration was given to the FPO schemes already in force in other jurisdictions in Australia (except the Australian Capital Territory), all of which empower the respective Commissioner of Police to issue a 10-year FPO if satisfied it is in the public interest to do so. However, the Bill deviates from these schemes by introducing a 'hybrid' FPO model, that enables the Commissioner to issue short term FPOs whilst longer term orders are court issued. This novel framework seeks to establish greater protections for the rights and liberties of the individual, whilst concurrently enhancing public safety and security.

Under the new section 141G in the Weapons Act, the Commissioner (or the Commissioner's delegate) is empowered to issue an FPO against a high-risk individual for up to 60 days if satisfied it is in the public interest to make the order. Caution must be exercised when vesting decision making power with an administrative authority in circumstances when the decision making significantly affects the rights and liberties of the individual, particularly if the power can be delegated. This caution is in response to concerns that administrative decision making may lack accountability, transparency, or oversight and be subject to potential abuse. Accordingly, concern may be raised that Commissioner issued FPOs interfere with the principles of natural justice, which common law recognises as: the right to be heard; unbiased decision making and procedural fairness.

To counteract these concerns, the Bill provides that an individual subject to a Commissioner issued FPO may appeal the making of the order with an appellate court. Furthermore, whilst the Commissioner can delegate decision making power regarding the issuing of these orders, this delegation is limited to a police officer of at least the rank of superintendent.

The Commissioner or delegated officer, are appropriate persons to possess decision making power regarding FPOs of up to 60 days, acknowledging their skill, experience, and expertise in identifying and responding to, high risk individuals and the associated risk of firearms and

firearm related items. By empowering the Commissioner (or delegated officer) to issue FPOs, this framework ensures the QPS can quickly and effectively respond to emerging risks and threats, prevent criminal offending, and act in a timely and decisive manner, reducing the ability of high-risk individuals and members of criminal organisations from subverting law enforcement operations.

It is additionally noted that an individual's right to natural justice, specifically procedural fairness, is impacted by the confidentiality provisions associated with criminal intelligence relating to applications or proceedings involving FPOs under the new section 141ZT. This provision adversely impacts the rights of the individual to know the case against them and prepare an appropriate response to an application for an FPO. Whilst the individual's right to be provided all the relevant information relating to the proceedings is impacted, this restriction is necessary and appropriate noting the information is withheld as it may:

- prejudice an ongoing criminal investigation;
- enable the existence or identity of a confidential source of information;
- endanger a person's life or physical safety;
- prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating, or dealing with a contravention of an Act; or
- prejudice the maintenance or enforcement of a lawful method or procedure for protecting public safety.

Information that is considered criminal intelligence remains subject to judicial oversight and such restrictions on revealing criminal intelligence is consistent with similar FPO frameworks nationally.

The greatest impact on an individual's rights and liberties arising from the new part 5A is arguably the warrantless search powers which enable a police officer to stop, detain and search an individual subject to an FPO, in addition to searching the individual's vehicle, relevant premises or anything else in their possession, and seizing any prohibited item. These search powers can be utilised whenever reasonably required to ensure the individual's compliance with the FPO and can be conducted without the individual's consent. The threshold for conducting these searches is nationally consistent with similar FPOs schemes and is subject to appropriate oversight and accountability measures as noted below. Furthermore, searches conducted of the individual do not extend to strip searches and are subject to appropriate legislative safeguards contained within the PPRA.

The Bill introduces extensive accountability measures for the FPO scheme, including appropriate oversight of the police search powers. This is achieved by, firstly, amending the PPRA to expand the role and responsibilities of the PIM to monitor FPOs. The PIM must gather statistical information about FPOs, monitor compliance by police officers with the new part 5A, division 4, and whenever the PIM considers it appropriate, give a report to the Commissioner on any noncompliance by police officers with division 4. The PIM must also produce an annual report in relation to FPOs made under the new part 5A, which includes, for example, the number of FPOs made in the year by the court and Commissioner, the extent of compliance with the police with part 5A, division 4, and the use of FPOs generally.

Secondly, the Commissioner is required to keep a register that contains further information in relation to FPOs, including, for example, the number of FPOs made in relation to children in

the year, the number of firearms or firearm related items seized under part 5A, division 4, and details of any powers exercised by a police officer in relation to the order under this division.

And thirdly, the FPO framework under part 5A is subject to legislatively mandated independent reviews of the operation and effectiveness of the part that is to be conducted as soon as practicable after 2 years and 5 years from commencement. The 2 year interim review and 5 year final review must be tabled by the Minister in the Legislative Assembly and must report on several factors including the effectiveness of part 5A in achieving its purpose and the efficiency and appropriateness of the part compared with FPO schemes in other jurisdictions. This ensures the framework remains subject to appropriate legislative scrutiny and provides an opportunity to evaluate the effectiveness of the novel approach to ensure it operates as intended by striking the right balance between promoting public safety and security and preserving the rights of the individual.

Additional legislative safeguards are incorporated into the scheme, particularly in relation to children. This Bill introduces additional considerations for the decision-maker when considering issuing an FPO in relation to a child, and requires any order made be reviewed by the Childrens Court every 12 months. In conducting this review, the court must consider whether the order remains appropriate, or if it is more appropriate in the circumstances to revoke the order.

Whilst the FPO framework interferes with the rights and liberties of the individual, such interference is reasonably justified when balanced against the rights and interests of the community.

Introducing a new verification process for purchasing small arms ammunition

The amendments to the Explosives Act may interfere with the rights and liberties of the individual as it amends an existing offence making persons liable to criminal sanctions for non-compliance. In determining whether these proposed amendments are consistent with fundamental legislative principles, particularly that legislation have regard to the rights and liberties of individuals per section 4(2)(a) of the LSA, consideration has been given to whether the consequences imposed by the amendments are proportionate and reasonable.

The offence only imposes a financial penalty and does not place the offender at risk of imprisonment. Additionally, the cohort potential liable to this offence is limited to persons conducting business in the sale of potential harmful explosives, which places a reasonable expectation upon the seller to remain adequately informed of the responsibilities and liabilities associated with the sale of explosives. Due to the risks associated with selling small arms ammunition to unlicenced or unauthorised individuals, the amendment is necessary to provide an appropriate deterrent and ensure efficient and effective enforcement. Additionally, the individual will not be liable in circumstances where an approved system does not exist, or where the approved system is unavailable from its origin source.

The new section 43A of the Explosives Act in the Bill may also affect the FLP regarding the delegation of legislative power to regulation (section 4 of the LSA). The new section 43A(2)(b) specifies that a verification system is an electronic system prescribed by regulation. The delegation of power to subordinate legislation in relation to an offence impacts the ability for Parliament to retain oversight regarding the construction and application of the provision, in addition to limiting the transparency and accountability of any future regulatory amendments

affecting the provision. However, this delegation is necessary to ensure the meaning of a verification system can be amended in an efficient and timely manner to reflect changes in the types of electronic systems available (for example, by capturing new electronic verification systems introduced in other jurisdictions), is limited in scope, and only applies to a restricted cohort of people.

Implementing recommendations from the Queensland Audit Office report Regulating firearms (Report 8: 2020-21)

The amendments represent a potential departure from the FLP that requires legislation have specific regard to the rights and liberties of individuals, in particular natural justice, property rights and any potential impact on rights and liberties, retrospectively (section 4 of the LSA).

The new sections 5A to 5D and amendments to sections 10B and 10C expand the mandatory exclusion period for individuals who have committed prescribed offences to make them unsuitable to have a licence under the Weapons Act. The amendments also extend the timeframe for mandatory exclusion to 10 years in certain circumstances. This could have significant implications on some individuals who may currently hold a weapons licence but may be deemed no longer fit and proper to have a licence following commencement of these new provisions. For example, the person may require a licence for the purpose of their employment.

The amendments have regard to the QAO Report which recommended strengthening decision making in relation to licences under the Weapons Act to ensure unsuitable individuals (not fit and proper) are not granted a licence and appropriate controls are in place to provide consistent decision-making that has a greater focus on public safety. The amendments find the appropriate balance between the rights of individuals, and the need to promote public security and safety. They additionally streamline administrative decision-making processes noting, in most circumstances, any person impacted by the new mandatory 10 year exclusionary period because of a conviction in relation to a class A or class B serious offence, would not have otherwise been assessed as a fit and proper person to have a licence under any discretionary application of the test.

Increasing the maximum penalty for possession of a knife in a public place or school

The amendment to the Weapons Act to increase the maximum penalty for possession of a knife in a public place or a school may be seen to adversely impact upon the rights and liberties of individuals as a person convicted of this offence is liable to a greater financial penalty or period of imprisonment. In determining whether the amendment is consistent with fundamental legislative principles in accordance with section 4(2) of the LSA, consideration has been given to whether the consequences imposed by the amendment is proportionate and reasonable.

In determining the revised maximum penalty and penalty structure for this offence, it was noted that penalties should be proportionate to the offence and legislation should provide a higher penalty for an offence of greater seriousness than for a lesser offence. Additionally, penalties within legislation should be consistent with each other.

The revised penalty structure is proportionate, appropriate, and broadly consistent with similar offences within Australia.

Amendments to the Criminal Code and Summary Offences Act 2005

The amendments to the Criminal Code and SO Act represent a potential departure from the fundamental legislative principle that legislation has sufficient regard to the rights and liberties of individuals under LSA section 4(2)(a) as they will introduce new offences and circumstances of aggravation and increase maximum penalties for existing offences. This impacts on a person's rights under the *Human Rights Act 2019*, including their right to liberty and security of person.

The amendments will capture different levels of conduct, in each instance. The existing sentencing principles within the *Penalties and Sentences Act 1991* will enable the court to consider the seriousness of the particular offence and give an appropriate punishment. Although the amendments may mean an offender is liable to a longer period of imprisonment than that currently available, the maximum penalty only serves as the guidepost for the most serious offending behaviour.

Any inconsistencies with fundamental legislative principles are considered justified as the proposed penalties for relevant offences reflect the seriousness of the behaviour, recognise the occupational vulnerability of emergency workers, and demonstrate to the community that such offending behaviour is unacceptable.

Amendments to the Corrective Services Act 2006

The amendments for personal service of documents to prisoners in corrective services facilities are considered consistent with the rights and liberties of individuals (section 4(2)(a) of the LSA) particularly for the victim-survivors of domestic and family violence. The framework will enable a more streamlined service of domestic and family violence documents onto prisoners in the custody of QCS and maintain the safety of the community.

The proposed amendments may be considered to not have sufficient regard to the rights and liberties of individuals, consistent with the principles of natural justice in section 4(3)(b)) of the LSA and the reversal of the onus of proof in section 4(3)(d) of the LSA. This is because the provisions provide an alternative process for prisoners to be personally served documents by corrective services officers who can demonstrate that service occurred via an evidentiary certificate. Any inconsistency is considered justified because the provisions will enable service to occur more swiftly as corrective services officers have easier access to corrective services facilities and to prisoners than police officers. The evidentiary requirements are more streamlined than those applying to service in the community. This is important and necessary as the person is in the custody of QCS and they have knowledge of the prisoner's identity and location.

Modernising document authentication and service requirements

The Bill modernises document authentication and service requirements for police officers, by allowing prescribed documents to be served electronically and all police documents to be signed electronically.

These amendments represent a significant change to long-standing legal practice and may infringe on the fundamental legislative principle in section 4(3)(b) of the LSA that legislation is consistent with the principles of natural justice and the fundamental legislative principle in

section 4(2)(a) of the LSA that legislation has sufficient regard to the rights and liberties of individuals.

The proposal to amend the PPRA to provide that, unless the contrary is proved, a prescribed document that is electronically served by a police officer is deemed to have been received by the person on the day and at the time it is sent to the person's nominated unique electronic address may engage section 4(3)(d) of the LSA. Section 4(3)(d) of the LSA states that where legislation has sufficient regard to the right and liberties of individuals depends on whether the legislation does not reverse the onus of proof in criminal proceedings without adequate justification. Deeming that a person electronically served by a police officer received the prescribed document on the day and the time it is sent by the police officer to the unique electronic address nominated by the person ensures consistency with existing electronic service provisions in the PPRA such as those in section 53BAC(6)(b).

In circumstances where the person did not receive the document at their unique electronic address, the deeming provision provides 'unless the contrary is proved' which will afford the person the ability to challenge the presumption that they received the document. The onus normally rests on prosecutions to prove beyond reasonable doubt that the person received the documents. However, for electronic service the Bill presumes service and reverses the onus of proof by requiring the person to show that they did not in fact receive the notice. The reversal of the onus of proof is necessary because:

- police do not have the power to require the person to view the document once electronically transmitted; and
- police may not have access to information showing if and when the person accessed the document.

Making and serving a document electronically, and by application of an electronic signature, may increase the risk of fraud. For example, a person's electronic signature could be taken and used without their consent. In addition, given the broad meaning of electronic signature, a person could fraudulently sign a document on behalf of a person without their authority. As the Bill does not prescribe methods of electronic signature, there is greater potential for electronic signatures to be used improperly.

Additionally, the service of documents electronically may impact the perceived importance of the document, leading some individuals to not fully appreciate the gravity of the document in their electronic possession. A similar potential consequence exists with respect to electronic signatures, as some individuals may not appreciate the gravity of making a false declaration or statement electronically is equal with the making of such declarations or statements in hardcopy.

The use of technology may also impact effective communication, to the potential disadvantage of vulnerable communities including those for whom language and communication barriers are exacerbated by electronic communication. This may impact a person's capacity to adequately appreciate the significance of documents and recover the documents to support their case in a proceeding. These factors may in turn impact on the quality of evidence and therefore the fairness of those proceedings.

The use of technology may also be a barrier for groups such as seniors, persons with a disability and persons in regional and remote areas, particularly First Nations peoples. These groups experience additional hardships in that they are more likely to not have equitable access to

technology or limited skills and supports to utilise any available technology. The QPS is committed to supporting culturally and linguistically diverse communities and First Nations peoples. Police officers undertake training to increase appreciation for, and awareness of, cultural issues relating to the ability to give informed consent, such as gratuitous concurrence.

A specialised First Nations capability training team is focused on the centralised design, development and delivery of ongoing First Nations, Police Liaison Officer and culturally and linguistically diverse training for all QPS members (both police officers and staff).

The removal of in-person service requirements and the introduction of electronic signatures may increase the risk of breach of privacy and confidentiality.

The Bill mitigates these risks by implementing several safeguards to protect the rights and liberties of individuals. For example, in relation to electronic service of documents, the framework requires an originating process can only be electronically served on a subject person when they are in the presence of a police officer (recorded on body worn camera), who must ensure the subject person has received a copy of the document.

In order to engage in electronic service, a police officer must ask the subject person for their consent to receive documents electronically, and such consent only extends to documents that relate to the subject incident. The consent is valid for six months unless withdrawn in writing to the Commissioner of Police or cancelled upon the subject person being detained. Prior to asking for consent, a police officer must ask about the person's circumstances to determine whether the person satisfies a strict eligibility criteria.

The Bill does not preclude the ability to make, sign and witness these documents in hardcopy on paper and/or in person. The existing requirements will continue to apply and can continue to be used by people who do not have access to technology, who do not consent to receiving the service of documents electronically, or who are not deemed to have personal circumstances that are appropriate for electronic service delivery.

A police officer engaging in the electronic service of a document or affixing an electronic signature must comply with certain procedural requirements. For example, when entering an email address or mobile phone number for electronic service, QPS QLiTE devices can undertake a validation of the email address or mobile phone number to identify the validity of the unique electronic address.

Additionally, police officers are considered more likely to:

- be aware of the receiving person's personal circumstances;
- be able to assess the capacity of the person at the receiving end of the electronic service; and
- be astute to the risks of fraud.

The amendments are considered justified because allowing police officers to sign and serve documents electronically using technology will produce efficiencies.

Transport amendments

Amendment to the Summary Offences Act 2005

Section 4(2)(a) of the LSA provides the fundamental legislative principle that legislation should have regard to the rights and liberties of individuals. The purpose of the amendment to the Summary Offences Act is to clarify that it is an offence to not only participate in a hooning group activity, but also to be a spectator.

Despite the existence of offences as deterrents, hooning remains prevalent. Gatherings take place in a variety of public locations including car parks and industrial estates. At these locations, hooning offences are encouraged by groups of spectators. Organised groups record and upload videos and images to social media which acts to promote hooning behaviour. Investigating these offences and locating offenders is difficult because offenders routinely use motor vehicles that have altered, false or stolen vehicle registration plates attached to avoid the identification of the vehicle used to commit offences.

Research conducted in Australia, the United States and Finland has largely confirmed that persons involved in street racing and hooning predominantly fall within the demographic of a young male aged between 16 and 25 years. It is unclear if these offenders are part of the mainstream car enthusiast culture or form a specific criminal subset or are a mixture of both groups.

Regardless of this, it is noted that there is not one all-encompassing theory that explains why people become involved in hooning. A person may participate in hooning for the perceived simple pleasure of driving a car quickly. Similarly, a person may participate in hooning because of a more complex motive for example to gain social status or to define one's self-concept. In such instances, the reinforcement of 'hooning' as a lifestyle can take place through the peer group and parental influences.

The proposed amendment will deter hooning behaviour by directly impacting those persons who encourage, support or promote hooning behaviour. These amendments will remove the encouragement and support for committing offences through denying the offender an audience to their offending behaviour. The level of community concern caused by hooning justifies the offence for being a spectator of a hooning group activity.

Amendments to the Transport Operations (Road Use Management) Act 1995

Section 4(3)(b) of the LSA provides that whether legislation has sufficient regard to the rights and liberties of individuals may depend on whether legislation is consistent with principles of natural justice. The amendments to the drink driving framework might not be consistent with the principles of natural justice because a person will have their licence disqualified by an administrative process instead of a court process.

Legislation should be consistent with principles of natural justice, which encompass the entitlement of a person to be heard and given a reasonable opportunity to present their case and respond to any adverse material of which the decision-maker has informed itself.

The amendment to apply an administrative disqualification on a licence (in the absence of a show cause process) in relation to an infringement notice issued for an offence against section 79(2)(a) or (b) of the TORUM Act, is a potential departure from this principle.

However, the person still has a reasonable opportunity to present their case before any administrative disqualification is applied to their licence. The process for applying an administrative disqualification is:

- the person will receive a PIN for the offence against section 79(2)(a) or (b) of the TORUM Act;
- at the same time as receiving the PIN, the person will also receive an information notice containing information about the effect of the PIN, including information about the administrative disqualification;
- the information notice will outline the options available to the person, including that the person is disqualified from holding or obtaining a Queensland driver licence for a period of 2 months starting on the day that is 28 clear days after the date of the infringement notice; and
- the person can elect to have the matter heard in court. In this situation, the person will not receive an administrative disqualification but instead, if convicted, receive a court disqualification.

Research commissioned by TMR found that apart from licence disqualification, appearing in court is the second-highest factor that deters individuals from drink driving, with 72 per cent of respondents considering it a significant deterrent. The research showed this is due to the shame and humiliation associated with attending court, including that family members and workplaces may become aware of the offence. The next highest deterrents are the financial penalty and requirement to have an alcohol ignition interlock. Both of these countermeasures were identified by 67 per cent of respondents. Based on this evidence, it is therefore critical that a move to issue infringement notices for certain drink drivers, rather than a court appearance, is accompanied with a strengthening of other penalties to ensure deterrence is maintained.

Section 4(2)(a) of the LSA provides that legislation should have sufficient regard to rights and liberties of individuals, this includes that a penalty should be proportionate to the offence. Legislation should provide a higher penalty for an offence of greater seriousness than for a lesser offence.

In consideration of the infringement notice amount for a section 79(2)(a) or (b) offence, the maximum penalties across section 79 of the TORUM Act have been increased to ensure fair and appropriate penalties can be issued by the court, reflecting the seriousness of each offence. The following table shows the increase in maximum penalties in section 79 of the TORUM Act.

Offence in section 79 of the TORUM Act		**Current maximum penalty**	**New maximum penalty**
79(1)	Offence of driving etc. while under the influence	28 penalty units (PU)	40 PU
79(1A)	Liability under subsection (1) if convicted within 5 years under subsection (1)	60 PU	72 PU

Offence in section 79 of the TORUM Act		Current maximum penalty	New maximum penalty
79(1B)	Liability under subsection (1) if convicted within 5 years on indictment or against Criminal Code, section 328A	60 PU	72 PU
79(1D)	Liability under subsection (1) if convicted within 5 years under other subsections	30 PU	42 PU
79(1E)	Liability under subsection (1) if 2 convictions within 5 years under other subsections	60 PU	72 PU
79(1F)	Offence of driving etc. while over middle alcohol limit but not over high alcohol limit	20 PU	28 PU
79(2)	Offence of driving etc. while over general alcohol limit but not over middle alcohol limit	14 PU	20 PU
79(2A)	Offence of driving etc. while over no alcohol limit but not over general alcohol limit if particular type of driver or licence	14 PU	20 PU
79(2B)	Offence of driving etc. particular motor vehicles while over no alcohol limit but not over general alcohol limit	14 PU	20 PU
79(2D)	Offence of driving etc. tram, train or vessel while over no alcohol limit but not over general alcohol limit	14 PU	20 PU
79(2F)	Liability under various subsections if conviction within 5 years under the subsections	20 PU	28 PU
79(2G)	Liability under various subsections if 2 convictions within 5 years under the subsections	28 PU	36 PU
79(2H)	Liability under various subsections if conviction within 5 years for other offences	30 PU	42 PU
79(2I)	Liability under various subsections if conviction within 5 years under the subsections and another conviction	60 PU	72 PU
79(2J)	Offence for particular licence holders if driving etc. while over no alcohol limit but not over general alcohol limit	20 PU	26 PU

Offence in section 79 of the TORUM Act		Current maximum penalty	New maximum penalty
79(2K)	Offence for class RE licence holders if riding etc. a motorbike while over no alcohol limit but not over general alcohol limit	14 PU	20 PU
79(2L)	Offence for class RE licence holders if learning to ride etc. a class R motorbike while over no alcohol limit but not over general alcohol limit	14 PU	20 PU

It is important to note that a court may impose a penalty that is lower than the maximum penalty, and the court may take into account a range of factors in deciding a penalty, including an individual's socio-economic circumstances.

Additionally, the minimum driver licence disqualification that a court must impose for certain drink driving offences is being increased from one month to two months. While this does limit a court's discretion in sentencing, it is necessary to ensure consistency in the duration of licence disqualifications between those who pay an infringement notice, and those who choose to challenge it in court or who are issued a notice to appear.

Amendments to the Youth Justice Act 1992

Streamlining processes for the transfer of detainees over the age of 18 years to adult custody

The Bill reforms the way in which the rights and liberties of detainees over 18 are dependent on administrative power, but does not change the fact that the power is sufficiently defined and subject to appropriate review.

The changes may impact on the rights and liberties of 18-year-olds in youth detention – for example, their continued access to the services, programs and interventions with which they have been engaged. The amendments may also impact on the rights of vulnerable 18-year-olds whose particular needs may be better addressed in a youth detention setting, but who do not meet the 'exceptional circumstances' threshold. However, these impacts need to be balanced against the right of children in detention to be segregated from adults (section 33(1) of the *Human Rights Act 2019*).

Enabling the recording of detainee phone calls

It is arguable that provisions about the recording of phone conversations should be in primary legislation. However, the long-established arrangements under the YJ Act are that provisions about phone calls, and other matters including mail, searches, separations and use of force, are contained in the *Youth Justice Regulation 2016*.

Consultation

Amendments to the Childrens Court Act 1992

The Government consulted with legal, youth, child protection and victims' advocacy stakeholders, media stakeholders and the judiciary on the proposed amendments to the CC Act.

Enhancing the efficiency and effectiveness of firearm, ammunition and weapons regulation under the Weapons Act and Explosives Act

A Consultation Paper was provided to targeted community stakeholders inviting feedback in relation to the proposed amendments regarding introducing an FPO scheme in Queensland, introducing amendments to the Weapons Act to give effect to recommendations from the QAO Report, introducing a new maximum penalty for possessing a knife in a school or public place, and to introduce new verification measures regarding the sale of small arms ammunition in the Explosives Act. Feedback received during this consultation process was taken into account during development of the Bill.

Police efficiencies and related amendments

DFV stakeholders with relevant lived experience of working with and legal and peak advocacy bodies were introduced to the suite of policy proposals in February 2024 via consultation material and were invited to attend select information sessions to discuss the proposed amendments. This was followed by release of the draft exposure Bill in early April 2024, extending the consultation engagement to Heads of Jurisdiction and offering face to face information sessions, to discuss the draft exposure Bill.

Amendments to the Youth Justice Act 1992

Given the technical and nuanced nature of the issues the recommendations address, broad community consultation was not undertaken. The Youth Justice Strategy Reference Group, key legal stakeholders, oversight entities, the President of the Childrens Court of Queensland, and the Chief Magistrate and two Deputy Chief Magistrates were consulted.

Consultation on the WSJT amendments occurred separately. In line with the WSJT's suggestions, targeted consultation was conducted with women's health and youth service providers, victim support groups, legal stakeholders and First Nations groups.

Consistency with legislation of other jurisdictions

Amendments to the Childrens Court Act 1992

The amendments to the CC Act are specific to the Childrens Court of Queensland. The amendments generally align with the approach in most Australian jurisdictions to limit access to Childrens Court proceedings. In most jurisdictions, criminal proceedings involving children are generally closed to the public but are open to victims, their families and the media, subject to the power to exclude these persons, with different tests applying across jurisdictions.

Introducing a Firearms Prohibition Order scheme in Queensland

The FPO framework in the Bill is specific to the State of Queensland. However, it is noted that FPO schemes exist in all other jurisdictions in Australia, except the Australian Capital Territory.

Whilst the Queensland FPO scheme broadly aligns with other jurisdictions, it notably differs as it is not a Commissioner only issued model. In all other jurisdictions in Australia that has an FPO scheme, the Commissioner is the decision-maker.

The Queensland FPO scheme is distinct in that it is a 'hybrid' model that empowers the Commissioner to issue an FPO (with a maximum duration of 60 days), providing police with urgent and immediate powers to address an identifiable risk, whilst also enabling the Magistrates Court (or Childrens Court) to issue an FPO in relation to a high-risk individual for up to 10 years for an adult and 5 years for a child.

The proposed hybrid FPO scheme strikes the appropriate balance between the need to protect the public from high-risk individuals and ensuring any limitation on any individual's human rights is reasonable, justified and provides appropriate oversight and safeguards to manage the use of such powers.

Amendments to the Corrective Services Act 2006

The document service framework outlined in the Bill is specific to the State of Queensland and is not uniform with legislation of the Commonwealth or another state or territory. However, in developing the Bill, consideration has been given to the legislation of other Australian jurisdictions, where appropriate.

Corrective services officers in Victoria, New South Wales, Tasmania and South Australia serve documents on prisoners. South Australia relies on operational policy for document service on prisoners and does not have a legislative framework. In Victoria and Tasmania, document service is outlined in their oaths and affirmations legislation. In New South Wales, the service of documents in civil matters is guided by Part 10 of the Uniform Civil Procedure Rules 2005. For criminal proceedings, document service is guided by the legislation governing the jurisdiction of the proceedings.

Transport amendments

Amendments to the Transport Operations (Road Use Management) Act 1995

All other Australian jurisdictions, except for the Australian Capital Territory, can issue infringement notices for low-range drink driving offences. However, there are some variations in relation to the blood alcohol concentration limits, licence disqualification/suspension periods, fine amounts and the application of interlock conditions and drink driving education programs.

Amendments to the Youth Justice Act 1992

Electronic monitoring

Three Australian jurisdictions (Western Australia, Northern Territory and South Australia) permit electronic monitoring of young offenders in certain circumstances.

Electronic monitoring is also used in New Zealand for young people on bail.

The South Australian electronic monitoring program caters for bail conditions including twenty-four hour curfew monitoring, curfew between specified hours, and gradual release from prison as a way to re-integrate young offenders in the community.

In Western Australia, electronic monitoring is only available for sentenced cases, and may be used for supervised release orders. Electronic monitoring in the Northern Territory is a sentencing option and may be used for young offenders on bail.

Streamlining processes for the transfer of detainees over the age of 18 years to adult custody

The new amendments propose trigger points for the transfer of young persons in the youth detention centre to adult correctional centres. This regime applies to young persons on remand or serving a sentenced order.

A similar approach is adopted in the Northern Territory. Under the *Youth Justice Act 2005* a detainee who turns 18 years old while serving a sentence of detention or on remand in custody must be transferred to an adult correctional centre within 28 days of turning 18 years old. The Chief Executive Officer may direct that the automatic transfer does not apply in relation to youth who have six months or less remaining on their sentence or if they are remanded for a period less than six months.

New South Wales, Western Australia and Victoria allow for the transfer of under 18 years old to adult correctional centres. In the ACT, once a person reaches 18 years old they can be transferred to adult prison, whether or not they are on remand or on a sentence.

Notes on provisions

Part 1 Preliminary

Clause 1 introduces the short title and provides the Act may be cited as the *Queensland Community Safety Act 2024.*

Clause 2 identifies when the provisions in the Bill commence.

Part 2 Amendments relating to online criminal content, vehicles and weapons

Division 1 Online criminal content

Subdivision 1 Amendment of Police Powers and Responsibilities Act 2000

Clause 3 identifies that part 2, division 1, subdivision 1 of the Bill amends the *Police Powers and Responsibilities Act 2000.*

Clause 4 inserts a new chapter 21A (Removal of particular online content) which inserts new sections 745A to 745G.

New section 745A (Extraterritorial application of chapter) states new chapter 21A will apply both within Queensland and outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.

New section 745B (Definitions for chapter) inserts definitions of ‘authorised officer’, ‘material’, ‘online service’, ‘provided’, ‘provider’, ‘removal notice’ and ‘removed’ for the purposes of chapter 21A.

New section 745C (Authorised officers) provides the Commissioner with the power to authorise a police officer of at least the rank of senior sergeant, or a staff member, to give removal notices in accordance with the provisions of new chapter 21A.

New section 745D (Removal notice) provides an authorised officer with the power to give a removal notice to a provider of an online service requiring the provider to remove material from the service if:

- the authorised officer is satisfied the material provided on the online service depicts prescribed unlawful conduct;
- the authorised officer suspects a person posted the material on the online service for the purpose of glorifying the unlawful conduct; or increasing the person’s reputation, or another person’s reputation, because of their involvement in the unlawful conduct;
- the material has been accessed by a person in Queensland; and
- the authorised officer suspects either the unlawful conduct happened in Queensland or the material was posted on the online service by a person who was in Queensland or ordinarily resident in Queensland.

The section also provides what the notice must state and requires that the provider must comply with the removal notice within the time specified by the notice, unless the authorised officer gives a further notice granting an extension of time.

New section 745E (Civil penalty order) provides that, if a provider does not comply with the removal notice, the Commissioner may apply to the Supreme Court for an order that the provider pay a civil penalty to the State. The section also outlines the factors a court must consider in determining the amount of the penalty.

New section 745F (Failure to provide procedural fairness does not affect validity) states the validity of a removal notice is not affected by any failure of an authorised officer to provide procedural fairness to the provider.

New section 745G (Service of documents) states that section 39 (Service of documents) of the *Acts Interpretation Act 1954* applies to the service of documents on the provider of an online service or other entity whether the entity's address is within or outside Queensland.

Clause 5 inserts cross-references for the definitions being introduced in new chapter 21A in schedule 6 (Dictionary).

Subdivision 2 Amendment of Summary Offences Act 2005

Clause 6 identifies that part 2, division 1, subdivision 2 of the Bill amends the *Summary Offences Act 2005.*

Clause 7 inserts a new section 26B (Publishing material about particular offending behaviour), which creates an offence prohibiting a person from publishing material on a social media platform or an online social network that depicts the commission of offences prescribed in subsection (5) if the material is published for the purpose of glorifying the conduct; or increasing the person's reputation, or another person's reputation, because of their involvement in the conduct.

Subsection (2) declares that the section does not apply to a journalist who publishes the material in the course of their activities as a journalist.

Subsection (3) identifies that proceedings for the offence in subsection (1) may be commenced regardless of whether proceedings for the prescribed offence have been commenced.

Subsection (4) declares that a person may not be convicted of both the offence and a relevant Code or weapons offence with a circumstance of aggravation relating to the publication of material on a social media platform or online social network.

Clause 8 inserts a definition of 'journalist' in schedule 2 (Dictionary).

Division 2 Vehicle and advertising-related offending

Subdivision 1 Amendment of Criminal Code

Clause 9 identifies that part 2, division 2, subdivision 1 of the Bill amends the Criminal Code.

Clause 10 amends section 1 (Definitions) to insert definitions of ‘emergency vehicle’ and ‘emergency worker’.

Clause 11 inserts a new section 6A (Meaning of *emergency vehicle* and related matters).

Subsection (1) introduces a definition of ‘emergency vehicle’.

Subsection (2) provides a rebuttable presumption that, for an offence involving an emergency vehicle, a person is taken to know a motor vehicle is an emergency vehicle if:

- the vehicle bears the insignia of an emergency services entity or is otherwise clearly marked as a type of emergency vehicle; or
- the vehicle is displaying flashing blue and red lights or a flashing blue light;
- a person inside, or who emerges from, the vehicle identifies themselves to the first person as a type of emergency worker.

Subsection (3) clarifies that subsection (2) does not limit the circumstances in which a person may know, or ought reasonably to know, a vehicle is an emergency vehicle.

Subsection (4) defines an ‘emergency services entity’ as a police service, ambulance service, fire brigade, fire service or State emergency service of Queensland, the Commonwealth or another State.

Clause 12 amends section 69 (Going armed so as to cause fear).

Subclause (1) inserts new subsection (2A) to provide that if the offender publishes material on a social media platform or an online social network to advertise the offender’s involvement in the offence or the act or omission constituting the offence, they are liable to 3 years imprisonment.

Subclause (2) inserts new subsection (4) to provide a definition for ‘advertise’ and ‘material’.

Subclause (3) renumbers subsections (2A) to (4) to subsections (3) to (5).

Clause 13 amends section 328A (Dangerous operation of a vehicle).

Subclause (1) inserts new subsection (1A) to provide that if the offender publishes material on a social media platform or an online social network to advertise the offender’s involvement in the offence or the act or omission constituting the offence, they are liable to 400 penalty units or 5 years imprisonment.

Subclause (2) amends subsection (4)(a) to increase the maximum penalty for the offence of dangerous operation of a vehicle causing death or grievous bodily harm where paragraphs (b) to (d) do not apply to 14 years imprisonment.

Subclause (3) amends subsections (4)(b) and (c) to increase the maximum penalty for an offence where these paragraphs apply to 20 years imprisonment.

Subclause (4) amends subsection (4) to introduce a new paragraph (d) which provides for a new circumstance of aggravation for an offence of dangerous operation of a vehicle causing

death or grievous bodily harm if, before or while committing the offence, the person commits an offence against the PPRA, section 754(2) (Evasion offence) to increase the maximum penalty to 20 years imprisonment.

Subclause (5) inserts a new subsection (6) to provide a definition for ‘advertise’ and ‘material’.

Clause 14 inserts new sections 328C and 328D.

New section 328C (Damaging emergency vehicle when operating motor vehicle) creates an offence prohibiting a person from operating a motor vehicle in a way that damages an emergency vehicle where the person knows, or ought reasonably to know, the damaged vehicle is an emergency vehicle and the person intends to damage the emergency vehicle or to injure or endanger the safety of the emergency worker or knows, or ought reasonably to know, the person is operating a motor vehicle in a way that will damage an emergency vehicle. The maximum penalty is 14 years imprisonment.

New section 328D (Endangering police officer when driving motor vehicle) creates an offence prohibiting a person from driving a motor vehicle towards or near a police officer who is acting in the performance of their duties where the person knows, or ought reasonably to know, the officer is a police officer, and the person intends to injure or endanger the safety of the police officer; and the person endangers the safety of the police officer and knows, or ought reasonably to know, the person is endangering the safety of the police officer. The maximum penalty is 14 years imprisonment.

Clause 15 amends section 335 (Common assault).

Subclause (1) inserts new subsection (1A) to provide that if the offender publishes material on a social media platform or an online social network to advertise the offender’s involvement in the offence or the act or omission constituting the offence, they are liable to 4 years imprisonment.

Subclause (3) inserts a new subsection (4) to provide a definition for ‘advertise’ and ‘material’.

Subclause (4) renumbers subsections (1A) to (43) to subsections (2) to (5).

Clause 16 amends section 339 (Assaults occasioning bodily harm).

Subclause (1) inserts new subsection (1A) to provide that if the offender publishes material on a social media platform or an online social network to advertise the offender’s involvement in the offence or the act or omission constituting the offence, they are liable to 9 years imprisonment.

Subclause (2) inserts a new subsection (6) to provide a definition for ‘advertise’ and ‘material’.

Subclause (3) renumbers subsections (1A) to (6) to subsections (2) to (7).

Clause 17 amends section 408A (Unlawful use or possession of motor vehicles, aircraft or vessels).

Subclause (1) inserts new subsection (1CA) to provide that if the motor vehicle, aircraft or vessel is an emergency vehicle and the offender knows, or ought reasonably to know, it is an emergency vehicle, they are liable to 14 years imprisonment.

Subclauses (2) and (3) make consequential amendments as a result of renumbering within the section.

Subclause (4) amends the definition of 'material' in subsection (3).

Subclause (5) renumbers subsections (1A) to (3) to subsections (2) to (9).

Clause 18 amends section 419 (Burglary).

Subclause (1) inserts new subsection (3A) to provide that if the offender publishes material on a social media platform or an online social network to advertise the offender's involvement in the offence or the act or omission constituting the offence, they are liable to 16 years imprisonment.

Subclause (2) inserts a new subsection (7) to provide a definition for 'advertise' and 'material'.

Subclause (3) renumbers subsections (3A) to (7) to subsections (4) to (8).

Clause 19 amends section 427 (Unlawful entry of vehicle for committing indictable offence).

Subclause (1) inserts new subsection (3) to provide that if the vehicle is an emergency vehicle and the person knows, or ought reasonably to know, it is an emergency vehicle, they are liable to 14 years imprisonment.

Clause 20 amends section 469 (Wilful damage).

Subclause (1) inserts new punishment in special cases item 12 (Emergency vehicles) to provide that if the property in question is an emergency vehicle and the offender knows, or ought reasonably to know, it is an emergency vehicle, they are liable to 7 years imprisonment.

Subdivision 2 Amendment of Criminal Code (other commencement)

Clause 21 identifies that part 2, division 2, subdivision 2 of the Bill amends the Criminal Code.

Clause 22, upon the commencement of schedule 1 of the *State Emergency Service Act 2024*, will amend subsection (g) of the definition of 'emergency worker' in section 1 (Definitions) to omit '*Fire and Emergency Services Act 1990*' and insert '*State Emergency Service Act 2024*'.

Clause 23, upon the commencement of section 23 of the *Emergency Services Reform Amendment Act 2024*, will amend the definition of 'emergency worker' in section 1 (Definitions) to omit subsection (g).

Subdivision 3 Amendment of Disaster Management and Other Legislation Amendment Act 2024

Clause 24 identifies that part 2, division 2, subdivision 3 of the Bill amends the *Disaster Management and Other Legislation Amendment Act 2024.*

Clause 25, upon the commencement of schedule 1 of the *Disaster Management and Other Legislation Amendment Act 2024*, amends subsection (e) of the definition of 'emergency worker' in section 1 (Definitions) to omit '*Fire and Emergency Services Act 1990*' and insert '*State Emergency Service Act 2024*'.

Division 3 Prevention of knife crime (Jack's Law)

Subdivision 1 Amendment of Police Powers and Responsibilities Act 2000

Clause 26 identifies that part 2, division 3, subdivision 1 of the Bill amends the *Police Powers and Responsibilities Act 2000.*

Clause 27 amends section 30(1)(l) (Prescribed circumstances for searching persons without warrant) to insert a reference to new sections 39FA (Authorised use of hand held scanner without warrant on rail line) and 39FB (Authorised use of hand held scanner without warrant at other places).

Clause 28 amends the heading of chapter 2, part 3A to remove reference to 'safe night precincts and public transport stations' and replace it with 'particular places' so the new heading for this part is – 'Jack's Law-Use of hand held scanners without warrant in particular places'.

Clause 29 amends section 39A (Definitions for part) to insert new definitions for 'adjacent public area', 'licensed premises', 'public carpark', 'retail premises', 'shopping centre', and 'sporting or entertainment venue' for the purposes of chapter 2, part 3A.

Notably, *licensed premises* is already defined under schedule 6 (Dictionary). The new definition inserted into section 39A identifies the current definition in schedule 6 applies in addition to public places adjacent to licensed premises.

Clause 30 amends section 39C (Use of hand held scanner authorised by senior police officer) to replace subsection (1), amend subsection (2) to introduce new paragraphs (d) and (e), amend subsection (3) to omit an existing reference to subsection (1) and replace it with subsection (1)(b) and insert new subsections (3A) and (3B).

The amendment to subsection (1) broadens the scope of relevant places in which a senior police officer may authorise the use of a hand held scanner to include (in addition to the current relevant places in subsections (a) and (b)), trains or light rail vehicles, licensed premises, retail premises, shopping centres, and sporting or entertainment venues.

New subsection (2)(d) introduces a new threshold element for licensed premises that are not already within an SNP, shopping centre or sporting or entertainment venue. This subsection provides that a senior police officer may issue an authority for a licenses premises only if there are reasonable grounds to believe any of the following may happen again at the premises in the next six months: at least one offence was committed against a person armed with a knife or other weapon; at least one 7 year imprisonment offence against the Criminal Code involving

violence against a person was committed; more than one offence against sections 50(1) 'Possession of weapons' or 51(1) (Possession of a knife in a public place or school) of the Weapons Act was committed.

New subsection (2)(e) introduces a new threshold element for retail premises that are not already within a SNP, shopping centre or sporting or entertainment venue. This subsection provides that a senior police officer may issue an authority only if the retail premises is ordinarily, at least 2 days each week, open for business at a time between midnight and 5am or at least 2 offences were committed at the premises by a person armed with a knife or other weapon in the last 6 months.

The introduction of subsections (2)(d) and (e) are in addition to the factors to be considered mentioned in subsections (2)(a), (b) and (c).

New section 39C(3A) outlines an authority may be issued in relation to a whole or part of a rail line.

A clarifying provision is provided for in subsection (3B) that for the purposes of section 39C(2) an offence is committed at a licensed or retail premises if the offence is committed at, or in the immediate vicinity of, the premises.

Subclause (5) renumbers the new subsections (3A) and (3B) and the existing subsection (4) to subsections (4) to (6).

Clause 31 amends section 39D (Form and effect of hand held scanner authority) to insert new subparagraphs (iii) and (iv) in subsection (1)(b).

The new subparagraph (iii) identifies that for hand held scanner authorities in relation to a rail line, the authority must state the railway stations at each end of the rail line, or at each end of the part of the rail line, for which the authority is issued.

The new subparagraph (iv) identifies that for hand held scanner authorities in relation to licensed premises, retail premises, a shopping centre, or a sporting or entertainment venue, the authority must state the address of the place.

Clause 32 inserts new sections 39FA, 39FB and 39FC.

New section 39FA (Authorised use of hand held scanner without warrant on rail line) confirms that where a hand held scanner authority has been issued for a rail line or part of a rail line, a police officer may, without warrant, require a person to stop and submit to the use of a hand held scanner in a public place at a public transport station along the line or part of the line or on board a train or light rail vehicle while the vehicle is travelling on the rail line or part of the line.

Subsection (3) clarifies that if a police officer starts to exercise a power on board a train or light rail vehicle, the exercise of that power may continue, even if the vehicle travels onto another rail line or another part of the rail line. This is to ensure that if a police officer commences to

exercise the powers in relation to a person while on board a train or light rail vehicle, then they will have the ability to complete exercising those powers in relation to the person even if the train or light rail vehicle is no longer on the authorised rail line.

New section 39FB (Authorised use of hand held scanner without warrant at other places) confirms that where a hand held scanner authority has been issued for licenced premises, retail premises, a shopping centre or a sporting or entertainment venue (the relevant place), a police officer may, without warrant, require a person to stop and submit to the use of a hand held scanner in a public place at the relevant place or at a public transport station connected to the relevant place.

Subsection (3) clarifies the use of a hand held scanner authority issued for licensed premises, retail premises, a shopping centre or sporting or entertainment venue (the relevant place) does not authorise its use on board a public transport vehicle that is at the relevant place. This is to ensure that only a hand held scanner authority issued for a public transport station would capture the use of a hand held scanner on board a public transport vehicle.

New sections 39FA and 39FB align with current sections 39E and 39F.

New section 39FC (Notice to manager or occupier of premises) introduces a new requirement for a police officer when commencing an authorised hand held scanner operation at a licensed premises, retail premises, a shopping centre or a sporting or entertainment venue (the relevant place). Under this new section, if practicable, a police officer must notify the manager or occupier of the relevant place that the hand held scanner authority is in effect, the time the authority has effect and the power provided to a police officer in relation to the authority.

A legislative example is included in this section to provide guidance, that centre management would be the relevant person or entity to notify of the hand held scanner authority, and if the centre management was closed, it would not be considered practicable for the police officer to comply with this requirement.

The new section also provides confirmation under subsection (2) that a failure to notify the manager or occupier of the relevant place under subsection (1) does not invalidate the lawfulness of a police officer requiring a person to stop and submit to the use of a hand held scanner under section 39FB(2) or any other thing done under this part.

Clause 33 amends Note 1 in section 39G (Requirements if hand held scanner indicates metal) to include reference to 39FA(3), which provides for the continued exercise of a power on board a train or light rail vehicle, even if the vehicle travels onto another rail line or another part of a rail line.

Clause 34 amends section 39I (Meaning of hand held scanner information notice) to update the information to be contained within a hand held scanner information notice, so the notice includes reference to a public place at a licensed premises, retail premises, shopping centre, or at a sporting or entertainment venue.

The clause also includes reference to on board a public transport vehicle within one scheduled stop of a particular public transport station or on board a train or light rail vehicle travelling on a particular rail line.

Clause 35 amends section 39J (Notice of hand held scanner authority to be published).

The clause amends subsection (2)(a) to state that a hand held scanner authority published by the Commissioner, as required under subsection (1), must include the relevant details of the place for which the authority is issued.

The clause also amends subsection (2)(c) to insert new subparagraphs (iii) and (iv).

New subparagraph (iii) states that notice of a hand held scanner authority published by the Commissioner, if in relation to a licensed premises, must include the grounds on which the belief was held by the senior police officer. New subsection (iv) states that if the authority is in relation to retail premises where in the previous six months at least two offences were committed at the premises by a person armed with a knife or other weapon, the notice must include the offences known to the senior police officer.

Clause 36 amends section 39L (Expiry of particular provisions). This section states that section 30(1)(l), the new part 3A and particular schedule 6 definitions expire on 30 October 2026.

Clause 37 amends section 808C (Annual report to include information about authorisation of hand held scanners) to expand the information to be included in the police service's annual relevant to authorities issued for the use of hand held scanners as a consequence of the amendments in the Bill to expand the framework to additional locations.

Clause 38 amends schedule 6 (Dictionary) to insert a new definitions required as a result of the expansion of the Jack's Law framework in chapter 2, part 3A to additional locations.

Subdivision 2 Amendment of Weapons Act 1990

Clause 39 identifies that part 2, division 3, subdivision 2 of the Bill amends the *Weapons Act 1990.*

Clause 40 amends section 51 (Possession of a knife in a public place or a school).

Subclause (1) alters the penalty structure for this offence by increasing the maximum penalty for a first offence and introducing a greater penalty for a second or later offence.

Subclause (2) inserts new subsection (1A) to provide that if the offender publishes material on a social media platform or an online social network to advertise the offender's involvement in the offence or the act or omission constituting the offence, they are liable, for a first offence, to 100 penalty units or 2 years imprisonment or, for a second or latter offence, to 150 penalty units or 30 months imprisonment.

Subclause (7) inserts a new subsection (7) to provide a definition for 'advertise' and 'material'.

Subclause (8) renumbers subsections (1A) to (7) to subsections (2) to (8).

Division 4 Weapons safety

Subdivision 1 Amendment of Explosives Act 1999

Clause 41 identifies that part 2, division 4, subdivision 1 of the Bill amends the *Explosives Act 1999*.

Clause 42 inserts a new section 43A (Requirement to check licence or authority before selling small arms ammunition) into the Explosives Act.

Section 43A(1) provides that this section applies to the sale of small arms ammunition to buyers who are licensed under the Weapons Act (for example, see section 12 of the Act) or under another State or Territory, to possess or use a firearm; or, a person who is licenced or authorised under the Explosives Act to sell, store or use small arms ammunition.

This section does not encapsulate persons who are unlicenced but are otherwise authorised to use a firearm under the Weapons Act and consequently authorised to purchase small arms ammunition under the *Explosives Act 1991* and *Explosives Regulation 2017*. In particular, this section would not apply to an unlicensed person seeking to lawfully purchase small arms ammunition at an approved range or at a shooting gallery in accordance with sections 53 and 55 of the Weapons Act and section 83 of the *Explosives Regulation 2017*.

Section 43A(2) and (3) introduces a requirement upon the seller to sight the buyer's license or authorisation to confirm the buyer has lawful authority to purchase the small arms ammunition. Additionally, if a verification system is prescribed by regulation for the licence or authority and is available (i.e. operational), the seller must also confirm the validity of the licence or authority using the verification system. The maximum penalty for this offence is 140 penalty units.

For example, Queensland possesses an online Weapons Licencing Verification System which instantly provides a validity report on a Queensland firearms licence. This verification process prevents a buyer utilising a weapons licence which has been revoked or suspended to unlawfully purchase small arms ammunition. If this online verification system is prescribed by regulation and operational, the seller would be required to verify the weapons licence remains valid prior to sale.

Section 43A(4) inserts definitions for *firearm*, *interstate firearms authority* and *verification system* for the purpose of the section.

Subdivision 2 Amendment of Judicial Review Act 1991

Clause 43 identifies that part 2, division 4, subdivision 2 of the Bill amends the *Judicial Review Act 1991*.

Clause 44 amends schedule 2 (Decisions for which reasons need not be given) by omitting the current section 5A and replaces it with a revised version.

The new section 5A (Particular decisions under the Weapons Act 1990) expands the scope of decisions for which reasons need not be given to encapsulate decisions made under the Weapons Act:

- relating to whether a person is a fit and proper person under that Act if the decision is made on the basis of criminal intelligence or other information mentioned in section 10B(1)(ca) or 10C(1); and
- in relation to the making or review of a firearm prohibition order under the new part 5A if the decision is made on the basis of criminal intelligence.

Subdivision 3 Amendment of Police Powers and Responsibilities Act 2000

Clause 45 identifies that part 2, division 4, subdivision 3 of the Bill amends the *Police Powers and Responsibilities Act 2000.*

Clause 46 amends section 715 (What is the appointed day for disposal of weapons under s 714) of the PPRA by amending subsection (b) to provide further clarity to the operation of the provision and inserting a new paragraph (ba).

The new paragraph (ba) provides that the *appointment day* for disposal of a weapon given to or seized by a police officer as a result of the making of a firearm prohibition order under the Weapons Act, section 141W, is the day that is three months after the day the order is made.

This clause also renumbers sections 715(ba) and (c) to 715(c) and (d).

Clause 47 amends section 740 (Public interest monitor) of the PPRA by inserting a new paragraph (e) into subsection (1) which expands the scope of the public interest monitor's responsibility to include monitoring the making of firearm prohibition orders under the Weapons Act.

Clause 48 amends section 742 (Monitor's functions) of the PPRA by inserting new paragraphs (g), (h) and (i) into subsection (4).

The new paragraphs (g) to (i) expand the public interest monitor's functions to include gathering information about the firearm prohibition order scheme introduced in the new part 5A of the Weapons Act, monitoring compliance by police officers under part 5A and enabling the public interest monitor to provide the Commissioner with a report on noncompliance by police officers regarding associated police powers under Part 5A division 4.

Clause 49 amends section 743 (Monitor's annual report) of the PPRA by introducing a new subsection (3BA).

This new subsection expands the responsibilities of the public interest monitor by requiring the production of an annual report regarding firearm prohibition orders made under Part 5A of the Weapons Act. This report must include the number of firearm prohibitions orders issued during the year by a court and the Commissioner, the number of appeals and revocations, the number of firearms and firearm related items seized and surrendered, the extent of compliance by the police service with part 5A, division 4, and information in relation to the use of firearm prohibition orders generally.

Clause 50 amends section 809 (Regulation-making power) of the PPRA by introducing a new paragraph (iv) into subsection (2)(a).

The new paragraph (iv) provides clarity regarding the regulation-making power of the Governor in Council by including a clear regulation making provision about the responsibilities of persons (other than police officers) involved in the administration of the PPRA. For example, staff members of the Queensland Police Service.

Clause 51 amends schedule 1 (Acts not affected by this Act) of the PPRA by inserting reference to the '*Weapons Act 1990*, part 5A', which relates to firearm prohibition orders.

Clause 52 amends schedule 6 (Dictionary) of the PPRA by expanding the definition of *enforcement act, responsibilities code* and *missing person warrant*. These amendments correct a drafting error and provide greater clarity regarding the application of these terms.

Subdivision 4 Amendment of Weapons Act 1990

Clause 53 identifies that part 2, division 4, subdivision 4 of the Bill amends the *Weapons Act 1990*.

Clause 54 inserts a new heading 'Division 1 Introduction' in part 1 of the Act. This creates a new division at the beginning of the Act which includes sections 1 to 4.

Clause 55 inserts a new heading 'Division 2 Interpretation' into part 1 of the Act after section 4, following the insertion of the new Division 1 in clause 56.

Clause 56 inserts new sections 5A to 5D into the Act which introduces new categories of class A, B and C serious offences and *disqualified persons*, which are utilised in the application of amended sections 10B (Fit and proper person – licensees) and 10C (Fit and proper person – licensed dealer's associate) introduced in clauses 61 and 62.

Section 5A (Meaning of class A serious offence) introduces the new category of class A serious offences which includes murder, manslaughter, grievous bodily harm and wounding. This class of offences additionally includes several circumstances of robbery if the offence also involved the use (including the pretence of use) of a weapon or involved personal violence and the new category captures equivalent offences under a law of another jurisdiction.

Section 5B (Meaning of class B serious offence) introduces the new category of class B serious offences which are listed in the new schedule 1AA, introduced in clause 81. Any equivalent offence in another jurisdiction is additionally captured in this category. Acknowledging the frequency in which legislation may require amendment, including the naming or renumbering of offence provisions or changes regarding how the offence may operate, this section provides that an offence listed in schedule 1AA remains a class B serious offence, even if the offence is amended and this amendment is not reflected in schedule 1AA.

Section 5C (Meaning of class C serious offence) introduces the new category of class C serious offences which includes offences that relate to the misuse of drugs, the use or threatened use of violence or the carriage, discharge, possession or use of a weapon. Acknowledging the potential overlap between class C serious offences and class A or B serious offence, this section

also makes clear that an offence is not a class C serious offence if it considered a class A or B serious offence.

For the avoidance of any doubt, an offence encapsulated by the new class A, B or C serious offence above, is still an offence under the new category even if a circumstance of aggravation applies.

New section 5D (Meaning of disqualified person) introduces a new category of persons disqualified from possessing a licence issued under Weapons Act.

Subsection (1) provides a disqualified person is a person who:

- is a reportable offender under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (CPOROPO Act). A reportable offender is defined under section 5 of the CPOROPO Act and can be applied to a person who has committed a serious sexual offence against a child, for example, the sexual abuse or rape of a child, or a person who has possessed or distributed child exploitation material;
- is or has been subject to a firearm prohibition order (if subject to a court issued order under section 141H) either within Queensland or in another jurisdiction;
- is or has been subject to a division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*, meaning the court has been satisfied that the person is a serious danger to the community necessitating the person be subject to a continuing detention order or supervision order; or
- has been convicted of a serious violent offence under the *Penalties and Sentences Act 1992* (PSA), section 161A. The serious violent offences captured by this provision are listed in Schedule 1 of the PSA, which to a large extent mirror the new class B serious offences introduced in the new section 5B of the Weapons Act. However, the categories are differentiated by the additional factors that must be present under section 161A of the PSA for the offence to be considered a 'serious violent offence' under the PSA. For example, one of the additional factors may include that the person is convicted or indicted and sentenced to 10 or more years imprisonment for the offence. This level of sentencing is reserved for the more serious offending. Therefore, for example, whilst section 219 (Taking child for immoral purposes) of the Criminal Code can be a class B serious offence as outlined in the new section 5B, if the offending was of a more serious nature that it met the relevant threshold under section 161A of the PSA, the person would be disqualified from holding a licence under the Weapons Act.

Subsection (2) introduces two exceptions to the above circumstances which result in a person becoming a disqualified person under the Weapons Act.

Firstly, a person is not a disqualified person despite being subject to a firearm prohibition order, either in Queensland or in another jurisdiction, if when the order was made the person was a child. This exception acknowledges the impact becoming a disqualified person may have on the child's rehabilitation prospects, including for example, preventing the child from obtaining lawful employment which necessitates obtaining a licence under the Weapons Act.

Secondly, a person is not a disqualified person despite being subject to a firearm prohibition order or division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act 2003,* if the decision to make the order was revoked or set aside on review or appeal.

Unless subsection (2) applies, a disqualified person is subject to a mandatory lifetime disqualification from obtaining or possessing a licence under the Weapons Act.

Clause 57 amends section 10 (Limitations on issue of license) to introduce a legislative note to subsection (2) to identify when considering if a person is fit and proper to hold a licence, reference should be made to sections 10B and 10C.

Clause 58 amends section 10B (Fit and proper person – licensees) of the Weapons Act to introduce a revised framework for the issue, renewal, or revocation of a licence under the Weapons Act. This clause omits subsections (2) to (5) to introduce new subsections (2) to (8) which introduce revised factors which identify the circumstances in which someone is not a fit and proper person.

The new subsection (2) identifies that, subsections (3) to (5) only apply in relation to the issue, renewal or revocation of a licence.

Subsection (3) provides a person is not fit and proper to hold a licence if they are a *disqualified person* under the new section 5D, or if they are prevented by an order of the court, other than a temporary protect order, from holding a licence or possessing a weapon.

Subsection (4) provides a person is not fit and proper to hold a licence if, within 10 years before the relevant day, the person:

- has a conviction of a class A serious offence (under the new section 5A) or a class B serious offence (under the new section 5B); or
- has been released from lawful custody in relation to a conviction for a class A serious offence or class B serious offence; or
- was previously subject to a supervision order in relation to a class A serious offence or class B serious offence.

Subsection (5) states a person is not a fit and proper person to hold a licence if, within five years before the relevant day, the person:

- has a conviction of a class C serious offence (under the new section 5C);
- has been released from lawful custody in relation to a conviction for a class C serious offence;
- has been subject to a supervision order in relation to a conviction for a class C serious offence; or
- the person is a respondent in a domestic violence order, other than a TPO.

The new class C serious offence category mirrors the offences presently outlined in the current section 10B(2)(a) of the Weapons Act, thereby largely preserving the operation of this aspect of the framework, noting a person impacted by the current section 10B(2)(a) is already considered not a fit and proper person to hold a licence for the five year period from the relevant day.

A definition of supervision order is introduced in schedule (Dictionary) by clause 79, and includes, for example, a community based order, supervised release order, or parole order, but does not include a division 3 order made under the *Dangerous Prisoners (Sexual Offenders) Act 2003.*

The above provisions do not require the authorised officer make a discretionary assessment and instead identify the circumstances in which a person will be found to be not fit and proper to hold a licence.

If a person is not automatically excluded from holding a licence under the new sections 10B(4) and (5) identified above, they may still be assessed by an authorised officer to be not a fit and proper person to hold a licence under section 10B(1).

Subsection (6) reintroduces the current subsection (3) in the Weapons Act which identifies a licensed dealer is not a fit and proper person to hold a licence unless each associate of the person is also considered to be a fit and proper person to be an associate of a licensed dealer.

Subsection (7) makes clear that in applying subsections (4) and (5), it is irrelevant whether or not the conviction is spent, provided the conviction is recorded.

Subsection (8) introduces the meaning of *court* and *relevant day* for the purpose of the section. Notably, the definition of relevant day replaces the current definition of *relevant period* in section 10B(5), and largely carries over the same meaning for the similar terms but seeks to correct a drafting error by removing reference to the suspension of a licence from paragraph (b). The mandatory exclusionary period provided for in the current section 10(b) and new sections 10B(4) and (5) in the Bill to which this definition applies, only relates to the issue, renewal or revocation of a licence, therefore reference to the suspension of a licence is not relevant.

Clause 59 amends section 10C (Fit and proper person – licensed dealer's associate) of the Weapons Act by omitting the current subsections (2) and (3) and introducing new subsections (2) to (5).

Subsection (2) provides a person is not a fit and proper person to be an associate of a licensed dealer if the person is a disqualified person under the new section 5D, or, within the appropriate 10 year period, has been convicted of, or, released from custody or supervision order, in relation to a class A serious offence or class B serious offence.

The new subsection (3) replicates the essence of the current subsection (2) in the Weapons Act by providing a person is not a fit and proper person to be an associate of a licensed dealer, if there is any relationship involving weapons between the person and the licensed dealer which would be contrary to the public interest if:

- within five years before the relevant day the person was convicted or, or, released from lawful custody or supervision order, in relation to a class C serious offence; or
- the person is a respondent in a domestic violence order, other than a TPO

As noted above, a class C serious offence captures offences relating to the misuse of drugs, offences involving violence and weapons, therefore the operational impact of the current subsection (2)(a) is preserved.

Notably, reference to a *prohibited person* is omitted from subsection (2) as it has been replaced by the application of the new class A serious offences and class B serious offences.

Class A serious offences already capture murder, manslaughter, grievous bodily harm, unlawful wounding, and armed robbery, which are listed under the definition of prohibited

person in schedule 2 (Dictionary) of the Weapons Act. Whilst offences mentioned in paragraph (e) in this definition are not classified as a class A serious offence, analogous offences are contained within the new class B serious offences.

Subsection (4) provides that for the purpose of subsections (2) and (3)(a), it is irrelevant whether or not the conviction is a spent conviction, provided the conviction is recorded.

Subsection (5) inserts the meaning of *relevant day* for the purpose of this section, which closely resembles the current definition of *relevant period* contained within section 10C.

Clause 60 amends section 15 (Authorised officer decides application) at subsection (6)(a) to reflect the updated provisions.

Clause 61 amends section 18 (Renewal of licences) by clarifying in subsection (1A) that a licensee must make the application for review of the licence on or before the day the licence expires, thereby making clear an application is still valid if made the day the licence expires.

Clause 62 amends section 24 (Change in licensee's circumstances) by omitting subsection (2)(a) and replacing it with a revised paragraph (a) which introduces new requirements for a licensee or the licensee's representative to report specified changes in the licensee's circumstances.

In addition to retaining the reporting requirements under the current subsection (2)(a)(i), (ii) and (iv), the revised paragraph (a) requires an officer in charge of police be notified if the licensee or licensee's representative:

- becomes a disqualified person under the new section 5D;
- is charged with, or convicted of a serious offence, meaning a class A serious offence, a class B serious offence or a class C serious offence as identified in the new definition of *serious offence* inserted into schedule 2 (Dictionary) in clause 79 of the Bill.

Clause 63 amends section 27B (Notice of intention to revoke because dealer's associate is not fit and proper) by inserting a legislative note in subsection (1) to provide reference to sections 10B and 10C, which contain the considerations on when someone is a 'fit and proper' person.

Clause 64 amends section 28 (Suspension of licence by giving suspension notice) by omitting subsection (1)(a)(i) and replacing it with a new subparagraph (i) which confirms a licence can be suspended if the licensee has been charged with a serious offence. Given the new category of serious offences already encapsulates the existing charges mentioned in the current subparagraph (i), this amendment simplifies the operation of the provision and confirms the circumstances that a licence may be suspended. This clause also amends subsection (1)(b) by omitting the current legislative note and inserting a new note to refer to sections 10B and 10C to give further guidance to the operation of the provision.

Clause 65 amends section 29 (Revocation of licence by giving revocation notice) to omit the current legislative note at subsection (1)(d) and inserts a new note which refers to sections 10B and 10C to give further guidance to the operation of the provision.

Clause 66 amends section 29B (Arrangements for surrender of suspended or revoked licences and weapons) by firstly, omitting the current definition of approved receipt in section 29B(8).

Secondly, reference to approved receipt in the definition of *otherwise surrender* at paragraph (b) is omitted and replaced with 'transaction notification'. And finally, in the definition of *otherwise surrender* at paragraphs (b) and (c), it omits reference to 'the receipt' and replaces it with 'the transaction notification'.

Clause 67 amends section 32 (Temporary recognition of interstate licences for particular purposes) to correct a drafting error in subsection (2) by making clear that the subsection applies to a permit or authority in addition to a person's licence, as outlined in subsection (1).

Clause 68 amends section 50 (Possession of weapons) by inserting a new subsection (1AA) which identifies the offence in subsection (1) does not apply in circumstances when the person is subject to a firearm prohibition order, noting an alternative and more appropriate offence provision is to be applied under the new part 5A.

Clause 69 amends section 53 (An unlicensed person may use a weapon at an approved range).

Subclause (1) inserts a new subsection (6A) which provides that for subsection (8) (renumbered per below) when considering the definition of *excluded person*, in applying the paragraphs (b), (c) and (d), it is irrelevant whether or not the conviction is a spent conviction, provided the conviction is recorded.

Subclause (2) amends the current subsection (7) in relation to the definition of *excluded person* by omitting paragraphs (a) and (b) and inserting new paragraphs (a), (b), (ba) and (bb). This amendment expands the meaning of *excluded person* to capture a disqualified person and the new categories class A, class B and class C categories of serious offences and the associated 10 year and 5 year exclusionary period.

Subclause (3) also amends the current subsection (7) at paragraphs (c), (f) and (g) by omitting reference to 'in the 5 year period immediately' and replacing this phrase with 'within 5 years'.

Subclause (4) and (5) make consequential amendments to renumber several section numbers and paragraphs within the section.

Clause 70 amends section 67 (Possessing and acquiring restricted items) by inserting a new subsection (1A) to clarify that the offence at subsection (1) does not apply if the restricted item is a replica firearm and the person is subject to a firearm prohibition order. The amendment includes a legislative note referring to section 141Y which provides a specified penalty provision for an individual who is subject to a firearm prohibition order and has acquired, possessed, used firearms and firearm related items (which includes a restricted items that is a replica of a firearm). The clause also includes several consequential reference changes.

Clause 71 amends section 93 (How to decide whether an individual is an appropriate person) to insert a new subsection (3) which introduces a definition of *criminal history* for the purpose of this section. This definition identifies that a person's criminal history means the convictions recorded against that person in respect of offences (as noted within the *Criminal Law (Rehabilitation of Offenders) Act 1986*), other than a spent conviction.

Clause 72 amends section 124 (Training courses for security guards) by omitting subsections (2) and (3) and replacing them with a new subsection (2) which requires a person seeking to

review a security licence (guard) to complete an approved safety training course within the period prescribed by regulation. This amendment simplifies the operation of this provision and makes clear that the successful completion of this training within the relevant period is a requirement for renewal of the licence and failure to complete the training within the prescribed period will result in the rejection of the application. An application to renew a security licence (guard) must therefore be accompanied by evidence of completion of the annual mandatory re-qualification of an approved safety training. A security licence (guard) that has not been renewed or which cannot be renewed due to a failure to complete the approved safety training will be invalid upon expiry or in accordance with section 20A of the Weapons Act.

Clause 73 introduces a new Part 5A into the Weapons Act which inserts new divisions 1 to 9, and new sections 141C to 141ZV into the Act.

Division 1 (Preliminary) contains sections 141C and 141D.

Section 141C (Purpose of part) introduces a legislative purpose for part 5A to support the interpretation and application of the powers and responsibilities under the part. This section is also read in conjunction with the current section 3 of the Weapons Act. In accordance with section 14A of the *Acts Interpretation Act 1954*, in interpreting provisions within the new part 5A, the interpretation that must be preferred is the interpretation that will best achieve the legislative purpose within the Act.

Section 141D (Definitions for part) introduces definitions for *court*, *criminal history*, *firearm*, *firearm prohibition order* and *firearm related item* for the purpose of the new Part 5A.

Division 2 (Making firearm prohibition orders) introduces subdivisions 1 to 4.

Subdivision 1 (Considerations for making firearm prohibition orders) includes sections 141E and 141F.

Section 141E (Matters to consider for making firearm prohibition orders – adults) at subsection (1) identifies this section applies if the Commissioner or the court is considering whether to make a firearm prohibition order in relation to an adult.

Subsection (2) provides that in considering making the order the decision maker may have regard to:

- the individual's criminal and domestic violence history. In considering the individual's domestic violence history, this includes but is not limited to, whether the individual has been listed as a respondent in a domestic violence order (including an application for an order). Other information relating to the individual's domestic violence history may also be considered, for example, reports of domestic violence or suspected domestic violence received from external agencies;
- whether the individual has been a participant in a criminal or terrorist organisation;
- whether the individual has committed an offence involving a weapon or is an associate of a recognised offender;
- whether the individual is an associate of a recognised offender;
- whether the individual has communicated in a public forum, or to another person, that they intend or wish to commit a serious violent offence or an offence involving a

weapon. For example, the individual sends a text message indicating that they intend to use a firearm to shoot another person, or the individual uses a social media site to post a message advising of their desire to use a knife to cause another person harm;

- whether the individual is or has been subject to a relevant court order, for example, an order made under the *Dangerous Prisoners (Sexual Offenders) Act 2003*;
- the individual's behaviour, particularly violent or aggressive behaviour or behaviour involving the use of a weapon. Notably, in listing the types of behaviour this factor relates to, it is not intended to imply any limitation on the behaviour the decision maker may have regard to. There may likely be other types of relevant behaviour that should be considered, for example, whether the person has demonstrated unstable mental health or suffers from a mental health condition;
- the risk the individual poses to public safety or security and the extent to which making the order will reduce the risk, and any other matter that would indicate the person would likely pose a threat or risk to public safety; and
- any other matter or information that indicates possession of a firearm or firearm related item by the individual would pose a risk to public safety or security.

In determining whether to make a firearm prohibition order, the above matters are designed to assist the decision maker, however the relevant test remains whether it is in the public interest to make the order. The above matters for consideration are also not limiting in what the decision maker can have regard to. It is also noted that a firearm prohibition order can be made against an individual even if the individual has never acquired, possessed or used a firearm or a firearm related item. In considering whether to make a firearm prohibition order and determining whether making such an order is in the public interest, this framework enables the decision maker to take proactive rather then merely reactionary action to achieve the purpose of part 5A

Subsection (3) makes clear the decision maker can also have regard to criminal intelligence when considering any of the above mentioned factors, in addition to the overarching determination of whether it is in the public interest to issue a firearm prohibition order.

Subsection (4) provides that for the purpose of this section, an individual is an associate of a recognised offender in relation to section 141E(2)(d) if the individual has a romantic or familiar relationship with the offender, or, associates with them by seeking them out or accepting their company, either in person or in another way (for example, electronically).

Subsection (5) inserts definitions for *criminal organisation*, *recognised offender*, and *terrorist organisation* for the purpose of this section.

Section 141F (Matters to consider for making firearm prohibition order - children), subsection (1) identifies this section applies if the Commissioner or court is considering whether it is in the public interest to make a firearm prohibition order in relation to a child.

The relevant considerations for a child differ slightly to the considerations outlined above in relation to an adult within section 141E.

In particular, subsection (2) introduces additional safeguards identifying the decision maker must have regard to the age and maturity of the child, and the desirability of:

- strengthening and preserving the relationship between the child and their parents and family;

- not interrupting or disturbing the child's living arrangements, education, training or employment;
- minimising adverse impacts on the child's reputation that may arise from making the order.

Subsection (3) lists the other matters which the decision maker may have regard to and subsection (4) clarifies the decision maker may have regard to criminal intelligence when considering whether it is in the public interest to make a firearm prohibition order in relation to the child.

Subdivision 2 (Making of firearm prohibition orders) includes sections 141G to 141K.

Section 141G (Commissioner may make firearm prohibition orders), subsection (1), empowers the Commissioner with the ability to make a firearm prohibition order in relation to an individual.

Subsection (2) identifies in order to make this order the Commissioner must be satisfied it is in the public interest to do so.

Subsection (3) stipulates the Commissioner can only make a firearm prohibition order in relation to an individual if they are 14 years of age or older.

Subsection (4) notes that a Commissioner issued firearm prohibition order has a maximum duration of 60 days. A legislative note is included in this subsection to support the interpretation of when a firearm order takes effect by referring to section 141J.

Subsection (5) provides the Commissioner may revoke the order at any time.

Section 141H (Court may make firearm prohibition orders), subsection (1), empowers the court with the ability to make a firearm prohibition order in relation to an individual.

Subsection (2) enables the court to make a firearm prohibition order either on its own initiative or upon the application of the Commissioner. This subsection includes a legislative example to note the court may make a firearm prohibition order on the conviction of the individual for an offence.

Subsection (3) provides the court can only make a firearm prohibition order if satisfied it is in the public interest to do so.

Subsection (4) stipulates the court can only make a firearm prohibition order in relation to an individual if they are 14 years of age or older.

Subsection (5) provides a firearm prohibition order has effect for either 10 years (in relation to an adult), or 5 years (in relation to a child) and includes a legislative note to assist in interpretation by referring to when an order takes effect per section 141J.

However, subsection (6) identifies the court may issue an order of a lesser duration if satisfied it is more appropriate in the circumstances to impose an order for a shorter period of time having considered the risk the individual poses to public safety or security.

Subsection (7) provides the court may revoke an order made under this section only upon the application of the Commissioner or following a review of an order in relation to a child under division 5.

A firearm prohibition order made by the Commissioner or the court under sections 141G or 141H, prohibits the individual from acquiring, possessing, or using a firearm or firearm related item. This means, for example, that the individual cannot have a firearm or firearm related item:

- in their custody;
- under their control, in any place, whether or not another person has custody of the thing;
- within their ability to obtain custody of the thing at will;
- subject to a claim of custody or ownership, even if the thing is temporarily not in the control or possession of the person having such claim.

Additionally, this includes (but is not limited to) purchasing, accepting or receiving, or otherwise taking possession of a firearm or firearm related item, and any attempt to acquire, possess or use a firearm or firearm related item.

A firearm prohibition order made by the Commissioner or court under sections 141G and 141H can only be made if the relevant decision maker is satisfied that it is in the public interest to make the order, noting the factors which may be considered in sections 141E or 141F.

Section 141I (Content of firearm prohibition orders) outlines the content that must be contained within a firearm prohibition order.

Section 141J (When firearm prohibition orders take effect) identifies a firearm prohibition order takes effect either when the order is served on the individual, or the date the order is made if the individual subject to the order was present in court at the time.

Section 141K (Parent and particular chief executives to be advised of orders in relation to children) introduces a requirement upon the Queensland Police Service to inform relevant parties that a firearm prohibition order has taken effect in relation to a child. A police officer must therefore inform a parent of the child, the chief executive of the department which administers the *Youth Justice Act 1992* and the chief executive of the department which administers the *Child Protection Act 1999*.

Section 141L (Further firearm prohibition orders may be made) provides that in circumstances when the Commissioner has made a firearm prohibition order in relation to an individual within the previous 12 months under section 141G, the Commissioner cannot make a further order unless the Commissioner reasonably believes an application to the court for a firearm probation order may not be decided sufficiently quickly to ensure public safety or security. If the Commissioner is satisfied it is appropriate to make a second firearm prohibition order in relation to an individual within the same 12 month period, the Commissioner must then apply to the court for a further order under section 141M within 3 business days of making the second order.

Despite the above limitation on the number of orders the Commissioner can make within a 12-month period, the Commissioner or court are not otherwise prevented from making a further firearm prohibition order in relation to an individual.

Subdivision 3 (Applications to court for firearm prohibition orders) includes sections 141M to 141O.

Section 141M (Applications to court by commissioner), subsection (1) provides the Commissioner may make an application to the court for a firearm prohibition order in relation to an individual.

Subsection (2) stipulates what the application must state, including, for example, information identifying the individual, the Commissioner's reasons, facts and circumstances supporting the application, information regarding the individual's right to respond, and details regarding the continued operation of the order until either a subsequent order takes effect, the court finally decides the application, or the court otherwise orders.

Subsections (3) and (4) note the application must be accompanied by any affidavit the Commissioner intends to rely on at the hearing and these documents must be served on the individual as soon as reasonably practicable after the application is made.

Section 141N (Responses to applications) notes that an individual may respond to the Commissioner's application by filing a response with the court. Subsection (2) outlines what the response must state and subsection (3) provides that an individual must, as soon as practicable after the response is filed, give the Commissioner a copy of the response and any accompanying affidavit by leaving the documents at, or sending them to, the address for service.

Section 141O (Continuation of firearm prohibition orders if application made to court) provides that if the Commissioner has made a firearm prohibition order under section 141G, and before this order ends, an application is made to the court for a further firearm prohibition order, then the original order remains in effect until the further order made by the court takes effect or the application is otherwise finalised, unless the court orders otherwise.

This means that, unless the court otherwise orders, the firearm prohibition order initially made by the Commissioner remains in force (despite exceeding the 60 day period) following the making of the application and during the proceedings relating to the application, without requiring further order from the court (although the court may elect to note the operation of this provision on any adjournment order made during the proceedings for the benefit of the individual).

Subdivision 4 (Service of firearm prohibition orders and directions relating to service) includes sections 141P to 141U.

Section 141P (Personal service of firearm prohibition orders) identifies the service requirements for a firearm prohibition order, including that an order must be personally served upon the individual subject to the order and a police officer must tell the individual about the order.

This section makes clear that in the event the individual attempts to not accept service of the order (for example, by refusing to take the order), the police officer may serve the order by putting it down in the individual's presence and telling the person that it is a firearm prohibition order. If practical, service must be electronically recorded when a police officer serves the order

by putting it down in the individual's presence and telling the person that it is a firearm prohibition order.

Section 141Q (Power to give directions to facilitate personal service of firearm prohibition orders) enables a police officer to give an individual subject to a firearm prohibition order a direction to enable the effective service of the order.

If a police officer reasonably suspects an individual is the named person subject to a firearm prohibition order, the police officer may require the person to confirm their identity, including providing their name and address and evidence of this (such as presenting relevant identification).

A police officer may also direct the relevant person to remain at an appropriate place, attend a police station immediately or within a stated period of time or accompany the police officer to the nearest police station or another place.

To support the effective operation of these powers, subsection (3) also requires a police officer to inform the person of certain things, including, for example, that they are not under arrest and why they are being given the direction. The subsection provides that an individual may be searched before being transported and anything found may be seized if the police officer reasonably suspects the thing is evidence of the commission of an offence. An individual may also be directed to leave at their current location, anything found in the search that may be used to cause harm to the individual or another person.

Section 141R (Limits on directions) introduces one of several safeguards to the power for a police officer to issue a direction under section 141Q(2)(b). In particular, the provision provides that a person should only be directed to remain at a place for one hour, or a longer period of time that is reasonably necessary in the circumstances but is not more than two hours. Additionally, in relation to a direction under section 141Q(2)(c) a person may be directed to move to another place, but the place must be within a reasonable distance of the person's current location.

Section 141S (Powers relating to particular directions) introduces a search and seizure power for police officers when transporting a person to another location in accordance with a direction issued under section 141Q(2)(d). This provision enables a police officer to search the person to locate anything that might be used to cause harm (for example, a knife) and either direct the person to leave the thing at the person's current location, or seize the thing if the police officer reasonably suspects the item is evidence of the commission of an offence. The provision additionally notes that the safeguards contained within the PPRA, chapter 20, part 3, apply to these searches and anything seized under this section is taken to be seized under section 622 of the PPRA.

Section 141T (Offence warning) introduces a safeguard in relation to directions issued under section 141Q(2) or 141S(2)(b) by requiring the police officer to warn a person subject to the direction that it is an offence to not comply with the direction unless the person has a reasonable excuse, and that the person may be arrested for the offence. However, the police officer must give the person a reasonable opportunity to comply with the direction, and if the person fails to comply with the direction, if practicable, the police officer must repeat the warning and give the person a further opportunity to comply.

Section 141U (Offence to contravene direction) provides that it is an offence for failing to comply with a direction under section 141Q(2) or 141S(2)(b) without reasonable excuse. However, the person is not liable for the offence if the person is not the individual subject to the firearm prohibition order or a police officer did not issue a warning in relation to the direction under section 141T(1).

Division 3 (Effect of firearm prohibition orders and offences) includes sections 141V to 141ZB.

Section 141V (Licenses, permits and approvals automatically revoked if firearm prohibition order made) stipulates any licence, permit or approval held by an individual subject to a firearm prohibition order is automatically revoked upon the order taking effect.

Section 141W (Surrender of authorities, firearms and firearm related items) introduces a requirement for an individual subject to a firearm prohibition order to immediately give to a police officer any relevant authority (such as a licence, permit or approval under the Weapons Act) held by the individual or any firearm or firearm related item the individual possesses. It is an offence for the individual to not immediately surrender a relevant authority, with the offence having a maximum penalty of 50 penalty units or 12 months imprisonment. However, if the individual fails to immediately surrender any firearm or firearm related item, then the individual may be liable to an offence under section 141Y which has a more serious penalty.

Subsection (4) provides if the individual is unable to immediately surrender a relevant authority, firearm or firearm related item, a police officer may issue a direction to the individual to either, give the item to a police officer in a stated way and within a stated time, or, provide information about the location of the item so that an officer can locate and seize it, or, accompany an officer to the location of the item so it can be given or seized by the police officer. It is an offence for the individual to fail to comply with a direction issued under subsection (4) with a maximum penalty of 50 penalty units or 12 months imprisonment.

Section 141X (Collection of firearms in particular circumstances) grants the ability for an individual subject to a firearm prohibition order to make arrangements with a licensed armourer or licensed dealer in relation to a firearm given to or seized by a police officer, to collect the firearm if the individual has cosigned it and given the police a copy of the transaction notification for the consignment.

Section 141Y (Acquiring, possessing and using firearms and firearm related items) subsections (1) and (2), establish offence provisions for an individual subject to a firearm prohibition order to acquire, possess or use a firearm or firearm related item; or attempt to acquire, possess or use a firearm or firearm related item.

Subsection (3) outlines a person does not contravene the offence provisions if the firearm or firearm related item is in the individual's possession when the firearm prohibition order takes effect and the individual gives the firearm or firearm related item to a police officer, or the individual complies with a direction enabling a police officer to seize or otherwise take the firearm or firearm related item.

Subsection (4) stipulates an individual is taken to possess a firearm or firearm related item if there is proof the item was in or at the place where the individual resided, was the owner or occupier, or was in management or control of.

Section 141Z (Supply of firearms and firearm related items) establishes an offence for a person to supply a firearm or firearm related item to an individual subject to a firearm prohibition order if the person knew the individual was subject to the order.

Section 141ZA (Attending particular premises and events) establishes an offence for an individual subject to a firearm prohibition order attending a prohibited weapons related premises or events. This includes for example, a weapons dealer or armourer, an arms fair, a shooting range or gallery, or an event or place prescribed by regulation. However, the Commissioner can only prescribe an event or place by regulation to prohibit the individual from attending if satisfied a firearm or firearm related item is likely to be stored or present on the premises.

Section 141ZB (Notifying commissioner of change of address) introduces an offence provision which requires an individual subject to a firearm prohibition order to provide written notice to the Commissioner within 24 hours of a change to their residential address.

Division 4 (Powers relating to firearm prohibition orders) includes sections 141ZC to 141ZH.

Section 141ZC (Definition for division) introduces a definition for *vehicle* for the purpose of division 4.

Section 141ZD (When powers may be exercised) identifies that a police officer with the assistance of any other police officer may, without a warrant or consent, exercise a power under this division when reasonably required to determine whether an individual subject to a firearm prohibition order is committing the offence of acquiring, possessing or using a firearm or firearm related item, including attempting to do so, under section 141Y.

Section 141ZE (Power to search individuals) provides a police officer with the power to stop and detain the individual subject to a firearm prohibition order and search the individual and anything in their possession for a firearm or firearm related item. The provision additionally notes that the safeguards contained within the PPRA, chapter 20, part 3, apply to these searches.

Section 141ZF (Power to search vehicles) provides a police officer with the power to stop and detain a relevant vehicle and anyone in or on the vehicle, and search the vehicle and anything in or on the vehicle for a firearm or firearm related item. This power relates to vehicles which an individual subject to a firearm prohibition order is the registered operator of, is driving or riding, is in charge or control, is a passenger in or on, or ordinarily has access to, or use of.

Section 141ZG (Power to search premises) provides a police officer with the power to enter and search a premises owned or occupied by, or in the care or under the control or management of, an individual subject to a firearm prohibition order for a firearm or firearm related item. This also includes premises where the individual resides and extends to a vehicle which may be found on the premises. These powers can be utilised immediately upon the firearm prohibition order coming into effect once the person has been given an opportunity to first surrender any firearms or firearm related items.

Section 141ZH (Power to seize items) authorises a police officer to seize a firearm or firearm related item found during a search under division 4 and is taken to have been seized under section 622 of the PPRA.

Division 5 (Annual review of firearm prohibition orders in relation to children) includes sections 141ZI to 141ZM.

Section 141ZI (Application of division) identifies the division applies if a firearm prohibition order is made under section 141H and the individual subject to the order is under the age of 18 years and the order has either been in effect for more than one year, or it has been more than one year since it was last reviewed.

Section 141ZJ (Applications for review by commissioner) requires that the Commissioner apply to the court to commence the annual review of the firearm prohibition order in relation to a child and specifies the time period for when the application must be made. The Commissioner must also give the child a copy of the application as soon as reasonably practicable after it is made.

Section 141ZK (Content of applications) outlines what must be included in the application, such as relevant information about the child and the Commissioner's assessment as to whether the firearm prohibition order should remain in effect.

Section 141ZL (Responses to applications) outlines the child may respond to the application by filing a response with the court within 14 days after the day a copy of the application is given to the child by the Commissioner. Additionally, this section identifies the child's response may contain the child's views in response to the Commissioner's assessment regarding whether the order should remain in effect, and any associated information relied upon by the child in support of their views. For example, if the child expresses a view in opposition to the order remaining in effect, the child's response may include information in relation to the child completing a rehabilitation program along with other information which evidences a change in the child's circumstances in support of it no longer being in the public interest for the order to remain in effect in relation to the child.

Section 141ZM (Conduct of reviews) specifies that in conducting a review of a firearm prohibition order in relation to a child, the court must consider whether it remains in the public interest for the order to remain in effect, or if it is more appropriate to revoke the order, having regard to the risk the child poses to public safety or security. The court need only consider whether there has been a change in the child's circumstances and is therefore not required to relitigate the making of the order, and may conduct the review on the papers, unless it is in the interests of justice to conduct a hearing.

Division 6 (Appeals) includes sections 141ZN to 141ZS.

Section 141ZN (Definition for division) introduces the definition of *appellate court* for division 6.

Section 141ZO (Who may appeal) establishes who may appeal against a decision to either make or not make a firearm prohibition order. The provision also identifies the relevant the appropriate entity to hear the appeal being either the Childrens Court constituted by a Childrens

Court magistrate, the Magistrates Court, the Childrens Court constituted by a Childrens Court judge, or the District Court, depending on the type of appeal.

Section 141ZP (How to start appeals) outlines the process for commencing an appeal. Unless an extension has been provided by the appellate court, notice must be filed within 28 days of either the day the firearm prohibition order took effect or the day the decision being appealed against was made.

Section 141ZQ (Effect of firearm prohibition orders not stayed by appeal) clarifies the commencement of an appeal does not affect the operation of a firearm prohibition order or prevent the taking of action in relation to a firearm prohibition order, unless the appellate court orders the suspension of the firearm prohibition order or stays any proceeding having regard to the matters outlined in subsection (2)(a) and (b).

Section 141ZR (Hearing procedures) outlines what evidence the court must consider during an appeal and stipulates the appellate court can order the appeal be heard afresh, in whole or part.

Section 141ZS (Powers of appellate court) provides that the appellate court in deciding an appeal may confirm, vary, or set aside and substitute the decision, or set aside the decision and remit the matter to the court that made the decision.

Division 7 (Miscellaneous) includes sections 141ZT to 141ZV.

Section 141ZT (Confidentiality of criminal intelligence) applies to an application, child's annual review, appeal, or review under the *Judicial Review Act 1991* in relation to a firearm prohibition order, and provides that the court must, upon application, take steps to maintain the confidentiality of information classified by the Commissioner as criminal intelligence.

This section ensures any criminal intelligence utilised in the making of a firearm prohibition order retains its confidentiality by preventing its disclosure and enabling evidence to be adduced in a confidential manner.

Subsection (8) provides for a largely consistent definition of *criminal intelligence* to that contained in section 142A of the Weapons Act and which may be used in applying for or deciding whether to make a firearm prohibition order. An example may be information received from a confidential source provided to police which outlines a person's misuse of firearms which, if exposed, could reveal the identity of the confidential source and may endanger their personal safety. A further example could be information received from another law enforcement agency which, if exposed, could prejudice an ongoing investigation.

Section 141ZU (Records to be kept) outlines the records which must be kept by the Commissioner in relation to the firearm prohibition order scheme, and identifies that relevant records must be available to the public interest monitor to facilitate the monitor's expanded functions under the PPRA in relation to firearm prohibition orders.

Section 141ZV (Limitations on particular delegations) limits the Commissioner's ability to delegate decision making power regarding the making of firearm prohibition orders to a police

officer of at least the rank of superintendent and identifies the power cannot be subdelegated to another person.

Clause 74 amends section 142 (Right to apply for review of decisions) to include a legislative note identifying that for appeals relating to firearm prohibition orders reference can be given to part 5A, division 6.

Clause 75 amends section 164 (Service of notice, orders etc.) by clarifying at subsection (1) that the provision excludes firearm prohibition orders. Specific provisions in relation to the service of firearm prohibition orders are outlined in part 5A.

Clause 76 inserts new section 168E (Review of part 5A) to provide that the Minister must arrange an independent interim and final review of part 5A as soon as practicable after two and five years respectively, from the day the part commences.

Subsection (3) identifies the terms of reference that each review must consider, such as the effectiveness of part 5A in achieving the purpose of the part, and the effectiveness and appropriateness of part 5A compared to firearm prohibition order schemes in other jurisdictions (noting the novel approach in Queensland which introduces a 'hybrid' model enabling the Commissioner to only make 60 day orders, whilst longer term orders are court issued). This provision requires the Minister table each review in the Legislative Assembly as soon as practicable upon the reviews completion.

Clause 77 introduces a new part 8, division 9 (Transitional provisions for Community Safety (Removal of Criminal Online Content) Bill 2024) into the Weapons Act. The new division 9 includes new sections 196 to 199.

Section 196 (Definition for division) sets out a definition for *new* for the purpose of division 9.

Section 197 (Existing applications relating to licences) applies to an application made, but not yet decided under former part 2 (Licences) before commencement. The provision provides that any applicable application made under the former part 2 will be taken to have been made under the new part 2, and anything done in relation to the application before commencement is taken to have been done in relation to the application under the Act as in force from the commencement.

Section 198 (Existing reviews of decisions) provides that if before commencement a person applied for a review of a relevant decision in relation to a licence and immediately before the commencement, the review had not been decided, in hearing or deciding the review or any related proceedings, the Act as in force from the commencement applies.

Section 199 (Advising of particular events happening before commencement) applies in relation to a licence in effect immediately before commencement if the licensee or the licensee's representative is a disqualified person; or in the previous 10 years the licensee or the licensee's representative was convicted, released from custody or subject to a supervision order in relation to a class A or B serious offence; or the licensee or licensee's representative was

charged with a serious offence and the charge remains outstanding. The provision provides the new section 24 relating to a licensee's reporting requirements, applies.

Clause 78 introduces a new schedule 1AA (Class B serious offences) into the Weapons Act. The new schedule 1AA lists the offences which are considered class B offences as defined in new section 5B.

Clause 79 amends schedule 2 (Dictionary) of the Weapons Act by making consequential amendments introducing a number of new definitions into schedule 2.

Part 3 Amendments relating to enhanced police responses

Division 1 Service of documents and related matters

Subdivision 1 Amendment of Corrective Services Act 2006

Clause 80 provides that part 3, division 1, subdivision 1 amends the *Corrective Services Act 2006*.

Clause 81 inserts new sections 348A and 348B after existing section 348 (Execution of warrant by corrective services officer).

New section 348A (Approved corrective services facility) provides that the chief executive may approve a corrective services facility for service of documents under 348B and must publish an approval on the department's website.

New section 348B (Service of documents in particular circumstances) sets out the circumstances where a document can be served in a corrective services facility.

Section 348B applies if the DFVP Act requires or permits a police officer to personally serve a document on a person, and the person is a prisoner in a corrective services facility approved under section 348A(1), and the chief executive agrees, under an arrangement between the chief executive and the police commissioner, to receive the document.

The chief executive must personally serve the document on a prisoner when the provisions of section 348B(1) apply, the document is taken to be personally served on the person on the day the document is served by the chief executive. The section does not prevent a police officer from personally serving the document on the person under the DFVP Act. The document is taken to be personally served on the person on the day the document is served by the chief executive. The section does not prevent a police officer from personally serving the document on the person under the relevant law, meaning the DFVP Act *Magistrates Court Act 1921*.

Clause 82 inserts into section 351 (Evidentiary aids) a new subsection 351(3)(j) which provides that a certificate purporting to be signed by the chief executive, and stating the chief executive, on a stated day or during a stated period, personally served a document on a prisoner under section 348B, is evidence of the matter.

Subdivision 2 Amendment of Police Powers and Responsibilities Act 2000

Clause 83 provides that part 3, division 1, subdivision 2 amends the *Police Powers and Responsibilities Act 200*0. It also includes a legislative note that refers to further amendments in schedule 1.

Clause 84 amends section 53BAC (Police powers for giving official warning for consorting) by omitting subsection 53BAC(6) and inserting new subsection 53BAC(6). New subsection 53BAC(6) no longer provides for electronic service of the official warning for consorting as power will be relocated into new chapter 23, part 1AA of the PPRA.

Subclause (2) omits subsection 53BAC(9) definition of prescribed way and inserts new subsection 53BAC(9) definition of prescribed way which no longer provides for electronic communication as a prescribed way for giving an approved form. This will be relocated into new chapter 23, part 1AA of the PPRA.

Clause 85 inserts new parts 1AA (Electronic Service of documents) and 1AB (Electronically signed documents) after section 789B (Power to demand production of disability worker clearance card).

New part 1AA consists of new sections 789C to 789L. New part 1AB consists of new sections 789M and 789N.

New section 789C (Application of part) provides that part 1AA applies in relation to any power or responsibility a police officer has under this Act or another Act that permits or requires the police officer to personally serve a prescribed document on a person.

New section 789D (Definitions for part) provides new definitions for prescribed document and related document. Prescribed document means a document mentioned in schedule 5A and related document means a document to which a consent given under this part applies under section 789I.

New section 789E (Serving documents by electronic communication) establishes the circumstances a police officer can serve a prescribed document on a person by electronic communication.

Subsection 789E(1) states a police officer may serve a prescribed document on a person by electronic communication sent to a unique electronic address of the person if the following criteria (set out in section 789E(1) are met. The first criterion is that the police officer reasonably believes, having regard to the circumstances, each of the following:

- the electronic communication will be received by the person within a reasonable time; and
- the electronic communication would be readily accessible by the person so as to make the document usable by subsequent reference; and
- it is appropriate to do so in the circumstances given the purpose and effect of the document.

The second criterion is that the police officer has made a reasonable effort to ensure the person understands the purpose and effect of the document. The third criterion is that the person has given consent under this part for service of the document by electronic communication. The fourth criterion is that the person's consent has not ceased to have effect under new section 789J. The fifth and final criterion is that the person has nominated their unique electronic address for service by electronic communication.

The police officer may serve a related document on the person by electronic communication sent to the person's nominated unique electronic address if the person's consent has not ceased to have effect under section 789J. However, the police officer must not serve the prescribed document or related document on a person under this section if the police officer reasonably suspects the person is a child under 16 years old or a person with impaired capacity. This section does not prevent a police officer from personally serving the prescribed document or related document on the person or serving the prescribed document or related document on a lawyer acting for the person in a proceeding.

New section 789F (When service by electronic communication is effected) provides if a police officer serves a prescribed document on a person under section 789E, the prescribed document or related document is taken to be personally served on the person on the day and at the time the document was sent by electronic communication to the person's nominated unique electronic address, unless the contrary is proved.

New section 789G (Consent for service by electronic communication) provides for the consent required for service by electronic communication. A police officer must give the person an explanation under section 789H before asking the person to give consent for the electronic service of a prescribed document. Consent can only be given in the presence of a police officer in accordance with this part.

New section 789H (Matters relating to consent for service by electronic communication) sets out requirements for consent for service by electronic communication.

Subsection 789H(1) lists the things an officer must explain to the person, which are:

- the purpose and effect of the prescribed document;
- if reasonably practicable in the circumstances, what related documents are included in the consent;
- the nature of the consent;
- that the person can refuse consent;
- that the person can withdraw consent by written notice to the commissioner; and

that if consent is not withdrawn, consent automatically ceases to have effect 6 months after the day the consent is given, or when the person is detained in a corrective services facility or youth detention centre, or when the person is detained under the *Mental Health Act 2016*.

Subsection 789H(2) provides the police officer may give the explanation orally or in the approved form. If the explanation is provided orally, subsection 789H(2) provides that it must be given in the language or in a way likely to be readily understood by the person.

New section 789I (Consent applies to related documents) provides consent applies to related documents. This means that if a person has given consent for service of a prescribed document, and a proceeding is started in relation to that prescribed document or another matter arising

from circumstances in the document, then the consent given applies to the prescribed document and also to any document permitted or required for the proceedings related to that document.

New section 789J (Withdrawal of consent etc.) provides for the withdrawal of consent. A person may withdraw their consent by written notice to the police commissioner. The consent ceases to have effect when the police commissioner receives the notice. The withdrawal of consent applies to the prescribed document and any related document.

If consent is not withdrawn by the person, the consent ceases to have effect six months after the day the consent is given or if the person is detained in a corrective service facility or a youth detention centre, or detained in an authorised mental health or public service health facility under the Mental Health Act 2016.

Subsections (4) and (5) provide that where the person's consent ceases to have effect for this part, and before the consent ceases to have effect, a document is served on a person under 789E, the service of the document is not invalid merely because the person's consent ceased to have effect after service was effected.

New section 789K (Record of explanation, consent and unique electronic address) provides for the record of consent and electronic addresses. If a police officer gives the explanation required under 789H, the giving of the explanation and any consent must recorded. The person's unique electronic address, and an acknowledgement by the person of that address, must also be recorded. These matters may be given orally and recorded electronically. Unless the person's consent is electronically recorded, it must be written and signed by the consenting person.

New section 789L (Evidentiary provision) establishes an evidentiary provision.

Subsection (1) states for a proceeding under an Act, a certificate signed by the police commissioner stating that a prescribed or related document is or was sent by a police officer to the persons nominated unique electronic address, or if a police officer has complied with sections 789E, 789G and 789K, this is evidence of the occurrence unless the contrary is proven. New section 789M (Approved method for electronically signing documents) establishes approved methods for electronically signing documents.

Subsection (1) provides the police commissioner may approve a method for electronically signing documents under section 789N.

Subsection (2) outlines that the commissioner must be satisfied that the approved method is reliable for identifying the signatory of a document.

Subsection (3) provides the police commissioner must not approve a method prescribed under the Oaths Act 1867 section 13A as a method that is not an accepted method.

New section 789N (Police officers may electronically sign documents) provides for the electronic signing of documents by police officers. The section applies if, in the performance of their duty, the police officer is required or permitted under this Act or another Act to sign a document. The police officer may electronically sign the document using a method approved under new section 789M. Unless the contrary is proved, a document electronically signed by a

police officer under this section it is taken to be a document signed by a police officer under this Act or any other Act.

Clause 86 inserts a new subsection (8) under section 804 (Compensation). Subsection (8) provides for the Minister to sub-delegate compensation powers under section 804 to the Commissioner of Police, consistent with threshold limits.

Clause 87 renumbers chapter 23, parts 1A to 2 as chapter 23, parts 1 to 5.

Clause 88 inserts a new schedule 5A (Prescribed documents for service by electronic communication) after schedule 5.

New schedule 5A relates to the definition of 'prescribed document' in section 789D for the purposes of electronic service, the following documents are prescribed documents:

- an official warning for consorting;
- a notice to appear;
- an initial police banning notice;
- an application, or a copy of the application, under the *Domestic and Family Violence Protection Act 2012*, section 32(1), 86(1), 118(1), 129(1) or 129(2);
- a PPN;
- a statement of matters relating to a PPN under the *Domestic and Family Violence Protection Act 2012,* section 111;
- a copy of release conditions under the *Domestic and Family Violence Protection Act 2012*, section 125;
- a TPO, or a copy of the order, under the *Domestic and Family Violence Protection Act 2012*;
- a domestic violence order, or copy of the order, under the *Domestic and Family Violence Protection Act 2012*;
- a varied order, or copy of the order, under the *Domestic and Family Violence Protection Act 2012*;
- an intervention order, or copy of the order, under the *Domestic and Family Violence Protection Act 2012*; and
- a notice of proceedings under the *Domestic and Family Violence Protection Act 2012*.

Clause 89 inserts new definitions for prescribed document and related document in the dictionary at Schedule 6 of the Act. For chapter 23, part 2 of the Act, these terms are defined by new section 789D.

Division 2 Hooning and low-range drink-driving

Subdivision 1 Amendment of Summary Offences Act 2005

Clause 90 provides that part 3, division 2, subdivision 1 amends the *Summary Offences Act 2005*.

Clause 91 omits the former section 19C (Unlawful conduct associated with commission of racing, burn out or other hooning offence) and inserts a new section 19C.

Subsection (1) establishes that it is an offence to participate in a group hoon activity. Unless there is a reasonable excuse it is also an offence to spectate such an event. As is organising, promoting or encouraging another to participate or spectate such an event, and publishing photographs or films for these purposes. Under this subsection, these hooning offences carry a maximum penalty of 40 penalty units or 1 year imprisonment.

Subsection (2) provides that the driver of a vehicle does not commit the participation offence under subsection (1)(a) by committing a racing, burn out or other hooning offence involved in a hooning group activity.

Subsection (3) provides that a person has a reasonable excuse to spectate a hooning group activity if the person is a journalist for the purpose of journalism or the person is gathering information to report to police. What may be considered a reasonable excuse under this section is not limited to the things provided in subsection (3).

Subsection (4) inserts definitions for ‘gathering’, ‘hooning group activity’, ‘journalist’ and ‘spectate’.

Subdivision 2 Amendment of Transport Operations (Road Use Management) Act 1995

Clause 92 states that part 3, division 2, subdivision 2 amends the *Transport Operations (Road Use Management) Act 1995*.

Clause 93 amends section 78 (Driving of motor vehicle without a driver licence) to ensure that an administrative disqualification under new section 79I is considered the same as a court ordered disqualification, in terms of the penalties that apply for the offence of driving a motor vehicle without a driver licence.

Subsection (1) amends section 78(1)(a) to provide that the maximum penalty under this subsection (60 penalty units or 18 months imprisonment) applies where the person was disqualified under new section 79I at the time of committing the offence of driving a motor vehicle without a driver licence.

Subsection (2) insert new subsection (aa) after section 78(3)(a) to provide that the court must disqualify a person for a period of at least two years, but not more than five years, if a person was disqualified under new section 79I at the time of committing the offence of driving a motor vehicle without a driver licence.

Subsection (3) makes a minor amendment to section 78(3)(a), (i) and (j) to replace ‘for a period’ with ‘a period’.

Subsection (4) replaces section 78(3A) with a new subsection (3A). Subsection (3A)(a) provides that where a person committed the offence of driving a motor vehicle without a driver licence whilst disqualified by court and any other circumstances under subsection (3), the disqualification period under subsection (3)(a) applies. Subsection (3A)(b) provides that where a person committed the offence of driving a motor vehicle without a driver licence whilst disqualified under new section 79I and any other circumstances under subsection (3), other than (3)(a), the disqualification period under subsection (3)(aa) applies.

Clause 94 increases the maximum monetary penalty for a number of drink driving offences under section 79 (Vehicle offences involving liquor or other drugs).

Clause 95 amends section 79B(1) (Immediate suspension or disqualification) by inserting new subsection (e) after subsection (d) to provide that this section applies where a person is charged with a drink driving offence after being served an infringement notice under new section 79H for another offence, but before the administrative disqualification period has commenced.

Subsection (2) provides that drink driving offence in this section is defined by new section 79H(4).

Clause 96 inserts a new sections 79H, 79I and 79J after section 79G.

New section 79H (Infringement notices for driving while over general alcohol limit but not over middle alcohol limit) provides that person can receive an infringement notice for a section 79(2)(a) or (b) offence.

Subsection (1) provides that a person can receive an infringement notice only if they:

- commit the offence in a motor vehicle;
- have not committed a drink driving offence in the previous five years; and
- hold a current Queensland licence.

Subsection (2) provides that a person cannot be served an infringement notice for a section 79(2)(a) or (b) offence however if they:

- are driving a particular motor vehicle that is listed in section 79(2C) of the TORUM Act, which includes vehicles such as heavy vehicles, tow trucks, and vehicles providing (or about to provide) a public passenger service;
- have an alcohol ignition interlock program requirement; or
- are driving under a learner, probationary, provisional or restricted licence.

If a person commits an offence against section 79(2)(a) or (b) of the TORUM Act and isn't issued an infringement notice, the person can still be given a Notice to Appear before a court.

New section 79H will also ensure that when a person gets an infringement notice for a section 79(2)(a) or (b) offence, they will also be given a notice which contains information about the person's options and the consequences of receiving the information notice, including information about the administrative disqualification.

The notice a person receives under section 79H can be part of a combined notice that has multiple purposes, for example, a notice can meet the requirements in section 79H and can also be used to give the person information about their 24 hour immediate suspension under section 80(22AA) and (22A) of the TORUM Act.

Clause 96 also inserts new section 79I (Administrative disqualification for driving while over general alcohol limit but not over middle alcohol limit), which provides for an administrative disqualification, which applies to a person who has been issued an infringement notice for a section 79(2)(a) or (b) offence.

New section 79I provides that a person is disqualified from holding or obtaining a Queensland driver licence for a period of two (2) months starting on the day that is 28 clear days after the date of the infringement notice for a section 79(2)(a) or (b) offence. This ensures that a person knows the exact date that the disqualification starts. The reference to 28 clear days means that there are 28 full days between the date the infringement notice is given and the date the disqualification starts.

However, section 79I also makes it clear that a person will not be disqualified if, during the 28 days, the person elects to have the matter decided in a Magistrates court or the infringement notice is cancelled or withdrawn. In addition, if the disqualification has started, the disqualification will be removed if the person elects to have the matter decided in a Magistrates court or the infringement notice is cancelled or withdrawn.

New section 79I also provides that a notice must be given by the chief executive to the person before their administrative disqualification period starts. The provision ensures that the person fully understands that they will be subject to an administrative disqualification and when the disqualification will start.

New section 79J (Effect of administrative disqualification) provides for how the administrative disqualification applies in relation to other provisions within the TORUM Act.

When the administrative disqualification starts, the person is taken to be convicted of a section 79(a) or (b) offence for the purposes of:

- section 79, 86 and 87 of the TORUM Act, which makes it clear how an infringement notice for a section 79(2)(a) or (b) offence is used in relation to previous convictions (for example, if a person commits an offence against section 79(1) and 4 years previously the person had an administrative disqualification for a section 79(a) or (b) offence, the liability under section 79(1D) can be calculated).
- Chapter 5, part 3A of the TORUM Act, which provides when the education requirements for drink drivers applies, in relation to those who receive an administrative disqualification.
- Chapter 5, part 3B of the TORUM Act, which provides when the interlock requirements for drink drivers applies, in relation to those who receive an administrative disqualification.
- section 127 of the TORUM Act, which ensures that the Queensland driver licence held by that person shall, by virtue of such conviction, be deemed to be cancelled on and from the date the administrative disqualification starts.

However, section 79J also provides that if the administrative disqualification immediately ends under section 79I(5), then the person is not taken to be convicted under this section. It also provides that when the administrative disqualification immediately ends the licence is no longer cancelled and that if the person has handed their licence in, it is returned to them within a reasonable period.

Clause 97 removes section 81 (Notices to offenders for certain first offences) of the TORUM Act. Section 81 of the TORUM Act was introduced in 1991, to allow police officers to issue an offence notice in certain circumstances. However, there were a number of practical difficulties in using this section. Therefore, while section 81 is being removed, this Bill is providing a new framework for issuing infringement notices under the *State Penalties Enforcement Act 1999*.

Clause 98 amends section 86 (Disqualification of drivers of motor vehicles for certain offences) to ensure that a person who receives a court disqualification for a section 79(2)(a) or (b) offence, cannot not receive a lesser disqualification than a person who receives an administrative disqualification. Clause 98 also allows the court to take into consideration the period of suspension of disqualification that has already been served under sections 79B or 79I when determining the disqualification period for an offence under these sections.

Clause 99 amends section 90A (Definitions for ss 90B-90D) to ensure that administrative disqualifications are considered when calculating cumulative disqualifications, the definition of 'relevant disqualifying provision' has been updated to include administrative disqualifications.

Clause 100 removes a reference to section 81 from section 90C (Cumulative periods of disqualification for acts done and offences committed at same time), which is being removed by clause 97.

Clause 101 removes a reference to section 81(4)(b) from section 91D (Application of division) because section 81 of the TORUM Act is being removed by clause 97.

Clause 102 is a drafting amendment of section 91I (Definitions for pt 3B).

Clause 103 removes a reference to section 81(4)(b) from section 91J (Persons to whom div 2 applies) because section 81 of the TORUM Act is being removed by clause 97.

Clause 104 adds two definitions to the schedule 4 dictionary for administrative disqualification and administrative disqualification period.

Division 3 Amendment of Domestic and Family Violence Protection Act 2012

Clause 105 provides that part 3, division 3 amends the *Domestic and Family Violence Protection Act 2012*.

Clause 106 amends the examples of an individual's relatives in section 19 (Meaning of family relationship and relative) to remove reference to 'child (including a child 18 years or more), stepchild' and replace them with 'son, daughter, step-son, step-daughter'. This is a clarifying amendment which accords with the existing protective framework in the Act that a person under 18 years cannot be named as an aggrieved or respondent unless an intimate personal relationship or informal care relationship exists between the parties. A child under the age of 18 years cannot be named as an aggrieved or respondent where the other party is their parent.

Clause 107 amends section 100 (Police officer must investigate domestic violence) to remove doubt that should a police officer believe domestic violence has been committed but is unable to commence a DFV process under section 100(3) of the DFVP Act, this section does not limit the police officer's responsibility to take action under another relevant Act.

Clause 108 amends the existing section 105 (Form of PPN) by omitting subsection 105(2) and replacing it with new subsection 105(2) which provides that for subsection 105(1)(j), a PPN issued by a police officer must state the date and time for the hearing at the local Magistrates

Court. The purpose of this amendment is to provide flexibility for police officers to accommodate the protections and best interests of victim-survivors, allow the police officer the time required to submit well-informed material to the court and to align with the customs of the local courthouse.

The new subsection 105(2) establishes that the date must be either within 14 business days after the notice is issued, or if the local Magistrates Court does not sit within 14 business days, then the next court sitting date.

Clause 109 amends section 169 (Powers of the appellate court) to provide that an appellate court may, on its own initiative or on the application of a party to the proceeding, if the court considers it necessary or desirable, make a TPO when the court adjourns an appeal or sets aside the decision and remits the matter under 169(1)(d).

Clause 110 amends schedule 1 (Dictionary) to insert a definition of 'standard conditions.'

Part 4 Amendments relating to youth justice

Division 1 Amendment of Childrens Court Act 1992

Clause 111 identifies that part 4, division 1 of the Bill amends the *Childrens Court Act 1992*.

Clause 112 amends section 20 (Who may be present at a proceeding).

Subclause (1) replaces existing section 20(1)(c) and inserts the following persons as persons who may be present during a Childrens Court proceeding if the proceeding is a criminal proceeding:

- a victim, or a relative of a deceased victim, of the offence alleged to have been committed by the child;
- a person who is a representative of a victim, or of a relative of a deceased victim, of the offence alleged to have been committed by the child;
- a person who, in the court's opinion, has a proper interest in the proceeding;
- an accredited media entity.

Legislative examples of a person who is a representative of a victim, or of a relative of a deceased victim, of the offence alleged to have been committed by the child are also inserted into section 20(1)(c).

Subclause (2) provides that a representative of the chief executive (child safety) or the chief executive (youth justice) may be present during a Childrens Court proceeding.

Subclause (3) provides for the renumbering of provisions.

Subclause (4) removes existing section 20(2) and replaces it with a power for the court make an exclusion order in relation to a representative of a victim or of a relative of a deceased victim of the alleged offending, a person who has a proper interest in the proceeding or an accredited media entity if the court is satisfied that the order is necessary to prevent prejudice to the proper administration or justice for the safety of any person, including the child.

The court may make an exclusion order on application by a party to the proceeding or on its own initiative. In considering whether to make the exclusion order, the court must consider the matters listed under proposed section 20(2A). In considering an exclusion order, the court may hear from a party to the proceeding, a person proposed to be excluded by the exclusion order and, with leave of the court, another person mentioned in section 20(1).

Subclause (5) provides that the court may permit a person who is engaged in research approved by the chief executive (child safety) or chief executive (youth justice) to be present during Childrens Court proceedings.

Subclause (6) omits section 20(3)(c).

Subclause (7) provides that, despite subsections (1) and (2), if the court is hearing a matter under section 172 or 173 of the *Mental Health Act 2016*, the court must exclude from the room a victim, a relative of a deceased victim, a representative of a victim or a relative of a deceased victim, a person who, in the court's opinion has a proper interest in the proceeding or an accredited media entity unless the court is satisfied it is in the interests of justice to permit the person to be present.

Subclause (8) inserts definitions for 'accredited media entity', 'chief executive (youth justice)', 'relative' and 'Supreme Court's media accreditation policy'.

Subclause (9) provides for the renumbering of provisions.

Division 2 Amendment of Police Powers and Responsibilities Act 2000

Clause 113 identifies that part 4, division 2 of the Bill amends the Police Powers and Responsibilities Act 2000.

Clause 114 amends the note following section 365(3), consequential to the amendment to youth justice principle 18 in clause 132.

Division 3 Amendment of Youth Justice Act 1992

Clause 115 identifies that part 4, division 3 of the Bill amends the *Youth Justice Act 1992.*

Clause 116 amends the note following section 13(1)(a), consequential to the amendment to youth justice principle 18 in clause 132.

Clause 117 omits section 40. The matters dealt with in section 40 are covered in new section 148A, inserted by clause 122.

Clause 118 amends section 52A to make clear that a court or police officer who is authorised or required under the YJ Act or another Act to release a child in custody in connection with a charge for an offence may impose a condition on a grant of bail to the child, other than a condition under section 52(3) (a deposit of money or other security), or a condition about appearing before a court or surrendering into custody, only if the court or police officer is

satisfied there would otherwise be risks, and the other condition does not involve undue management or supervision of the child.

Clause 119 amends the criteria in section 52AA(1)(c) to include a child who has, in the previous 12 months, been charged with a prescribed indictable offence, other than the offence in relation to which bail is being considered. The charge for the other prescribed indictable offence must not have been dealt with by a court, withdrawn or otherwise discontinued; and cannot arise out of the same, or the same set of, circumstances as the charge for the prescribed indictable offence in relation to which bail is being granted.

Subclause (2) amends section 52AA(11)(c) so that the following Criminal Code offences become ‘prescribed indictable offences’:

s.69	Going armed so as to cause fear
s.75	Threatening violence
s.340	Serious assaults
s.359	Threatening violence
s.359E	Unlawful stalking, intimidation, harassment or abuse
s.413	Assault with intent to steal
s.414	Demanding property with menaces with intent to steal

Clause 120 inserts a new section 56A Temporary transfer of child on remand. Section 56A(1) provides that the section applies if –

(a) the commissioner of the police service has taken immediate custody of a child under section 56(2)(a); and
(b) the child has not been delivered into the custody of the chief executive under section 56(2)(b); and
(c) the child is in custody in a watch-house.

Section 56A(2) provides that the chief executive may take the child into the temporary custody of the chief executive for the purpose of enabling the child to participate in the activities, programs or services at a specified detention centre for a period on a specified day (the temporary transfer period).

Subsection (3) provides that the chief executive may take the child into the chief executive’s temporary custody under subsection (2) only if the child agrees; and the commissioner of the police service has agreed in writing.

Subsection (4) provides that in deciding whether to take the child into the temporary custody of the chief executive under subsection (2), the chief executive must have regard to (a) the matters mentioned in section 56(4), and (b) the practicality of transportation of the child between the watch-house where the child is held in custody and the specified detention centre, including, for example, the distance between the watch-house and the closest detention centre and the availability of suitable transportation.

Subsection (5) provides that if the chief executive takes the child into the custody of the chief executive under subsection (2), the chief executive may ask the chief executive of another department prescribed by regulation to assist with the transportation of the child between the watch-house and the specified detention centre.

Subsection (6) provides that the chief executive must return the child to the custody of the commissioner of the police service before the end of the temporary transfer period unless –

(a) the chief executive notifies the commissioner of the police service under section 56(3)(a) of the date the child will be accepted into the chief executive's custody (the formal transfer date); and the formal transfer date is during the period the child is in the temporary custody of the chief executive; or
(b) unforeseen circumstances reasonably prevent the return of the child to the custody of the commissioner of the police service. Examples of unforeseen circumstances include a natural disaster preventing travel between a detention centre and a watch-house, and the child requiring urgent medical treatment. Under subsection (7), the chief executive must, as soon as reasonably practicable, inform both the child and the commissioner of the police service of the unforeseen circumstances, and then the child is expected to be returned to police custody.

Subsection (8) provides that during the period the child is in the temporary custody of the chief executive under this section, the child is taken to be detained in custody in the specified detention centre.

Subsection (9) clarifies that the temporary transfer of a child by the commissioner of the police service to the chief executive under this section does not constitute delivery of the child into the chief executive's custody under section 56(3).

Clause 121 amends the heading of part 6, division 12, to reflect the insertion of new section 148A.

Clause 122 inserts new section 148A in response to Women's Safety and Justice Taskforce recommendation 149.

Subsection 148A(1) provides that the following are not admissible in evidence against a child in any civil, criminal or administrative proceeding –

(a) an admission made by the child in the course of, for the purpose of, or as a condition of, participating in a youth justice program;
(b) evidence directly or indirectly derived from an admission mentioned in paragraph (a).

Subsection 148A(2) provides that subsection (1) does not apply to a proceeding for an offence committed or allegedly committed by the child while participating in a youth justice program.

Subsection 148A(3) provides that the reference in subsection (1)(a) to an admission made by the child includes –

(a) any written material made by the child (e.g. a written apology given as a requirement of a conference agreement); and

(b) anything said or done by the child that makes it evident the child committed an offence.

Subsection 148A(4) provides for circumstances where evidence that would otherwise be inadmissible because of subsection (1) could be admissible. These include if the child agrees to its admission, or where evidence from participation in a conference or alternative diversion program is admissible in a proceeding under pat 7, division 2.

Subsection 148A(5) defines a youth justice program as:

(a) a conference; or
(b) an alternative diversion program; or
(c) a program or service established by the chief executive under section 302.

Clause 123 amends section 150, consequential to the amendment to youth justice principle 18 in clause 132.

Clause 124 inserts new section 210A, mirroring new section 56A inserted by clause 120. Section 56A applies to children held on remand; section 210A applies to sentenced children.

Clause 125 amends section 263A which deals with recordings in detention centres and the use of body-worn cameras.

Subclause (1) corrects an error.

Subclause (2) adds the Human Rights Commissioner to the list of persons whose communication with a child detainee cannot be recorded.

Subclause (3) creates a head of power to enable the recording of phone calls between a child detainee and someone else for a purpose, and in accordance with requirements, prescribed by regulation. Conversations between a detainee and persons listed in section 263A(3) will not be able to be recorded under any circumstances.

Clause 126 creates a new framework for the transfer of 18-year-old detainees to adult custody.

New section 276A contains the definitions for the subdivision.

New section 276B stipulates those detainees who are liable to be transferred to a corrective services facility. Only detainees aged 18 or over are liable.

New section 276C provides for the giving of a ‘prison transfer notice’. Although a detainee does not become liable until they turn 18, a prison transfer notice can be given any time after the detainee turns 17 and 10 months.

Subsection (2) sets out the options available to the chief executive in relation to prison transfer notices, including to delay or not give a notice.

Subsection (3) provides that delaying, or not giving, a notice is only possible if there are special circumstances. It also retains 18 and 6 months and the upper age limit.

Subsection (4) sets out mandatory considerations for the chief executive's decision.

Section 276D provides for a later prison transfer notice to be given, if the initial decision is to delay or not give a notice.

Section 276E provides that subdivision 3 applies in relation to a detainee who is liable to be transferred to a corrective services facility under s 276B, or who is at least 17 years and 10 months and will be liable to be transferred to a corrective services facility under section 276B.

New section 276F sets out when the chief executive must or may give a prison transfer notice, and the contents of the notice.

Section 276G requires the chief executive to arrange legal advice for the detainee. This is an important safeguard.

Section 276H requires the chief executive to provide a copy of the prison transfer notice to Queensland Corrective Services, to facilitate planning for the transfer.

Section 276I ensures time following the legal advice for the detainee to consider their options, and seek a review if desired.

New subdivision 4 provides for an internal review of an initial decision to transfer. The application must be made within five business days of the detainee receiving, or refusing, legal advice, and the transfer is stayed by the application.

Section 276K provides that the chief executive on review can delay the transfer, or decide not to transfer, if there are special circumstances. The chief executive must consider any submissions from the detainee.

Section 276L requires certain procedures following a decision – e.g. providing reasons, and arranging further legal advice for the detainee.

Section 276M ensures time following the legal advice for the detainee to consider their options, and seek a review if desired.

Section 276N clarifies that the chief executive may still give a prison transfer notice after having decided on review to delay or not give one, if there has been a significant change in circumstances. If so, all the same considerations and safeguards apply.

New subdivision 5 allows a sentencing court to temporarily delay a transfer to adult custody, if there are special circumstances, and under the same decision-making framework as applies to the chief executive.

New subdivision 6 provides for review by a Childrens Court judge of a chief executive decision about a transfer. Section 276U provides that the review is by way of a fresh hearing on the merits.

Section 276X clarifies that the chief executive may still give a prison transfer notice after a Childrens Court decision to delay or not transfer, if there has been a significant change in circumstances. The significant change in circumstances would need to be something that would

have made the Court come to a different decision. All the same considerations and safeguards apply, including a review of the new notice by a Childrens Court judge.

Section 276Y retains the overriding principle that it is in the best interests of the welfare of all detainees at a detention centre that persons who are 18 years and 6 months or older are not detained at the centre.

Section 276Z retains the arrangement that for the purposes of holding the person at a corrective services facility, a transferee is subject to the *Corrective Services Act 2006*. Release is to be on the date determined pursuant to section 227 of the YJ Act, but the remainder of the period of detention, which would otherwise be administered by the chief executive by way of a supervised release order, is to be administered by Queensland Corrective Services as though it were court ordered parole.

None of this changes the fact that the person is serving a period of detention under the YJ Act.

Clause 127 inserts a new section 279B making it an offence to take photographs of detainees or of parts of YDCs. There are a number of exceptions, including where the chief executive gives authority under conditions the chief executive considers appropriate. In giving approval, there are certain matters the chief executive must take into account, such as the public interest, and the vulnerabilities of detainees, but this is not an exhaustive list.

Clause 128 ensures entry permit holders under the *Work Health and Safety Act 2011*, who may enter YDCs in certain circumstances, are bound by the same confidentiality framework that applies to others who may acquire confidential information about a child in the course of their work.

Clause 129 ensures persons who acquire confidential information relating to a child in the course of providing counselling or support to a victim of an offence are also bound by the confidentiality framework.

Clause 130 ensures that a person mentioned in previous clause who obtains the confidential information from a victim of an offence may record, use or disclose the information for the purpose of providing counselling or support to the victim.

This means:

- confidential information obtained from a victim:
    - may be recorded, used or disclosed for the purpose of providing counselling or support to that victim, and
    - cannot be disclosed, recorded or used to provide counselling or support to anyone else; and
- confidential information obtained from someone other than a victim cannot be recorded, used or disclosed.

For example, a counsellor who has received confidential information from a victim may disclose that information to another counsellor who is also to provide counselling to that victim. The new counsellor may record, use or disclose the information for the purpose of supporting that victim. Any other recording, use or disclosure of the information remains prohibited.

Clause 131 inserts transitional provisions. In most cases, the new provisions apply regardless of whether relevant events happened prior to commencement. However, new sections 426 to 428 provide that prison transfer processes started prior to commencement are to continue under the pre-existing provisions.

Clause 132 amends the Charter of Youth Justice Principles contained in Schedule 1.

It amends principle 18 to clarify it. It also inserts a reference to disability needs into principle 21(f).

Clause 133 amends Schedule 4 (Dictionary) to omit the definitions of ‘detainee’ and ‘prisoner transfer direction’; insert new definitions of ‘detainee’, ‘prisoner transfer notice’ and ‘review application’; and amends the existing definition of ‘temporary delay’ as a consequence of amendments in the Bill.

Part 5 Other amendments

Clause 134 provides that schedule 1 amends the legislation it mentions.

Schedule 1 introduces several consequential amendments to the Criminal Code, PPRA, PSAA and the *Public Safety Preservation Act 1986*.