

Police Powers and Responsibilities (Jack's Law) Amendment Bill 2022

Explanatory Notes

Short title

The short title of the Bill is the Police Powers and Responsibilities (Jack's Law) Amendment Bill 2022

Policy objectives and the reasons for them

The primary objective of the Bill is to extend and expand the trial of hand held scanner provisions to detect unlawfully possessed knives beyond the Surfers Paradise and Broadbeach safe night precincts (SNPs).

The Bill will achieve this objective by amending the *Police Powers and Responsibilities Act 2000* (PPRA) to:

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

On 30 April 2021, the *Youth Justice and Other Legislation Amendment Act 2021* commenced, enacting amendments to numerous statutes including the PPRA. The PPRA amendments, in part, allowed police to use hand-held scanners to detect unlawfully possessed knives in the Surfers Paradise and Broadbeach SNPs as part of a 12 month trial.

The primary goal of the trial was to detect and deter the unlawful possession of knives in those areas on the Gold Coast. This would then provide public safety benefits by reducing the opportunity for serious violent offending involving knives and other bladed weapons.

A catalyst for the trial were the tragic murders of two young men who were killed with knives in separate incidents within the Surfers Paradise SNP in 2019 and 2020.

In December 2019, 17 year old Jack Beasley was fatally stabbed outside a Surfers Paradise convenience store while on a night out with friends. The family subsequently established the Jack Beasley Foundation in a bid to drive change and educate young people about the dangers of carrying knives in public spaces.

In September 2020, 27 year old Raymond Harris was fatally stabbed after an alleged altercation on Cavill Avenue, Surfers Paradise.

This Bill has been named in honour of Jack and remembers the passing of both Jack and Mr. Harris.

Safe night precincts are prescribed in the *Liquor Act 1992* and are characterised by the presence of licensed premises and concentrations of pedestrian traffic, particularly in the evenings and weekends. The boundaries of the SNPs are also defined in the *Liquor Act 1992*.

Expanding the trial to capture all 15 SNPs is justified by the recorded levels of unlawful knife possession in these areas. Between 1 July 2021 and 30 June 2022, 542 persons were charged by police with unlawfully possessing a knife across the 15 SNPs in Queensland. These areas tend to function as entertainment precincts and can result in the congregation of large numbers of people. The concentration of people in these areas mean the risk of harm being caused through the carriage of weapons is elevated and warrants particular attention.

The reason for expanding the trial to also capture areas of public transport stations, including public transport vehicles, is to provide the public safety benefits of reduced unlawful knife possession and the consequent reduced potential for offences involving a knife in those public transport areas, including the areas that a person carrying a knife may be travelling to.

In 2022, a 20 year old man was charged with murder after allegedly stabbing a 24 year-old man in the neck with a pair of scissors in the Fortitude Valley Metro Shopping Centre near the Fortitude Valley Railway Station and within the Fortitude Valley SNP. In 2021, a 14 year old youth was charged after allegedly stabbing and seriously injuring a 16 year old youth at the Coomera Railway Station.

A review on the operation of the 12 month scanning trial was conducted by the Griffith Criminology Institute and a report furnished (the Griffith Report). The Griffith Report made several findings and suggestions. One suggestion requiring legislative change is the consideration of an evidence based authorisation requirement should scanning be extended past its sunset clause. In response to the suggestion, clause 4 of the Bill contains provisions around strengthening the senior police officer authorisation for scanning.

The Griffith Report advised that during the 12-month trial of hand held scanner powers in the Surfers Paradise and Broadbeach SNPs, an array of concealed weapons were detected resulting in 68 bladed articles being seized, 53 weapons offences and 101 other offences detected while scanning for knives. Of those weapons seizures, eight were household knives, 59 were other types of knives, and one was an axe. Other weapons seized included a replica handgun, one baton, two hand tools, five knuckle dusters, one screwdriver and one other tool. Police also seized one acoustic and one electric antipersonnel device whilst scanning.

Paralleling and supplementing the scanning trial has been the 2021 *I live my life without a knife* state-wide crime prevention campaign led by the Queensland Police Service in collaboration with external agencies as local partners. The campaign provided community awareness of the risks and penalties of knife carrying in public places. This was done through advertising, community events and engagement, and school presentations.

A positive flow on from the scanning trial and the *I live my life without a knife* campaign has been an 8% reduction in the number of persons charged with unlawfully possessing a knife in public in the 2021-2022 financial year when compared to the previous 12 months.

The Bill will extend and expand hand held scanning powers to capture public places in all SNPs and all public transport stations and public transport vehicles where an evidence based authorisation from a senior police officer has been granted. Scanning can then be conducted for 12 hours in those authorised relevant places.

The scanning of individuals for knives in areas identified with a higher risk operates to both remove knives from those areas and dissuade the opportunist use of a knife in an act of violence.

Achievement of policy objectives

The Bill will achieve its objective by amending the PPRA to omit part 3A of Chapter 2 and replace it with a new part 3A to provide the legislative framework for the use of hand held

scanners without warrant in safe night precincts and public transport stations and public transport vehicles (relevant places).

The new part 3A will provide:

- that an authorisation to scan at a relevant place can only be issued by a senior police officer if any of the following happened at the relevant place in the last 6 months:
 - 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 committed 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 1990*; and
- that 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; and
- that the senior police officer must consider the impact that scanning may have on any lawful activity at the relevant place; and
- that the senior police officer must consider whether scanning has previously been authorised for the relevant place and whether any persons carrying knives or other weapons were identified.

An authorisation given will have effect for 12 hours. The existing legislative safeguards contained in part 3A have been carried over in the Bill to apply to police officers scanning under an authorisation.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives other than by legislative reform.

Estimated cost for government implementation

Any upfront and continuing costs associated with the amendments, including the purchase of additional hand held scanning equipment, will be met through the existing QPS budget.

Consistency with fundamental legislative principles

The amendments have been drafted with due regard to section 4 of the *Legislative Standards Act 1992* (LSA) by achieving an appropriate balance between individual rights and liberties, the broader protection of the Queensland community, and the efficient and effective operation of the QPS.

The ability of police to stop and detain a person and require them to submit to hand held scanning may be seen to adversely affect the rights and liberties of individuals generally (section 4(2)) of the LSA) as it interferes with their freedom to move about at that time and their right to privacy.

It is noted, however, that the amount of inconvenience to a person caused by this scanning will be minimal. Scanning takes only a short amount of time and is relatively non-invasive as it occurs by passing the hand held scanner only over the exterior of a person's clothing and any belongings. If the scanner indicates the presence of metal, the person will be required to

produce any item likely to have caused the activation, after which the person may be scanned again.

The engagement of the rights and liberties of individuals has been safeguarded in the Bill by the requirement that the authorisation to scan is given by 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 1990*.

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.

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.

Should a person fail to submit to scanning or fail to comply with the requirement to produce items, the Bill continues the current practice of allowing police to search the person without warrant in accordance with sections 29 and 30 of the PPRA. While this may be considered to further impact on the rights and liberties of individuals, such a search is again considered necessary when weighed against the risk presented by persons potentially possessing a knife in a public place.

The Bill also adds a layer of public transparency by requiring that the Police Commissioner must publish information about each hand held scanner authority on the police service website within two months of the authority being issued. This will ensure that the public can see the name of the SNP or public transport station for which a hand held scanner authority was issued. It will also state the day and time the authority started, and information about the offences relied upon and considerations of the senior police officer when making the authorisation.

The legislative safeguards for police officers when exercising a power under a hand held scanner authority are contained in section 39H within the Bill.

Another safeguard in the operation of the scanning powers is the current requirement in police policy that police officers allocated a body worn video camera are to commence a recording as soon as practicable after an officer reasonably believes they may exercise a police power under legislation. This is the current practice when police conduct hand held scanning under Chapter 2, part 3A of the PPRA.

The extension of the scanning provisions contained in the Bill and any resulting search will not take away from the responsibilities and safeguards contained in the PPRA and the QPS Operational Procedures Manual.

In operationalising the amendments, the QPS will undertake a communication and public education campaign, including through the QPS website and social media channels.

Consultation

No external consultation was undertaken during the development of the Bill.

Consistency with legislation of other jurisdictions

Victoria, South Australia and Western Australia permit limited scanning of persons in particular public places for weapons.

Notes on provisions

1. Short title

Clause 1 provides that upon commencement, the short title of the Act will be the *Police Powers and Responsibilities (Jack's Law) Amendment Act 2022*.

2. Act amended

Clause 2 provides that this Act amends the *Police Powers and Responsibilities Act 2000*.

3. Amendment of s 30 (Prescribed circumstances for searching persons without warrant)

Clause 3 amends section 30(1)(1) (Prescribed circumstances for searching persons without warrant) to omit the existing reference to 'section 39C or 39D(2)' and replace it with sections 39E, 39F or 39G.

4. Replacement of ch 2, pt 3A (Use of hand held scanners without warrant in public places in prescribed areas)

Part 3A Jack's Law - Use of hand held scanners without warrant in safe night precincts and public transport stations

Clause 4 omits the existing part 3A of Chapter 2 and replaces it with a new part 3A dealing with the use of hand held scanners without warrant in safe night precincts and public transport stations.

39A Definitions for part

Clause 4 inserts a definitions section to provide definitions of *hand held scanner authority*, *public transport station*, *public transport vehicle*, *senior police officer* and *use*.

39B Meaning of public transport station

Clause 4 inserts a definition of *public transport station* with supporting examples.

39C Use of hand held scanner authorised by senior police officer

Clause 4 inserts section 39C to provide that a senior police officer may authorise the use of a hand held scanner.

Subsection (1) provides that the senior police officer may authorise the use of a hand held scanner at a *relevant place*, namely in a safe night precinct or at a public transport station and on public transport vehicles travelling to and from the station. Sections 39E, 39F and 39G contained in the Bill provide the power and scope for a police officer to use the hand held scanner once authorised to do so in those areas.

Subsection (2)(a) provides that the senior police officer may issue an authority mentioned in subsection (1) only if, any of the following happened at the relevant place in the last 6 months: at least 1 offence was committed against a person armed with a knife or other weapon; at least 1 seven year imprisonment offence against the Criminal Code involving violence against a person was committed; more than 1 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 1990* was committed.

Subsection (2)(b) provides that additionally, in deciding the authorisation, the senior police officer must consider that the use of hand held scanners 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 at the relevant place.

Subsection 2(c) provides that the senior police officer can only give the authority if they have considered the effect that the use of hand held scanners may have on any lawful activity at the relevant place. Also, the senior officer must consider if the use of the hand held scanners has previously been authorised in the safe night precinct or public transport station/vehicle, if so, if the use identified persons carrying knives or other weapons.

Subsection (3) defines for subsection (1) the term *travelling to and from* a public transport station. This means travelling within 1 scheduled stop in any direction of that transport station.

Subsection (4) provides that an authority given under section 39C is a *hand held scanner authority*.

The definition of a *seven year imprisonment offence* referred to in subsection (2) is defined in Schedule 6 of the PPRA and means an indictable offence for which the maximum penalty is at least 7 years imprisonment.

39D Form and effect of hand held scanner authority

Clause 4 inserts section 39D to provide what the hand held scanner authority must state and that the authority has effect for 12 hours after the authority starts.

39E Authorised use of hand held scanner without warrant in safe night precinct

Clause 4 provides that if a hand held scanner authority is in effect for a safe night precinct, then 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 in the safe night precinct, or in a public place at a public transport station in the safe night precinct.

The use of a hand held scanner authority issued for a safe night precinct does not authorise its use on board a public transport vehicle that is in the safe night precinct. 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.

39F Authorised use of hand held scanner without warrant at public transport station and on board public transport vehicles

Clause 4 inserts section 39F to provide that if a hand held scanner authority is in effect for a public transport station, then 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 public transport station; or on board a public transport vehicle while the vehicle is travelling within 1 scheduled stop in any direction of that public transport station; or if the person leaves the public transport vehicle within 1 scheduled stop of the public transport station then in a public place at the public transport station at that scheduled stop. This is to ensure that police have the power to stop and scan a person at the authorised public transport station, or on a public transport vehicle arriving or leaving that station within 1 scheduled stop, or in a public place should the person leave the public transport vehicle within 1 scheduled station of the authorised public transport station.

Subsection (3) provides that if a police officer starts to exercise a power in relation to a person under section 39F or 39G while on board a public transport vehicle travelling in the area mentioned in section 39F(2)(b), then the police officer may continue to exercise the power in relation to the person, even if the vehicle travels out of the area. This is to ensure that if a police officer should commence to exercise the powers in relation to a person while on board a public transport vehicle and within 1 scheduled stop of the authorised public transport station, then they will have the ability to complete exercising those powers in relation to the person even if

the public transport vehicle is no longer within 1 schedule stop of the authorised public transport station.

39G Requirements if hand held scanner indicates metal

Clause 4 inserts section 39G that provides if a hand held scanner indicates the presence, or likely presence, of metal the officer may require the person to produce anything that may be causing the hand held scanner to indicate that metal is, or is likely to be present. The police officer may also require the person to resubmit to the use of the hand held scanner.

39H Safeguards for exercise of powers

Clause 4 inserts section 39H to provide a range of safeguards if a police officer exercises a power under a hand held scanner authority to require the person to stop and submit, or resubmit, to the use of the hand held scanner.

39I Meaning of *hand held scanner information notice*

Clause 4 inserts section 39I to provide a definition of a hand held scanner information notice. The notice is a written notice stating that the person is in a public place in a safe night precinct or at a public transport station or on board a public transport vehicle within 1 scheduled stop of a particular public transport station.

The notice also provides that a police officer has the power to require the person to stop and allow, or allow again, the use of the hand held scanner in relation to the person or their belongings to determine whether the person is carrying a knife or other weapon. The notice also states that the police officer has the power to require the person to produce a thing that may be causing the scanner to indicate that metal is, or is likely to be, present.

The notice states that it is an offence for the person not to comply with the requirement unless the person has a reasonable excuse.

39J Notice of hand held scanner authority to be published

Clause 4 inserts section 39J that provides that the Commissioner must publish notice about a hand held scanner authority on the police service website within 2 months after the authority is issued. The section also provides what the notice must state.

39K Effect of part on power to search person without warrant

Clause 4 inserts section 39K that clarifies that the powers under part 3A for a police officer to use a hand held scanner in relation to a person without a warrant does not confer power on a police officer to search a person without warrant. The provisions to search a person without warrant are contained in chapter 2, part 2, division 2. Section 39K also clarifies that part 3A does not affect the power of a police officer to search a person without a warrant under chapter 2, part 2, division 2. That division deals with searching persons without a warrant.

39L Expiry of particular provisions

Clause 4 inserts section 39L that provides that section 30(1)(l), the new part 3A and particular Schedule 6 definitions expire on 30 April 2025.

5. Insertion of new s 808C

808C Annual report to include information about authorisation of hand held scanners

Clause 5 inserts section 808C to provide that the Commissioner must ensure the police service's annual report includes information about the number of hand held authorities issued during the financial year and the names of the relevant SNPs and public transport stations.

Information must also be provided about the number of people scanned, the number of knives or other weapons detected, the number of times a power to search a person without a warrant was exercised under chapter 2, part 2, division 2 as a result of scanning, and the number and type of charges made against people as a result of scanning.

6. Amendment of sch 6 (Dictionary)

Clause 6 amends Schedule 6 to omit the redundant definitions and insert definitions of *hand held scanner authority*, *public transport station*, *public transport vehicle* and *weapon*.