

## Agreement in Principle

**Ms ANGELA D'AMORE** (Drummoyne) [10.15 a.m.]: I move:

That this bill be now agreed to in principle.

I am pleased to introduce this bill, which will repeal the Law Enforcement and National Security (Assumed Identities) Act 1998. The purpose of this bill is to facilitate cross-border recognition for the acquisition and use of assumed identities, by officers of certain law enforcement and national security agencies. An assumed identity is a false identity that is used for investigating an offence or gathering intelligence and performing support-related activities, such as, the renting of covert premises under a false name. Assumed identities are also used to administer safety witness protection programs. In New South Wales only the New South Wales Police Force, the NSW Crime Commission, the Police Integrity Commission, the Independent Commission against Corruption and Corrective Services NSW are authorised to grant approval to acquire and use an assumed identity.

Apart from a few minor departures, the bill has adopted the model laws to enable cross-border recognition of assumed identities. I would now like to discuss the bill in more detail starting with amendments that fully replicate the national model. Clauses 5, 6 and 7 of the bill will introduce a formal application procedure to acquire and use an assumed identity and will require separate authorities for each assumed identity. These amendments also require that a law enforcement officer be appointed to supervise an authorised civilian and specify a maximum time allocation of three months for authorised civilians using an assumed identity. Clauses 11 and 14 of the bill will require applications for making or cancelling entries of an assumed identity in the Births, Deaths and Marriages Register to be heard in a closed court. Details regarding assumed identities need to be highly confidential for the safety of undercover officers and their families and for the success of the operation. The requirement that applications be made in a closed court reflects this.

Clause 13 of the bill will require the Chief Officer to apply for an order to cancel entries in the Births, Deaths and Marriages Register within 28 days after the assumed identity authority is cancelled. Clause 32 of the bill will introduce sanctions for the misuse of an assumed identity. Under this amendment, an authorised person is guilty of an offence punishable by a maximum penalty of two years if the person's acquisition or use of an assumed identity is not in the course of duty or is not in accordance with an authorisation condition. Examples of misuse of an assumed identity include obtaining a financial advantage by deception, evasion of fines and credit card fraud.

Clause 33 of the bill introduces sanctions for the disclosure of information that endangers the health and safety of a person or prejudices the effective conduct of an operation. Assumed identities are typically used in sensitive operations against organised crime, and undercover officers who rely on assumed identities are placed at grave risk if there is a breach of security. A maximum penalty of 10 years' imprisonment is therefore appropriate. Achieving cross-border recognition is the fundamental purpose of this bill.

Therefore the bill has adopted all model law provisions that allow for cross-border recognition of assumed identities. Clauses 27 and 28 of the bill allow for requests to and from a participating jurisdiction for evidence of an assumed identity. This enables, for instance, the New South Wales Police Force to request a drivers licence registry in another jurisdiction to issue a drivers licence in the assumed name of an undercover officer from the New South Wales Police Force. This is a key feature of the cross-border regime. Clause 30 of the bill requires a law enforcement agency to indemnify the issuing agency of a participating jurisdiction for any liability incurred by the agency or officer. Clause 31 of the bill allows for an assumed identity authority granted by a law enforcement agency in a participating jurisdiction to be recognised as if it had been granted in the enacting jurisdiction. For example, an authority validly granted by the New South Wales Police Force would be a corresponding authority for Queensland purposes and recognised in Queensland.

I will now outline some amendments that replicate the national model with minor modifications. These modifications will not affect cross-border benefits. Clause 10 of the bill refers to the yearly review of assumed identities. The current review process for the New South Wales Police Force more than adequately meets the model law provision for a yearly review. However, so other jurisdictions will adopt this model law provision, clause 10 will introduce the requirement for a yearly review of assumed identities that are used in a participating jurisdiction other than New South Wales. Similarly, clause 37 of the bill refers to an audit of records of which other jurisdictions have adopted the model law provision. In New South Wales there is currently an annual auditing requirement for assumed identities. This is considered sufficient. However, the bill will introduce the requirement for assumed identities that are used in a participating jurisdiction other than New South Wales to be audited at least once every six months while the authority is in force and once in the six months after the cancellation or expiry of the authority.

In summary, these new laws will reduce red tape for undercover investigations operating across State borders. This means that law enforcement agencies in New South Wales will no longer require additional paperwork, filling out applications under the laws of other States, and police will be able to obtain assumed identities more

quickly from other jurisdictions. These changes will improve the investigative capability of police operations. The new laws will also protect our police, raising the maximum sentence for endangering undercover officers from five to 10 years penalty. These laws are about our States and Territories working together to help each other pursue criminals, no matter where they try to hide. I commend the bill to the House.