



Queensland

Identification Laws Amendment Bill 2011



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2011

A Bill

for

An Act to amend the *Corrective Services Act 2006*, the *Oaths Act 1867*, the *Police Powers and Responsibilities Act 2000*, the *State Buildings Protective Security Act 1983* and the *Youth Justice Act 1992* for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Identification Laws Amendment Act 2011*. 4
5

Clause 2 Commencement 6

This Act commences on a day to be fixed by proclamation. 7

Part 2 Amendment of Corrective Services Act 2006 8
9

Clause 3 Act amended 10

This part amends the *Corrective Services Act 2006*. 11

Clause 4 Insertion of new ss 160A–160D 12

After section 160— 13

insert— 14

‘160A Removal of face coverings by visitors 15

‘(1) A corrective services officer may require a visitor to remove a face covering worn by the visitor to enable the following persons to see the visitor’s face— 16
17
18

(a) the corrective services officer; 19

(b) a person helping the corrective services officer under section 160B or 160C. 20
21

-
- ‘(2) A corrective services officer who requires a visitor to remove a face covering under this section must, as far as is reasonably practicable, ensure the following procedures are followed—
- (a) the corrective services officer must ask for the visitor’s cooperation;
 - (b) the viewing of the visitor’s face must be conducted—
 - (i) in a way that gives the visitor reasonable privacy if the visitor requests privacy; and
 - (ii) as quickly as is reasonably practicable;
 - (c) if relevant, the procedures under section 160B or 160C.
- ‘(3) It is sufficient compliance with a requirement made under subsection (1) if only so much of the face covering as prevents the visitor’s face from being seen is removed.
- ‘(4) A corrective services officer may not require a visitor to remove a face covering under subsection (1) if the visitor establishes, to the officer’s satisfaction, that the visitor has a special justification for not removing the face covering.
- ‘(5) For a requirement given under subsection (1) that is also a direction under section 163, it is a reasonable excuse for the visitor not to comply with the direction if, and only if, the visitor has a special justification for not removing the face covering.
- ‘(6) For subsections (4) and (5), a visitor has a special justification for not removing a face covering if—
- (a) the visitor has a genuine medical reason for not removing the face covering; or
 - (b) the visitor has a reason for not removing the face covering that is a reason prescribed under a regulation.
- ‘160B Same sex requirement for viewing**
- ‘(1) This section applies if the visitor in section 160A is a visitor who is 12 years or more.

[s 4]

- ‘(2) If the visitor requests it, the viewing of the visitor’s face must be conducted—
- (a) by a corrective services officer of the same sex as the visitor; or
 - (b) if there is no corrective services officer of the same sex available to conduct the viewing—by someone acting at the direction of the corrective services officer and of the same sex as the visitor.
- ‘160C Special requirements for visitors under 12**
- ‘(1) This section applies if the visitor in section 160A is a child who is under 12 years.
- ‘(2) The viewing of the face of the child may be conducted only if an adult accompanying the child is present during the viewing.
- ‘(3) If the adult accompanying the child requests it, the viewing of the child’s face must be conducted—
- (a) by a female corrective services officer; or
 - (b) if there is no female corrective services officer available to conduct the viewing—by a female person acting at the direction of the corrective services officer.
- ‘160D Warning to comply with requirement**
- ‘(1) This section applies if a corrective services officer—
- (a) intends to require a visitor, under section 160A, to remove a face covering; and
 - (b) considers that in the circumstances the requirement is a direction under section 163.
- ‘(2) Before giving the direction, the corrective services officer must warn the visitor that it is an offence not to comply with the direction, unless the visitor has a special justification for not removing the face covering.’.

[s 9]

Maximum penalty—20 penalty units. 1

‘(2) A person who is asked to take a declaration (the *first person*) 2
may ask a person who is seeking to make a declaration (the 3
second person) to remove so much of a face covering worn by 4
the second person as prevents the first person from seeing the 5
second person’s face. 6

‘(3) A contravention of subsection (1) does not affect the validity 7
of a declaration. 8

‘(4) In this section— 9

face means a person’s face— 10

(a) from the top of the forehead to the bottom of the chin; 11
and 12

(b) between (but not including) the ears. 13

face covering means an item of clothing, helmet, mask or any 14
other thing that is worn by a person and prevents the person’s 15
face from being seen (whether fully or partly). 16

take includes receive.’. 17

Clause 9 Insertion of new s 41A 18

After section 41— 19

insert— 20

‘41A Viewing face of person making affidavit 21

‘(1) A person who takes an affidavit must see the face of the 22
person making the affidavit. 23

Maximum penalty—20 penalty units. 24

‘(2) A person who is asked to take an affidavit (the *first person*) 25
may ask a person who is seeking to make an affidavit (the 26
second person) to remove so much of a face covering worn by 27
the second person as prevents the first person from seeing the 28
second person’s face. 29

‘(3) A contravention of subsection (1) does not affect the validity 30
of an affidavit. 31

- ‘(4) In this section— 1
face means a person’s face— 2
(a) from the top of the forehead to the bottom of the chin; 3
and 4
(b) between (but not including) the ears. 5
face covering means an item of clothing, helmet, mask or any 6
other thing that is worn by a person and prevents the person’s 7
face from being seen (whether fully or partly). 8
take includes receive and swear.’. 9

Part 4 **Amendment of Police Powers and Responsibilities Act 2000** 10
11

- Clause 10** **Act amended** 12
This part amends the *Police Powers and Responsibilities Act* 13
2000. 14
- Clause 11** **Amendment of ch 2, pt 4, div 1, hdg (Powers relating to name and address)** 15
Chapter 2, part 4, division 1, heading, ‘and address’— 16
omit, insert— 17
‘, address and identity’. 18
19
- Clause 12** **Insertion of new ss 41A–41B** 20
Chapter 2, part 4, division 1— 21
insert— 22

[s 12]

‘41A Power of police officer to require removal of face coverings for identification purposes	1 2
‘(1) A police officer may require a person to remove a face covering worn by the person to enable the officer or another police officer to see the person’s face if—	3 4 5
(a) the person has been lawfully required by the officer requiring the removal of the covering to give photographic identification of the person under this or another Act; or	6 7 8 9
<i>Example of a lawful requirement to give photographic identification of the person—</i>	10 11
a requirement under section 58 to produce the person’s driver licence for inspection	12 13
(b) the person has been lawfully required by the officer requiring the removal of the covering to give the person’s name, address or date of birth under this or another Act.	14 15 16 17
<i>Example of a lawful requirement to give the person’s name or address—</i>	18 19
a requirement under section 40 to state the person’s correct name and address	20 21
<i>Example of a lawful requirement to give the person’s date of birth—</i>	22 23
a requirement under section 42 to state the person’s correct date of birth	24 25
<i>Note—</i>	26
Failure to comply with a requirement under this section is an offence against section 791.	27 28
‘(2) A requirement may be made of a person under this section based on a lawful requirement of a kind mentioned in subsection (1)(a) or (b) whether or not the person has complied with that lawful requirement.	29 30 31 32
‘(3) A police officer who requires a person to remove a face covering under this section must, as far as is reasonably practicable, ensure the following procedures are followed—	33 34 35
(a) the police officer must ask for the person’s cooperation;	36

-
- (b) the viewing of the person’s face must be conducted— 1
- (i) in a way that gives the person reasonable privacy if 2
the person requests privacy; and 3
- (ii) as quickly as is reasonably practicable. 4
- ‘(4) It is sufficient compliance with a requirement made under this 5
section if only so much of the face covering as prevents the 6
person’s face from being seen is removed. 7
- ‘(5) The removal of a face covering in compliance with a 8
requirement made under this section, or the viewing of a 9
person’s face after the removal, is not the carrying out of a 10
search of a person under this Act. 11
- ‘(6) It is a reasonable excuse for the person not to comply with the 12
requirement if, and only if, the person has a special 13
justification for not removing the face covering. 14
- ‘(7) For subsection (6), a person has a special justification for not 15
removing a face covering if— 16
- (a) the person has a genuine medical reason for not 17
removing the face covering; or 18
- (b) the person has a reason for not removing the face 19
covering that is a reason prescribed under a regulation. 20
- ‘(8) In a prosecution against a person for a failure to comply with a 21
requirement under this section, the person bears the onus of 22
proving that the person has a special justification for not 23
removing a face covering. 24
- ‘(9) In this section— 25
- lawfully required* means lawfully required or requested to 26
give the identification or information concerned in 27
circumstances where a failure to comply with a requirement 28
or request of that kind may form an offence. 29
- photographic identification* includes the following— 30
- (a) a driver licence (wherever issued); 31
- (b) a passport (wherever issued); 32

[s 13]

- (c) another licence, permit or authority bearing a photograph of its holder (wherever issued); 1
2
- (d) another identification with a photograph that is identification of a kind prescribed under a regulation. 3
4

‘41B Monitoring 5

- ‘(1) The CMC must monitor the use by police officers of the power under section 41A for 1 year after this section commences and prepare a report on the monitoring. 6
7
8
- ‘(2) The conduct of the monitoring and the preparation of the report is a function of the CMC for the *Crime and Misconduct Act 2001*. 9
10
11
- ‘(3) In the course of preparing the report, the CMC must consult with the Minister. 12
13
- ‘(4) As soon as practicable after the monitoring has ended, the CMC must give a copy of the report to the Speaker for tabling in the Legislative Assembly.’. 14
15
16

Clause 13 Amendment of s 637 (Supplying police officer’s details) 17

- Section 637(1)— 18
- insert*— 19
- ‘(j) requires a person to remove a face covering under section 41A.’. 20
21

Clause 14 Amendment of sch 6 (Dictionary) 22

- Schedule 6— 23
- insert*— 24
- ‘face** means a person’s face— 25
- (a) from the top of the forehead to the bottom of the chin; 26
and 27
- (b) between (but not including) the ears. 28

face covering means an item of clothing, helmet, mask or any other thing that is worn by a person and prevents the person's face from being seen (whether fully or partly).'

Part 5 **Amendment of State Buildings Protective Security Act 1983**

- Clause 15 Act amended**
- This part amends the *State Buildings Protective Security Act 1983*.
- Clause 16 Amendment of s 3 (Definitions)**
- Section 3—
insert—
'face means a person's face—
(a) from the top of the forehead to the bottom of the chin;
and
(b) between (but not including) the ears.'
- Clause 17 Insertion of new ss 20A–20C**
- After section 20—
insert—
- '20A Power to require removal of face covering in court building**
- '(1) This section applies to a person in, or about to enter, a state building used for a court of the State.
- '(2) A senior protective security officer may direct the entrant to remove a face covering worn by the entrant to enable the following persons to see the entrant's face—

[s 17]

- (a) the senior protective security officer; 1
- (b) a person helping the senior protective security officer 2
under section 20B or 20C. 3
- ‘(3) A senior protective security officer who requires an entrant to 4
remove a face covering under this section must, as far as is 5
reasonably practicable, ensure the following procedures are 6
followed— 7
 - (a) the security officer must ask for the entrant’s 8
cooperation; 9
 - (b) the viewing of the entrant’s face must be conducted— 10
 - (i) in a way that gives the entrant reasonable privacy if 11
the entrant requests privacy; and 12
 - (ii) as quickly as is reasonably practicable; 13
 - (c) if relevant, the procedures under section 20B or 20C. 14
- ‘(4) A senior protective security officer may not require an entrant 15
to remove a face covering under subsection (2) if the entrant 16
establishes, to the officer’s satisfaction, that the entrant has a 17
special justification for not removing the face covering. 18
- ‘(5) For subsection (4), an entrant has a special justification for not 19
removing a face covering if— 20
 - (a) the entrant has a genuine medical reason for not 21
removing the face covering; or 22
 - (b) the entrant has a reason for not removing the face 23
covering that is a reason prescribed under a regulation. 24
- ‘(6) It is sufficient compliance with a direction made under this 25
section if only so much of the face covering as prevents the 26
entrant’s face from being seen is removed. 27
- ‘(7) In this section— 28
 - face covering* means an item of clothing, helmet, mask or any 29
other thing that is worn by a person and prevents the person’s 30
face from being seen (whether fully or partly). 31

‘20B	Same sex requirement for viewing	1
‘(1)	This section applies if the entrant in section 20A is a person who is 12 years or more.	2 3
‘(2)	If the entrant requests it, the viewing of the entrant’s face must be conducted—	4 5
(a)	by a senior protective security officer of the same sex as the entrant; or	6 7
(b)	if there is no senior protective security officer of the same sex available to conduct the viewing—by someone acting at the direction of the senior protective security officer and of the same sex as the entrant.	8 9 10 11
‘20C	Special requirements for entrants under 12	12
‘(1)	This section applies if the entrant in section 20A is a child who is under 12 years.	13 14
‘(2)	The viewing of the face of the child may be conducted only if an adult accompanying the child is present during the viewing.	15 16 17
‘(3)	If the adult accompanying the child requests it, the viewing of the child’s face must be conducted—	18 19
(a)	by a female senior protective security officer; or	20
(b)	if there is no female senior protective security officer available to conduct the viewing—by a female person acting at the direction of the senior protective security officer.’.	21 22 23 24
Clause 18	Amendment of s 21D (Direction by senior protective security officer to leave building)	25 26
	Section 21D(1)(a), before ‘21(3)’—	27
	<i>insert—</i>	28
	‘20A(2),’.	29

[s 19]

Clause 19	Amendment of s 21H (Various limits on security officer examining outer garment)	1 2
	Section 21H, before ‘only’—	3
	<i>insert—</i>	4
	‘under section 21A’.	5
Clause 20	Amendment of s 23 (Refusal of entry to and removal from building)	6 7
	Section 23, before ‘21(3)’—	8
	<i>insert—</i>	9
	‘20A(2),’.	10

Part 6	Amendment of Youth Justice Act 1992	11 12
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Clause 21	Act amended	13
	This part amends the <i>Youth Justice Act 1992</i> .	14
Clause 22	Insertion of new ss 272A–272C	15
	After section 272—	16
	<i>insert—</i>	17
	‘272A Removal of face coverings by visitors	18
	‘(1) The chief executive may refuse entry to a detention centre to a person, or may ask a person to leave a detention centre immediately, if the person refuses to comply with a request made under this section.	19 20 21 22
	‘(2) An approved person may ask a visitor to remove a face covering worn by the visitor to enable the following persons to see the visitor’s face—	23 24 25

-
- (a) the approved person; 1
- (b) a person helping the approved person under section 272B or 272C. 2
3
- ‘(3) An approved person who asks a visitor to remove a face covering under this section must, as far as is reasonably practicable, ensure the following procedures are followed— 4
5
6
- (a) the approved person must ask for the visitor’s cooperation; 7
8
- (b) the viewing of the visitor’s face must be conducted— 9
- (i) in a way that gives the visitor reasonable privacy if the visitor requests privacy; and 10
11
- (ii) as quickly as is reasonably practicable; 12
- (c) if relevant, the procedures under section 272B or 272C. 13
- ‘(4) It is sufficient compliance with a request made under this section if only so much of the face covering as prevents the visitor’s face from being seen is removed. 14
15
16
- ‘(5) An approved person may not require a visitor to remove a face covering under subsection (2) if the visitor establishes, to the approved person’s satisfaction, that the visitor has a special justification for not removing the face covering. 17
18
19
20
- ‘(6) For subsection (5), a visitor has a special justification for not removing a face covering if— 21
22
- (a) the visitor has a genuine medical reason for not removing the face covering; or 23
24
- (b) the visitor has a reason for not removing the face covering that is a reason prescribed under a regulation. 25
26
- ‘(7) A police officer or a member of the staff of a detention centre may, using force that is reasonable and necessary, remove from the centre a visitor who refuses to leave the centre immediately when requested to leave under this section 27
28
29
30
- ‘(8) In this section— 31

[s 23]

face covering means an item of clothing, helmet, mask or any other thing that is worn by a person and prevents the person's face from being seen (whether fully or partly). 1
2
3

'272B Same sex requirement for viewing 4

'(1) This section applies if the visitor in section 272A is a visitor who is 12 years or more. 5
6

'(2) If the visitor requests it, the viewing of the visitor's face must be conducted— 7
8

(a) by an approved person of the same sex as the visitor; or 9

(b) if there is no approved person of the same sex available to conduct the viewing—by someone acting at the direction of the approved person and of the same sex as the visitor. 10
11
12
13

'272C Special requirements for visitors under 12 14

'(1) This section applies if the visitor in section 272A is a child who is under 12 years. 15
16

'(2) The viewing of the face of the child may be conducted only if an adult accompanying the child is present during the viewing. 17
18
19

'(3) If the adult accompanying the child requests it, the viewing of the child's face must be conducted— 20
21

(a) by a female approved person; or 22

(b) if there is no female approved person available to conduct the viewing—by a female person acting at the direction of the approved person.' 23
24
25

Clause 23 Amendment of sch 4 (Dictionary) 26

Schedule 4— 27

insert— 28

'approved person means the chief executive or a member of
the staff of a detention centre. 1
2

face means a person's face— 3

(a) from the top of the forehead to the bottom of the chin; 4
and 5

(b) between (but not including) the ears.' 6