

**PROTECTION OF INFORMATION (ENTRY REGISTRATION INFORMATION
RELATING TO COVID-19 AND OTHER INFECTIOUS DISEASES) BILL 2021**

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Matthew Swinbourn (Parliamentary Secretary)**, read a first time.

Second Reading

HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary) [10.15 pm]: I move —

That the bill be now read a second time.

The bill I lay before the house today will strengthen a critical tool in our fight against the COVID-19 pandemic—our contact registration system. It continues the McGowan Labor government’s commitment to keep the people of Western Australia safe and strong as we manage the risks posed by this ongoing global emergency.

Since the beginning of the COVID-19 pandemic, we have been working tirelessly to ensure the continued safety of the people of Western Australia. To date, the government’s response to the pandemic has proved to be highly effective and has made us one of the safest places in the world. Our success in keeping COVID-19 out of Western Australia, and swiftly containing potential outbreaks, has allowed us to experience freedoms that have, at times, been the envy of not only the nation, but the world. This success has also created the conditions for our economy to thrive, and we have seen a strong recovery accompanied by high levels of business and industry confidence. It is well understood that these are extraordinary times, and, like other jurisdictions around the globe, we have been operating in a rapidly changing and unpredictable environment. We have had to respond quickly to the challenges that are presented to us, and I commend all Western Australians for their resilience and adaptability.

Since the commencement of the pandemic, we have put in place measures that no-one would have imagined two years ago. One of the critical measures in our state’s response to this pandemic is contact tracing. In December 2020, we introduced the requirement for mandatory contact registration—referred to in the bill as “entry registration”, the term I will use from here on—at specified venues. Since then, based on learnings from our own and other jurisdictions, we have continued to improve and strengthen entry registration and tracing arrangements in the state. This included expanding the businesses and venues captured by the entry registration requirements, for example to retailers, and introducing a mutual responsibility requirement in January 2021.

Entry registration is a truly whole-of-community effort to keep our state safe. In 2020, the WA Department of Health developed the SafeWA app to make it easier for people to register their attendance at various venues. Currently around 1.93 million users are registered with SafeWA. There are 77 000 businesses, 100 000 venues and almost 126 000 locations registered with SafeWA. Quick and effective access to detailed entry registration information plays a critical role in our “go hard and go early” approach, which has been highly successfully in our containment of potential outbreaks.

People will remember well the lockdowns that parts of the state have had to endure since the start of 2021. A short, sharp lockdown in the event of a potential outbreak of COVID-19, when critical information such as the source of infection or number of people exposed may be unknown, serves two main purposes: first, to swiftly determine the nature and extent of the threat, and, secondly, to minimise the risk of further community transmission. As those earlier lockdowns have proven, we must put an enormous amount of faith in our contact tracers, whose effectiveness depends heavily on our use of the entry registration system as we go about our daily lives. The strength of these arrangements is, therefore, a huge factor in our ability to ease lockdowns and quickly return to normal social, community and economic activity.

The number of scans on SafeWA has fallen. I note that *The West Australian* has recently reported on this. Although Western Australia is not alone in reporting falling compliance rates, a decline in entry registration increases the chances of longer lockdowns and more severe restrictions in the event of an outbreak. I implore all individuals to continue to check in whenever they visit a business or other public venue. The importance of this small act, which takes minimal time and effort on our part, on our ability to keep the state safe cannot be overstated.

Any issue that compromises our contact tracing effort is of concern. The government made a commitment that entry registration information would be used only for contact tracing purposes. In keeping with our intent, we are taking this opportunity to strengthen the protections in place relating to entry register information. In the information age, privacy is understandably a significant concern for the general public. The current contact register directions under the Emergency Management Act 2005 apply restrictions on the use of information gathered under that direction; that is, this information can be used only for the purpose of contact tracing or otherwise as permitted by law, or for another purpose if expressly provided, for example, in the case of multi-use registers like signing into a venue with a membership card. As various statutes establish powers to require or permit information to be disclosed, there is significant legal difficulty in further restricting the use of this information under an EMA direction.

Due to the critical importance of entry registration information in our outbreak response and recent evidence of declining use of contact registers, there is a need to shore up the use of this system. Although privacy is, of course, not the only factor that may affect the use of contact registers, public trust that access to their information is appropriately protected is likely to be a motivator in their compliance with this requirement over a long period. We are, therefore, taking the opportunity to apply a higher standard of restriction on the use of this information. This bill will introduce a strong, clear and comprehensive legislated framework for regulating the use of entry registration information. It will apply a higher level of protection to entry registration information than typically applies to confidential information gathered in the course of government activities, including in emergency situations. This is in recognition of the critical importance of this information in our public health response to this pandemic and the need to maintain public confidence in our entry registration arrangements.

This bill will remove the ability for information to be accessed for other purposes permitted by law. For example, the current arrangements allow for the Western Australia Police Force to gain access to information to assist with criminal investigations and prosecutions. This has occurred in two instances, both of which were for very serious crimes. The police force has an obligation to keep the WA community safe, and its access to entry registration information in these instances was lawful and consistent with this obligation. However, we recognise that the primary purpose of entry registration is to support contact tracing for public health purposes, and that the use of this information for other reasons may deter some people from using contact registers. In the interest of ensuring ongoing public confidence in this system, this bill will reassure the people of Western Australia that this information will be used exclusively for contact tracing purposes. This bill will clearly and definitively limit the use and disclosure of entry registration information for purposes relating only to contact tracing. This move recognises that the public health interest is paramount in these circumstances and must be prioritised over other considerations that would normally allow for lawful access to an individual's private information, such as law enforcement.

Not only will the bill impose additional limitations surrounding the access and use of this information, there will also be specified requirements for storing and disposing of this data. In practice, I expect that most businesses, if not all, are storing and disposing of records appropriately. The introduction of a storage and disposal requirement will formalise these arrangements. However, these provisions will not extend to the multi-use registers that some businesses maintain for their business-as-usual practices. These records would exist outside of the need for entry registration and would be subject to privacy restrictions that would allow them to be accessed—subject to appropriate checks and balances—to assist in a criminal investigation when necessary. This bill strikes an appropriate balance in strengthening the provisions relating to entry registration, without compromising standard business practices.

As with most legislation, there are penalties for noncompliance and breaches. Although these penalties are strong, they are considered appropriate in these circumstances. The provisions detailed within the bill are intended to apply to any information that has been collected since the introduction of mandatory contact registers on 5 December 2020. There will be limited exceptions to which these provisions will not apply. Specifically, the penalty provisions will not apply to entry registration information that has been provided under an order to produce to the extent that it is required to be used in evidence. This will be limited to the two criminal cases mentioned previously. This bill is intended to apply to all instances in which contact tracing is activated for a declared serious public health risk relating to an infectious disease. At this point in time, the serious public health risk that contact tracing is required for is COVID-19. Although we hope that we will not be in this situation again, or for some time, the government believes that the protections need to be in place for any time in which contact tracing may need to be activated.

Entry registration is one of the central planks in our ongoing fight against COVID-19—a key tool to reducing the risk of an uncontrolled outbreak of COVID-19 in WA—and the McGowan government is committed to ensuring the integrity of our entry registration system. The community and business sector each play significant roles in ensuring the continued use of entry registration, and this bill will provide additional assurances to promote ongoing compliance with this requirement.

Pursuant to standing order 126(1) I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does the bill, by reason of the subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and I table the explanatory memorandum.

[See paper [277](#).]

Debate adjourned, pursuant to standing orders.

House adjourned at 10.26 pm
