

**Enhancing Identity Verification and Border Processes
Legislation Bill**

Government Bill

As reported from the committee of the whole House

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Legislation Bill**

Key to symbols used in reprinted bill

As reported from the committee of the whole House

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Hon Amy Adams

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Contents

		Page
1	Title	5
2	Commencement	5
Part 1		
Amendments to Privacy Act 1993		
3	Principal Act	5
4	Section 96B amended (Relationship between this Part and other law relating to information sharing)	5
5	New section 97A inserted (Relationship between Part 10 and other law relating to information disclosure)	5
	97A Relationship between Part 10 and other law relating to information disclosure	6
<u>5A</u>	<u>Section 108 amended (Avoidance of controls on information matching through use of exceptions to information privacy principles)</u>	<u>6</u>
6	New Part 10A inserted	6
Part 10A		
Identity information		
	109A Purpose of Part	6
	109B Relationship between Part 10A and other law relating to information disclosure	6
	109C Interpretation	6
	109D Access by agencies to identity information	7
	109E Manner and form of access	7
	109EA Annual reporting of requirement	7

**Enhancing Identity Verification and Border Processes
Legislation Bill**

	109F	Amendment of Schedule 4A	8
7		New section 110A inserted (Relationship between Part 11 and other law relating to information disclosure)	8
	110A	Relationship between Part 11 and other law relating to information disclosure	8
8		New Schedule 4A inserted	8

Part 2

Amendments to other enactments

Subpart 1—Amendments to Births, Deaths, Marriages, and Relationships Registration Act 1995

9		Principal Act	8
10		Section 2 amended (Interpretation)	9
11		Section 78AA amended (Disclosure of birth information, death information, marriage information, civil union information, and name change information under approved information sharing agreement)	9
12		New section 78AB inserted (Disclosure of birth information, death information, marriage information, civil union information, and name change information for law enforcement purposes)	9
	78AB	Disclosure of birth information, death information, marriage information, civil union information, and name change information for law enforcement purposes	9

Subpart 1A—Amendments to Corrections Act 2004

12A		Principal Act	10
12B		Section 3 amended (Interpretation)	10
12C		Section 41 replaced (Photographing and measuring of prisoner)	10
	41	Collection of biometric information, etc, from prisoner	10
12D		Section 128 amended (Offences by prisoner)	11
12E		Section 202 amended (Regulations relating to safe custody of prisoners)	11

Subpart 2—Amendments to Customs and Excise Act 1996

13		Principal Act	11
14		Section 2 amended (Interpretation)	12
15		New sections 32D to 32F and cross-heading inserted	12

Information

	32D	Arrival and departure information	12
	32E	Verification of identity using biometric information	12
	32F	Detention of persons failing to comply with a direction under section 32E	13
16		Section 38Q amended (Part does not limit other access to or use of information)	14
17		Section 279 repealed (Arrival and departure information)	14

**Enhancing Identity Verification and Border Processes
Legislation Bill**

18	Section 280A amended (Interpretation)	14
19	Section 280C amended (Interpretation)	14
20	Section 280J amended (Defined terms for sections 280K and 280L)	14
21	Section 281 amended (Disclosure of information overseas)	14
22	Section 282 amended (Information that may be disclosed)	14
	Subpart 3—Amendment to Immigration Act 2009	
23	Principal Act	14
24	Section 4 amended (Interpretation)	14
	Subpart 4—Amendments to Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003	
25	Principal Act	15
26	Section 5 amended (Interpretation)	15
27	New section 62A inserted (Collection of biometric information from special care recipients)	15
	62A Collection of biometric information from special care recipients	15
28	New section 67A inserted (Special care recipients not to leave secure facility or depart from New Zealand without permission)	15
	67A Special care recipients not to leave secure facility or depart from New Zealand without permission	16
29	Section 110 amended (Meaning of care recipient who has escaped)	16
30	Section 150 amended (Regulations)	16
	<u>Subpart 4A—Amendment to Intelligence and Security Act 2017</u>	
<u>30A</u>	<u>Principal Act</u>	<u>16</u>
<u>30B</u>	<u>Section 282 amended (Section 200 amended (Restrictions on access to photographic images of driver licence holders))</u>	<u>17</u>
	Subpart 5—Amendment to Land Transport Act 1998	
31	Principal Act	17
<u>31A</u>	<u>Section 28 amended (Photographic driver licence)</u>	<u>17</u>
32	Section 200 replaced (Restrictions on access to photographic images of driver licence holders)	17
	200 Restrictions on access to photographic images of driver licence holders	17
	Subpart 6—Amendments to Mental Health (Compulsory Assessment and Treatment) Act 1992	
33	Principal Act	18
34	Section 2 amended (Interpretation)	18
35	New section 43A and cross-heading inserted	18
	<i>Collection of biometric information</i>	
	43A Collection of biometric information	18

**Enhancing Identity Verification and Border Processes
Legislation Bill**

36	New section 52A inserted (Special patients not to leave hospital or depart from New Zealand without permission)	19
	52A Special patients not to leave hospital or depart from New Zealand without permission	19
37	Section 53 amended (Escape and absence without leave)	20
38	Section 100 amended (Psychiatric security institutions)	20
39	Section 135 amended (Regulations)	20
	Subpart 7—Amendments to Parole Act 2002	
40	Principal Act	20
41	Section 4 amended (Interpretation)	20
42	Section 14 amended (Standard release conditions)	20
43	New section 14A inserted (Purpose of collecting biometric information under section 14(1)(fb))	20
	14A Purpose of collecting biometric information under section 14(1)(fb)	20
44	Section 107JA amended (Standard extended supervision conditions)	20
45	New section 107JB inserted (Purpose of collecting biometric information under section 107JA(1)(eb))	21
	107JB Purpose of collecting biometric information under section 107JA(1)(eb)	21
46	Parole Regulations 2002 amended	21
	Subpart 8—Amendments to Sentencing Act 2002	
47	Principal Act	21
48	Section 4 amended (Interpretation)	21
49	Section 49 amended (Standard conditions of supervision)	21
50	Section 54F amended (Standard conditions of intensive supervision)	21
50A	New section 59A inserted (Offender must allow collection of biometric information)	22
	59A Offender must allow collection of biometric information	22
51	Section 69E amended (Conditions of community detention during sentence term)	22
51A	Section 71 amended (Offences relating to breach of sentence of community work)	22
52	Section 80C amended (Detention conditions applying to offender sentenced to home detention)	22
53	Section 80O amended (Standard post-detention conditions)	22
54	New subpart 2C of Part 2 inserted	22
	Subpart 2C—Biometric information	
	80ZMA Purpose of collecting biometric information	23
55	Sentencing Regulations 2002 amended	23

	Subpart 9—Amendments to Victims’ Rights Act 2002	
56	Principal Act	23
57	New section 35B inserted (Notice of offender on temporary release escaping from lawful custody)	23
	35B Notice of offender on temporary release escaping from lawful custody	23
58	Section 41 amended (Effect of appointment of representative)	23
	Schedule 1	24
	New Schedule 4A inserted into Privacy Act 1993	
	Schedule 2	26
	Amendments to Parole Regulations 2002	
	Schedule 3	27
	Amendments to Sentencing Regulations 2002	

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Enhancing Identity Verification and Border Processes Legislation Act **2016**.
- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Amendments to Privacy Act 1993

- 3 Principal Act** 10
This **Part** amends the Privacy Act 1993 (the **principal Act**).
- 4 Section 96B amended (Relationship between this Part and other law relating to information sharing)**
 - (1) Replace the heading to section 96B with “**Relationship between Part 9A and other law relating to information disclosure**”. 15
 - (2) Replace section 96B(2)(b) with:
(b) this Part does not limit Part 10, **10A**, or 11.
- 5 New section 97A inserted (Relationship between Part 10 and other law relating to information disclosure)**
After section 97, insert: 20

97A Relationship between Part 10 and other law relating to information disclosure	
This Part does not—	
(a) limit the collection, use, or disclosure of personal information that—	
(i) is authorised or required by or under any enactment; or	5
(ii) is permitted by the information privacy principles:	
(b) limit Part 9A, 10A , or 11.	
5A Section 108 amended (Avoidance of controls on information matching through use of exceptions to information privacy principles)	
In section 108, replace “Where” with “Despite section 97A , if”.	10
6 New Part 10A inserted	
After section 109, insert:	
Part 10A Identity information	
109A Purpose of Part	15
The purpose of this Part is to authorise accessing agencies, when carrying out specified functions, to verify the identity of an individual by accessing identity information held about that individual by a holder agency.	
109B Relationship between Part 10A and other law relating to information disclosure	20
This Part does not—	
(a) limit the collection, use, or disclosure of personal information that—	
(i) is authorised or required by or under any enactment; or	
(ii) is permitted by the information privacy principles:	
(b) limit Part 9A, 10, or 11.	25
109C Interpretation	
In this Part,—	
access , in relation to a database, includes remote access to that database	
accessing agency means an agency specified in the first column of Schedule 4A	30
biometric information , in relation to a person, means information that comprises—	
(a) 1 or more of the following kinds of personal information:	
(i) a photograph of all or any part of the person’s head and shoulders:	

(ii) impressions of the person's fingerprints:	
(iii) a scan of the person's irises; and	
(b) an electronic record of the personal information that is capable of being used for biometric matching	
database means any information recording system <u>or facility</u> used by an agency to store information	5
holder agency means an agency specified in the third column of Schedule 4A	
identity information , in relation to an individual, means any information that identifies, or relates to the identity of, the individual, and includes (without limitation) the following information:	10
(a) the individual's biographical details (for example, the individual's name, address, date of birth, place of birth, and gender):	
(b) the individual's biometric information:	
(c) a photograph or visual image of the individual:	15
(d) details of the individual's—	
(i) New Zealand travel document; or	
(ii) certificate of identity:	
(e) details of any distinguishing features (including tattoos and birthmarks).	
109D Access by agencies to identity information	20
An accessing agency may, for the purpose specified in the second column of Schedule 4A opposite the name of the accessing agency, have access to an individual's identity information held by a holder agency specified in the third column of that schedule opposite the name of the accessing agency.	
109E Manner and form of access	25
(1) Access to identity information permitted under section 109D may be facilitated between a holder agency and an accessing agency in the manner agreed by the agencies (for example, by direct access to information stored in a holder agency's database, or by exchange of information between the agencies).	
(2) Identity information that is held by a holder agency and accessed by an accessing agency under section 109D may be made available to the accessing agency in the form agreed by the agencies.	30
109EA Annual reporting of requirement	
The chief executive of an accessing agency must include in every annual report prepared by the chief executive for the purposes of section 43 of the Public Finance Act 1989, or any other applicable enactment requiring an annual report to Parliament, details of the operation of this Part and Schedule 4A .	35

109F Amendment of Schedule 4A

- (1) The Governor-General may, by Order in Council made on the recommendation of the responsible Minister given after consultation with the Privacy Commissioner,—
- (a) add, remove, amend, or replace any item in **Schedule 4A**; or 5
 - (b) repeal **Schedule 4A** and substitute a new schedule.
- (2) Before recommending the making of an Order in Council facilitating access by an accessing agency to identity information held by a holder agency, the responsible Minister must be satisfied that—
- (a) the purpose for which the identity information is to be accessed relates to a specified function of the accessing agency; and 10
 - (b) the identity information to be accessed is no more than is reasonably necessary to enable the accessing agency to achieve that purpose; and
 - (c) any potential conflicts or inconsistencies between the sharing of personal information under **Schedule 4A** and any other enactment have been identified and appropriately addressed. 15

7 New section 110A inserted (Relationship between Part 11 and other law relating to information disclosure)

After section 110, insert:

110A Relationship between Part 11 and other law relating to information disclosure 20

This Part does not—

- (a) limit the collection, use, or disclosure of personal information that—
 - (i) is authorised or required by or under any enactment; or
 - (ii) is permitted by the information privacy principles: 25
- (b) limit Part 9A, 10, or **10A**.

8 New Schedule 4A inserted

After Schedule 4, insert the **Schedule 4A** set out in **Schedule 1** of this Act.

Part 2

Amendments to other enactments 30

Subpart 1—Amendments to Births, Deaths, Marriages, and Relationships Registration Act 1995

9 Principal Act

This **subpart** amends the Births, Deaths, Marriages, and Relationships Registration Act 1995 (the **principal Act**). 35

10 Section 2 amended (Interpretation)

In section 2, insert in their appropriate alphabetical order:

approved information sharing agreement and **information sharing agreement** have the meanings given to them by section 96C of the Privacy Act 1993

non-disclosure direction means a direction made by the Registrar-General on a request under section 75A(2)(b) that a person's birth information, marriage information, civil union information, or name change information not be disclosed to the public

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11 Section 78AA amended (Disclosure of birth information, death information, marriage information, civil union information, and name change information under approved information sharing agreement)

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Repeal section 78AA(5).

12 New section 78AB inserted (Disclosure of birth information, death information, marriage information, civil union information, and name change information for law enforcement purposes)

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After section 78AA, insert:

78AB Disclosure of birth information, death information, marriage information, civil union information, and name change information for law enforcement purposes

(1) This section applies if a specified agency has reason to suspect that a particular individual—

20

(a) is, or is liable to be, detained under an enactment:

(b) is, or is liable to be, arrested under a warrant issued by a court or any Registrar:

(c) is contravening, or is about to contravene, an enactment or a court order:

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(d) is liable to be prosecuted for an offence punishable by imprisonment:

(e) is, or is liable to be, detained or arrested in respect of a traffic offence:

(f) is endangering, or is threatening to endanger, the life, health, or safety of a person or group of persons:

(g) is injured or dead.

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(2) If this section applies, the Registrar-General may, despite the existence or absence of an approved information sharing agreement, share the following personal information about the particular individual with the specified agency:

(a) birth information:

(b) death information:

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(c) marriage information:

(d) civil union information:

- (e) name change information.
 - (3) This section does not limit section 74, 78A, or 78AA.
 - (4) **Subsection (1)** applies whether or not a non-disclosure direction is in force in respect of any or all of the personal information about an identifiable individual referred to in that subsection. 5
 - (5) For the purposes of this section, **specified agency** means any of the following:
 - (a) the Department of Corrections:
 - (b) the Department of Internal Affairs:
 - (c) the part of the Ministry of Business, Innovation, and Employment that administers the Immigration Act 2009: 10
 - (d) the Ministry of Justice:
 - (e) the Ministry of Transport:
 - (f) the New Zealand Customs Service:
 - (g) the New Zealand Police:
 - (h) the New Zealand Transport Agency. 15
- Compare: 1993 No 28 s 97; 1996 No 27 s 32C(1); 2009 No 51 s 4

Subpart 1A—Amendments to Corrections Act 2004

12A Principal Act

This **subpart** amends the Corrections Act 2004 (the **principal Act**).

12B Section 3 amended (Interpretation) 20

In section 3(1), insert in its appropriate alphabetical order:

biometric information has the same meaning as in section 2(1) of the Customs and Excise Act 1996

12C Section 41 replaced (Photographing and measuring of prisoner) 25

Replace section 41 with:

41 Collection of biometric information, etc, from prisoner

- (1) An officer may direct that a prisoner submit to—
 - (a) photographs being taken of the prisoner:
 - (b) biometric information being collected from the prisoner:
 - (c) measurements being taken from the prisoner: 30
 - (d) any other prescribed procedure designed to create a record to enable the subsequent identification of the prisoner.
- (2) No procedure that purports to authorise the taking of a bodily sample from a prisoner may be prescribed for the purposes of **subsection (1)(d)**.

- (3) The powers conferred by **subsection (1)**—
- (a) may be exercised only for the purpose of—
 - (i) facilitating the management and security of the prison; and
 - (ii) verifying the identity of prisoners upon release into the community to ensure public safety; and
 - (b) must be exercised subject to the provisions of this Act and any other enactment.
- (4) If necessary, reasonable force may be used by an officer to compel the prisoner to submit to the taking of photographs, the collection of biometric information, the taking of measurements, or other prescribed procedures.
- (5) The chief executive must ensure that, if the prisoner is a person accused of an offence and subsequently acquitted, all information collected or taken from the prisoner under this section during the prisoner's detention in respect of the charge, and any record of identifying information created in reliance on **subsection (1)** during that period, are immediately destroyed.

12D Section 128 amended (Offences by prisoner)

Replace section 128(1)(m) with:

- (m) contrary to a direction given under **section 41**, refuses to submit to—
- (i) photographs being taken of the prisoner:
 - (ii) biometric information being collected from the prisoner:
 - (iii) measurements being taken from the prisoner:
 - (iv) any other prescribed procedure designed to create a record to enable the subsequent identification of the prisoner.

12E Section 202 amended (Regulations relating to safe custody of prisoners)

Replace section 202(c) with:

- (c) regulating—
- (i) the photographing of prisoners:
 - (ii) the collection of biometric information from prisoners:
 - (iii) the taking of measurements from prisoners:
- (ca) prescribing procedures to enable the identification of prisoners other than those that may be regulated under **paragraph (c)**:

Subpart 2—Amendments to Customs and Excise Act 1996

13 Principal Act

This **subpart** amends the Customs and Excise Act 1996 (the **principal Act**).

14 Section 2 amended (Interpretation)

In section 2(1), insert in their appropriate alphabetical order:

biometric information, in relation to a person, means information that comprises—

- (a) 1 or more of the following kinds of information: 5
 - (i) a photograph of all or any part of the person’s head and shoulders:
 - (ii) impressions of the person’s fingerprints:
 - (iii) a scan of the person’s irises; and
- (b) an electronic record of the information that is capable of being used for biometric matching 10

personal information means information about an identifiable person (including, without limitation, biometric information)

15 New sections 32D to 32F and cross-heading inserted

After section 32C, insert:

Information 15

32D Arrival and departure information

The Customs may, for the purposes of monitoring the movement of craft and persons, passenger and crew processing, and border security, collect and use the following information about craft and persons arriving in or departing from New Zealand: 20

- (a) details of craft movements including the craft name and registration number or identifier, estimated date and time of arrival or departure, and place of origin and destination; and
- (b) personal information including the person’s name, date of birth, gender, biometric information, passport number, nationality, and travel movements. 25

Compare: 1996 No 27 s 279

32E Verification of identity using biometric information

(1) A Customs officer may, during the processing of a person’s arrival in or departure from New Zealand, request that person to provide biometric information for the purpose of verifying the person’s identity using biometric matching. 30

(2) A person who fails to comply with a request made under **subsection (1)** may be directed by a Customs officer to remain in a designated place for either or both of the following purposes:

- (a) to enable the officer to make any inquiries necessary to establish the identity of the person: 35

- (b) to enable the officer to obtain the attendance of, or make inquiries of, another officer who is authorised, in respect of a matter specified in section 32C(1), to do 1 or more of the following:
- (i) question the person:
 - (ii) ascertain or determine the status of the person: 5
 - (iii) detain the person:
 - (iv) arrest the person.
- (3) A person must comply with a direction given to the person under **subsection (2)**.
- (4) A direction given to a person under **subsection (2)** ceases to have effect 4 hours after it is given. 10
- (5) In this section,—
- another officer** means—
- (a) a constable; or
 - (b) a bailiff; or 15
 - (c) an employee or agent of a department of State
- designated place** means—
- (a) a Customs controlled area; or
 - (b) a Customs place; or
 - (c) a place approved by the chief executive for the purposes of— 20
 - (i) the arrival of a craft in New Zealand; or
 - (ii) the departure of a craft from New Zealand.
- 32F Detention of persons failing to comply with a direction under section 32E**
- (1) A Customs officer may detain a person who fails to comply with a direction given under **section 32E(2)**. 25
- (2) A Customs officer may detain a person under this section only for either or both of the purposes specified in **section 32E(2)**.
- (3) A person must not be detained under this section for a period exceeding 4 hours.
- (4) Reasonable force may be used, if necessary, to detain a person under this section. 30
- (5) Nothing in this section prevents a person from—
- (a) being detained or further detained under another provision of this Act or under any other enactment if there are lawful grounds for that detention; or 35
 - (b) being arrested under section 174.

- (6) In this section, to **detain a person** includes to deliver the person to a Police station or into the custody of a constable.
- 16 Section 38Q amended (Part does not limit other access to or use of information)**
In section 38Q(e), replace “section 279” with “**section 32D**”. 5
- 17 Section 279 repealed (Arrival and departure information)**
Repeal section 279.
- 18 Section 280A amended (Interpretation)**
In section 280A, replace the definition of **identifying information** with:
identifying information means information that identifies, or relates to the identity of, a person, but does not include biometric information 10
- 19 Section 280C amended (Interpretation)**
In section 280C, replace the definition of **identifying information** with:
identifying information means information that identifies, or relates to the identity of, a person, but does not include biometric information 15
- 20 Section 280J amended (Defined terms for sections 280K and 280L)**
In section 280J, replace the definition of **identifying information** with:
identifying information means information that identifies, or relates to the identity of, a person, but does not include biometric information
- 21 Section 281 amended (Disclosure of information overseas)** 20
After section 281(1), insert:
- (1A) Despite subsection (1), the chief executive may not disclose biometric information relating to any person to an overseas agency, body, or person for the purpose of assisting the overseas agency, body, or person to perform the function specified in subsection (1)(d). 25
- 22 Section 282 amended (Information that may be disclosed)**
Replace section 282(1)(j) with:
(j) personal information:
- Subpart 3—Amendment to Immigration Act 2009
- 23 Principal Act** 30
This **subpart** amends the Immigration Act 2009 (the **principal Act**).
- 24 Section 4 amended (Interpretation)**
In section 4, replace the definition of **biometric information** with:

biometric information, in relation to a person, means information that comprises—

- (a) 1 or more of the following kinds of personal information:
 - (i) a photograph of all or any part of the person’s head and shoulders:
 - (ii) impressions of the person’s fingerprints: 5
 - (iii) a scan of the person’s irises; and
- (b) a record, whether physical or electronic, of the personal information that is capable of being used for biometric matching

Subpart 4—Amendments to Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 10

25 Principal Act

This **subpart** amends the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 (the **principal Act**).

26 Section 5 amended (Interpretation)

In section 5(1), insert in its appropriate alphabetical order: 15

biometric information has the same meaning as in section 2(1) of the Customs and Excise Act 1996

27 New section 62A inserted (Collection of biometric information from special care recipients)

After section 62, insert: 20

62A Collection of biometric information from special care recipients

- (1) This section provides for the collection of biometric information to—
 - (a) strengthen the management of special care recipients; and
 - (b) ensure the safety and security of special care recipients; and
 - (c) better manage the risk of special care recipients breaching **section 67A**. 25

- (2) A special care recipient must allow the collection of biometric information if directed by—
 - (a) the Director-General of Health; or
 - (b) the care manager for the special care recipient; or
 - (c) a compulsory care co-ordinator. 30

- (3) This section is subject to any regulations made under **section 150(ca)**.

28 New section 67A inserted (Special care recipients not to leave secure facility or depart from New Zealand without permission)

After section 67, insert:

67A Special care recipients not to leave secure facility or depart from New Zealand without permission	
(1) A special care recipient may not leave the secure facility in which the special care recipient is detained unless—	
(a) authorised by the Minister under section 66; or	5
(b) authorised by the Director-General under section 67.	
(2) A special care recipient may not depart from New Zealand unless—	
(a) the special care recipient is on authorised leave; and	
(b) the special care recipient is permitted by the Minister, on terms and conditions specified by the Minister, to be absent from New Zealand during that authorised leave; and	10
(c) the special care recipient’s departure from New Zealand is in accordance with the terms and conditions of the Minister’s permission given under paragraph (b) .	
(3) In subsection (2) ,—	15
authorised leave , in relation to a special care recipient, means leave from the secure facility in which the special care recipient is detained that is authorised under section 66 or 67	
depart includes—	
(a) attempt to depart:	20
(b) prepare to depart.	
29 Section 110 amended (Meaning of care recipient who has escaped)	
(1) After section 110(a), insert:	
(ab) who has breached any terms or conditions of authorised leave; or	
(2) In section 110(c), after “leave”, insert “; or”.	25
(3) After section 110(c), insert:	
(d) who has departed from New Zealand in contravention of section 67A(2) .	
30 Section 150 amended (Regulations)	
After section 150(c), insert:	30
(ca) restricting or otherwise regulating the collection under section 62A of biometric information from special care recipients:	
<u>Subpart 4A—Amendment to Intelligence and Security Act 2017</u>	
30A Principal Act	
<u>This subpart amends the Intelligence and Security Act 2017 (the principal Act).</u>	35

30B Section 282 amended (Section 200 amended (Restrictions on access to photographic images of driver licence holders))

In section 282, replace new section 200(1A) of the Land Transport Act 1998 with:

(1A) **Subsection (1)** is subject to—

- (a) subsections (2), (3), and (4);
- (b) section 141 of the Intelligence and Security Act 2017;
- (c) **Part 10A** of the Privacy Act 1993.

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Subpart 5—Amendment to Land Transport Act 1998

31 Principal Act

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This **subpart** amends the Land Transport Act 1998 (the **principal Act**).

31A Section 28 amended (Photographic driver licence)

Replace section 28(5) with:

(5) The agency—

- (a) must store the photographic image used for each licence until the licence expires; and
- (b) may store the photographic image used for each licence after the licence has expired.

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32 Section 200 replaced (Restrictions on access to photographic images of driver licence holders)

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Replace section 200 with:

200 Restrictions on access to photographic images of driver licence holders

- (1) Except as provided in this section or **Part 10A** of the Privacy Act 1993, no person other than a person acting in the course of the person's official duties as an employee of the agency may access or use any photographic image stored under section 28(5).
- (2) A person who is acting in the course of the person's official duties as an employee of the Department of Internal Affairs may access or use any photographic image stored under section 28(5) to verify the identity of a particular individual.
- (3) A person who is the next of kin of a deceased individual to whom a photographic image stored under section 28(5) relates may access the photographic image—
 - (a) on production to the Agency of—

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- (i) a death certificate (within the meaning of section 2 of the Births, Deaths, Marriages, and Relationships Registration Act 1995) relating to the death of the individual; or
 - (ii) the grant of probate of the will of the individual or of letters of administration to the individual's estate; and
- (b) only if the person who is seeking access to the photographic image satisfies the Agency that the person is the individual's next of kin.
- (4) A person who is acting in the course of the person's official duties as an employee of a specified agency may access or use any photographic image stored under section 28(5) to verify the identity of a particular individual for the purpose of law enforcement.
- (5) For the purposes of this section,—
next of kin includes a spouse, a civil union partner, and a de facto partner
specified agency means any of the following:
 - (a) the Department of Corrections:
 - (b) the part of the Ministry of Business, Innovation, and Employment that administers the Immigration Act 2009:
 - (c) the Ministry of Justice:
 - (d) the New Zealand Customs Service:
 - (e) the New Zealand Police.

Subpart 6—Amendments to Mental Health (Compulsory Assessment and Treatment) Act 1992

33 Principal Act

This **subpart** amends the Mental Health (Compulsory Assessment and Treatment) Act 1992 (the **principal Act**).

34 Section 2 amended (Interpretation)

In section 2(1), insert in its appropriate alphabetical order:

biometric information has the same meaning as in section 2(1) of the Customs and Excise Act 1996

35 New section 43A and cross-heading inserted

After section 43, insert:

Collection of biometric information

43A Collection of biometric information

(1) This section provides for the collection of biometric information to—

(a)	strengthen the management of special patients and restricted patients in hospitals; and	
(b)	ensure the safety and security of special patients and restricted patients; and	
(c)	better manage the risk of special patients and restricted patients breaching section 52A .	5
(2)	A person who is a special patient or a restricted patient must allow the collection of biometric information if directed by—	
(a)	the Director of Mental Health; or	
(b)	the Director of Area Mental Health Services; or	10
(c)	the person in charge of the hospital in which the patient is detained.	
(3)	This section is subject to any regulations made under section 135(1)(f) .	
36	New section 52A inserted (Special patients not to leave hospital or depart from New Zealand without permission)	
	After section 52, insert:	15
52A	Special patients not to leave hospital or depart from New Zealand without permission	
(1)	A special patient may not leave the hospital in which the special patient is detained unless—	
(a)	granted leave of absence by the Minister under section 50; or	20
(b)	granted leave of absence by the Director under section 52.	
(2)	A special patient may not depart from New Zealand unless—	
(a)	the special patient has been granted leave of absence under section 50 or 52; and	
(b)	the special patient is permitted by the Minister, on terms and conditions specified by the Minister, to be absent from New Zealand during that leave; and	25
(c)	the special patient’s departure from New Zealand is in accordance with the terms and conditions of the Minister’s permission given under paragraph (b) .	30
(3)	A special patient who contravenes subsection (2) must be treated as having escaped.	
(4)	In subsection (2) , depart includes—	
(a)	attempt to depart:	
(b)	prepare to depart.	35

- 37 Section 53 amended (Escape and absence without leave)**
In section 53, after “escapes,”, insert “or who breaches any condition of leave.”.
- 38 Section 100 amended (Psychiatric security institutions)**
Repeal section 100(4). 5
- 39 Section 135 amended (Regulations)**
Replace section 135(1)(f) with:
(f) restricting or otherwise regulating the collection under **section 43A** of biometric information from special patients and restricted patients:
Subpart 7—Amendments to Parole Act 2002 10
- 40 Principal Act**
This **subpart** amends the Parole Act 2002 (the **principal Act**).
- 41 Section 4 amended (Interpretation)**
In section 4(1), insert in its appropriate alphabetical order:
biometric information has the same meaning as in section 2(1) of the Customs and Excise Act 1996 15
- 42 Section 14 amended (Standard release conditions)**
After section 14(1)(f), insert:
(fa) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer: 20
(fb) the offender must, if a probation officer directs, allow the collection of biometric information:
- 43 New section 14A inserted (Purpose of collecting biometric information under section 14(1)(fb))**
After section 14, insert: 25
- 14A Purpose of collecting biometric information under section 14(1)(fb)**
Biometric information collected under **section 14(1)(fb)** may only be used for the purpose of helping—
(aa) to manage offenders to ensure public safety; and
(a) to identify offenders before they leave New Zealand; and 30
(b) to enforce the condition specified in **section 14(1)(fa)**.
- 44 Section 107JA amended (Standard extended supervision conditions)**
After section 107JA(1)(e), insert:

- (ea) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer:
- (eb) the offender must, if a probation officer directs, allow the collection of biometric information:
- 45 New section 107JB inserted (Purpose of collecting biometric information under section 107JA(1)(eb))** 5
- After section 107JA, insert:
- 107JB Purpose of collecting biometric information under section 107JA(1)(eb)**
- Biometric information collected under **section 107JA(1)(eb)** may only be used for the purpose of helping— 10
- (aa) to manage offenders to ensure public safety; and
- (a) to identify offenders before they leave New Zealand; and
- (b) to enforce the condition specified in **section 107JA(1)(ea)**.
- 46 Parole Regulations 2002 amended**
- Amend the Parole Regulations 2002 as set out in **Schedule 2**. 15
- Subpart 8—Amendments to Sentencing Act 2002
- 47 Principal Act**
- This **subpart** amends the Sentencing Act 2002 (the **principal Act**).
- 48 Section 4 amended (Interpretation)**
- In section 4(1), insert in its appropriate alphabetical order: 20
- biometric information** has the same meaning as in section 2(1) of the Customs and Excise Act 1996
- 49 Section 49 amended (Standard conditions of supervision)**
- After section 49(1)(f), insert:
- (fb) the offender must, if a probation officer directs, allow the collection of biometric information: 25
- 50 Section 54F amended (Standard conditions of intensive supervision)**
- After section 54F(1)(g), insert:
- (ga) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer: 30
- (gb) the offender must, if a probation officer directs, allow the collection of biometric information:

50A	New section 59A inserted (Offender must allow collection of biometric information)	
	After section 59, insert:	
59A	Offender must allow collection of biometric information	
	An offender who is subject to a sentence of community work must, if a probation officer directs, allow the collection of biometric information.	5
51	Section 69E amended (Conditions of community detention during sentence term)	
	After section 69E(1)(d), insert:	
	(da) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer:	10
	(db) the offender must, if a probation officer directs, allow the collection of biometric information:	
51A	Section 71 amended (Offences relating to breach of sentence of community work)	15
	After section 71(1)(a) insert:	
	(ab) fails, without reasonable excuse, to allow the collection of biometric information in accordance with section 59A ; or	
52	Section 80C amended (Detention conditions applying to offender sentenced to home detention)	20
	After section 80C(2)(c), insert:	
	(ca) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer:	
	(cb) the offender must, if a probation officer directs, allow the collection of biometric information:	25
53	Section 80O amended (Standard post-detention conditions)	
	After section 80O(e), insert:	
	(ea) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer:	
	(eb) the offender must, if a probation officer directs, allow the collection of biometric information:	30
54	New subpart 2C of Part 2 inserted	
	After section 80ZM, insert:	
	Subpart 2C—Biometric information	

80ZMA Purpose of collecting biometric information

- (1) Biometric information collected under **section 49(1)(fb), 54F(1)(gb), 59A, 69E(1)(db), 80C(2)(cb), or 800(eb)** may only be used for the purpose of helping—
- (aa) to manage offenders to ensure public safety; and
 - (a) to identify offenders before they leave New Zealand; and
 - (b) to enforce the conditions specified in **sections 49(1)(fa), 54F(1)(ga), 69E(1)(da), 80C(2)(ca), and 800(ea)**.
- (2) Biometric information may be used only for the purpose referred to in **subsection (1)**.

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55 Sentencing Regulations 2002 amended

Amend the Sentencing Regulations 2002 as set out in **Schedule 3**.

Subpart 9—Amendments to Victims' Rights Act 2002

56 Principal Act

This **subpart** amends the Victims' Rights Act 2002 (the **principal Act**).

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57 New section 35B inserted (Notice of offender on temporary release escaping from lawful custody)

After section 35A, insert:

35B Notice of offender on temporary release escaping from lawful custody

If the accused or offender is temporarily released from custody under section 62(1)(a) of the Corrections Act 2004, the chief executive of the Department of Corrections must give a victim to whom this section applies notice, as soon as practicable, of every instance the accused or offender is deemed to be unlawfully at large under section 63(3) of that Act.

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58 Section 41 amended (Effect of appointment of representative)

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In section 41, insert as subsection (2):

- (2) However, despite subsection (1)(b), if the information to which the appointment relates is a notice to be given to the victim under section 35(1)(b)(i), 35A(b)(i), **35B**, or 37(2)(c), that notice may be given to the victim directly in any case where the person giving the notice reasonably believes—
- (a) there is a risk to the victim's safety; and
 - (b) that risk cannot in the circumstances be sufficiently managed by giving the notice to the representative.

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**Schedule 1
New Schedule 4A inserted into Privacy Act 1993**

s 8

Schedule 4A		
Identity information		
ss 109D, 109F		
Accessing agency	Purpose of access	Holder agency
Department of Corrections	To verify the identity of— (a) a person under control or supervision (as defined in section 3(1) of the Corrections Act 2004); (b) a person who under section 30B of the Bail Act 2000 has been granted bail with an electronic monitoring condition	Department of Internal Affairs MBIE (Immigration) Ministry of Health and District Health Boards (only in relation to special patients, restricted patients, and special care recipients) Ministry of Justice New Zealand Police New Zealand Transport Agency
Department of Internal Affairs	To verify the identity of a person who has applied for— (a) the issue of— (i) a New Zealand travel document; (ii) a certificate of New Zealand citizenship; (iii) an electronic identity credential: (b) the registration of a name change	Department of Corrections MBIE (Immigration) Ministry of Health and District Health Boards (only in relation to special patients, restricted patients, and special care recipients) New Zealand Police New Zealand Transport Agency
MBIE (Immigration)	To verify the identity of a person— (a) who is seeking to travel to New Zealand; (b) who is arriving in or departing from New Zealand; (c) who is applying for a visa; (d) who an immigration officer has good cause to suspect— (i) has committed an offence against the Immigration Act 2009; (ii) has obtained a visa under a fraudulent identity:	Department of Corrections Department of Internal Affairs Ministry of Health and District Health Boards (only in relation to special patients, restricted patients, and special care recipients) Ministry of Justice New Zealand Customs Service New Zealand Police New Zealand Transport Agency

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Accessing agency	Purpose of access	Holder agency
	(iii) is liable for deportation or turnaround: (iv) is unlawfully in New Zealand	
Ministry of Health and District Health Boards	To verify the identity of a person who— (a) is being admitted, or returned, to a hospital as a special patient or restricted patient; or (b) is being admitted, or returned, to a secure facility as a special care recipient	Department of Corrections Department of Internal Affairs MBIE (Immigration) New Zealand Police
New Zealand Customs Service	To verify the identity of a person who— (a) is in a Customs controlled area; and (b) is departing, or attempting to depart, from New Zealand	Department of Corrections Department of Internal Affairs MBIE (Immigration) Ministry of Health and District Health Boards (only in relation to special patients, restricted patients, and special care recipients) New Zealand Transport Agency
New Zealand Police	To verify the identity of a person— (a) whose identifying particulars have been taken under section 32 or 33 of the Policing Act 2008: (b) whose identifying particulars have been taken under section 11 of the Returning Offenders (Management and Information) Act 2015: (c) who has breached, has attempted to breach, or is preparing to breach a condition of any sentence, or order imposed under any enactment, that the person not leave New Zealand	Department of Corrections Department of Internal Affairs MBIE (Immigration) Ministry of Health and District Health Boards (only in relation to special patients, restricted patients, and special care recipients) New Zealand Customs Service New Zealand Transport Agency

Note: A reference in this schedule to MBIE (Immigration) is a reference to the part of the Ministry of Business, Innovation, and Employment that administers the Immigration Act 2009.

Schedule 2

Amendments to Parole Regulations 2002

s 46

Schedule

In the Schedule, form 1, under the heading “**Standard release conditions**”, after paragraph (f), insert: 5

(fa) you must not leave or attempt to leave New Zealand without the prior written consent of a probation officer; and

(fb) you must, if a probation officer directs, allow the collection of biometric information; and 10

In the Schedule, form 2, under the heading “**Standard release conditions**”, after paragraph (f), insert:

(fa) you must not leave or attempt to leave New Zealand without the prior written consent of a probation officer; and

(fb) you must, if a probation officer directs, allow the collection of biometric information; and 15

In the Schedule, form 3, under the heading “**Standard release conditions**”, after paragraph (f), insert:

(fa) you must not leave or attempt to leave New Zealand without the prior written consent of a probation officer; and 20

(fb) you must, if a probation officer directs, allow the collection of biometric information; and

In the Schedule, form 4, under the heading “**Standard release conditions**”, after paragraph (f), insert:

(fa) you must not leave or attempt to leave New Zealand without the prior written consent of a probation officer; and 25

(fb) you must, if a probation officer directs, allow the collection of biometric information; and

Schedule 3 Amendments to Sentencing Regulations 2002

s 55

Schedule

In the Schedule, form 1, under the heading “**Standard conditions of sentence of supervision**”, after paragraph (f), insert: 5

(fb) the offender must, if a probation officer directs, allow the collection of biometric information:

In the Schedule, form 2, under the heading “**Standard conditions of sentence of intensive supervision**”, after paragraph (g), insert: 10

(ga) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer:

(gb) the offender must, if a probation officer directs, allow the collection of biometric information:

In the Schedule, form 3, under the heading “**Notes:**”, before the second first-level bullet point (which refers to section 60 of the Sentencing Act 2002), insert: 15

• in accordance with **section 59A** of the Sentencing Act 2002, you are required to allow the collection of biometric information if so directed by a probation officer:

In the Schedule, form 4, under the heading “**Standard conditions of sentence of community detention**”, after paragraph (d), insert: 20

(da) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer:

(db) the offender must, if a probation officer directs, allow the collection of biometric information: 25

In the Schedule, form 6, under the heading “**Standard conditions of sentence of home detention**”, after paragraph (c), insert:

(ca) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer:

(cb) the offender must, if a probation officer directs, allow the collection of biometric information: 30

In the Schedule, form 6, under the heading “**Standard post-detention conditions of sentence of home detention**”, replace “Section 80N” with “Section 80O”.

In the Schedule, form 6, under the heading “**Standard post-detention conditions of sentence of home detention**”, after paragraph (e), insert: 35

(ea) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer:

(eb) the offender must, if a probation officer directs, allow the collection of biometric information:

Legislative history

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13 March 2017
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15 August 2017

Introduction (Bill 147–1)
First reading and referral to Law and Order Committee
Reported from Law and Order Committee (Bill 147–2)
Second reading
Committee of the whole House (Bill 147–3)