

Conversion Practices Prohibition Bill 2026

Post-consultation changes

This document details changes that have been made between the consultation draft bill and the final bill (now tabled).

Criminal Offences

Child-specific offences

The feedback on the child-specific offences was decidedly mixed. Some submitters strongly supported retaining this due to the particular vulnerability of, and harm to, children. Other submitters opposed its inclusion on the grounds that for an offence against a child, injury did not need to be demonstrated.

Given the intent of the framework to limit criminal proceedings to serious conduct, we have decided to remove the child-specific offences.

However, given the volume of submissions outlining the serious harms conversion practices can cause to children, as well as informal feedback regarding other vulnerable cohorts, we have included provisions that provide that committing criminal offences against children or a person with diminished decision-making capacity is an aggravating factor for the offences.

In that instance, this would provide for increased penalties for such offending.

Conversion Practices offences

We received many differing submissions suggesting changes to the components of the two offences: 'conversion practices causing injury' and 'taking a person from Tasmania'.

Several of these recommendations, if accepted, would have raised the bar significantly higher than other offences that have been created in Australia, particularly Victoria.

While the intent of the bill's framework is to limit criminal proceedings to serious conduct, we also want to make sure the bar isn't so high that a prosecution becomes impractical.

Given that Victoria has thus far seen no prosecutions at all under their criminal provisions, we consider a higher bar than Victoria as unnecessary.

However, we also do not want to set a bar too low. On this basis we have decided to faithfully replicate the provisions of the offence in the Victorian legislation. The draft bill set the requirements for this offence as either causing injury or being reckless as to whether injury would be caused. The final bill has changed to: "causing injury and being negligent" as the elements needed for whether injury has been caused.

Functionally these mean that both elements must be met, rather than either. It also means that the second standard is 'negligence' rather than 'recklessness'.

Conversion Practices Definition

Health professionals exemption

The definition of registered health practitioner has been changed to include all professionals registered under the Health Practitioner Regulation National Law (Tasmania). In particular, nurses and psychologists are now included in the definition, and subject to the health professionals exemption. This reflects feedback received from multiple stakeholders.

The original exemption required two elements to be met: the reasonable professional judgement of the health professional, as well as compliance with legal, professional and ethic requirements. Consultation feedback consistently recommended replacing paragraph (a) (reasonable professional judgement), which was considered too subjective.

A range of potential replacements were recommended. We opted for the approach outlined in the Tasmania Law Reform Institute's paper, which requires a health service be conducted 'in good faith'. While still somewhat subjective, this is an extremely common legal test.

Avoidance of Doubt provisions

The original draft had a range of matters outlined under paragraph (c) that were not conversion practices *"provided the conduct is not engaged in as part of a conversion practice"*. This was based on similar wording from the NSW legislation. Common feedback was that this was quite circular, hard to understand, and unclear how it would function in practice.

We have restructured this into a separate subclause that operates as an avoidance of doubt provision. It now reads: *"for the avoidance of doubt, the following conduct does not, of itself, constitute a conversion practice"*.

Feedback also suggested a wide range of additional matters to be covered in this provision. In order to keep the size of this list manageable and reasonable, we focused on matters that were the most relevant, and would benefit the most from additional clarity.

The exemption now includes participation in public debate, as well as three matters directly relevant to health professionals: sharing information about treatment and non-treatment options; identity exploration without seeking to influence an outcome; and detransitioning.

Prohibition on Conversion Practices

General prohibition

A general prohibition on conversion practices is inserted. This is to provide certainty for administration of the Education, Prevention and Response Scheme (formerly Civil Response Scheme). This ensures provisions that rely on a contravention of the Act are actionable, and further clarifies that the Act prohibits conversion practices.

Positive duty

A considerable number of submissions called for the introduction of a 'positive duty'. This was also a provision called for by the Victorian Human Rights Commission (VHRC) in response to the review of their legislation. The provisions have been drafted based on the recommendations of the VHRC.

These provisions outline that people have a general duty to take reasonable and proportionate measures to eliminate conversion practices of themselves, or a person acting on their behalf (e.g. in organisations).

The positive duty does not give grounds to make a *report*, but a serious breach of the positive duty may give grounds for an *investigation*.

Relationship with other laws

A new clause 9 has been inserted to clarify the relationship between the bill and other Acts. These provisions are consequential to the new 'positive duty' and the general prohibition on conversion practices.

The provisions stipulate that no criminal or civil liability is created except as expressly provided by the bill. Principally this ensures that violation of either the 'positive duty' or the 'general prohibition on conversion practices' does not, of itself, give rise to criminal or civil liability.

Provisions also set out that compliance with this Act doesn't itself mean that requirements of other legislation has been met. This means that compliance with the positive duty does not preclude the need to comply with, for example, the Reportable Conduct Scheme under the *Child and Youth Safe Organisations Act 2023*, or requirements under the *Anti-Discrimination Act 1998*.

Definition of sexual orientation

Consultation feedback recommended that the definition of sexual orientation be amended to include a-sexual and a-romantic persons. We have adopted a definition proposed by the Anti-Discrimination Commissioner for this purpose.

Reports

Tribunal process

A Tasmanian Civil and Administrative Tribunal process has been introduced principally to respond to two unrelated themes from the consultation. This responds to recommendations for a financial compensation avenue, as well as an appeals avenue to allow people to clear their name of wrongdoing.

Like processes under the *Anti-Discrimination Act 1998*, the Commissioner can refer the report to the tribunal for assessment if they consider it appropriate. Likewise, an affected person or respondent can refer the report to the tribunal if they are not satisfied with the Commissioner's proposed response to the report.

The tribunal can order the Commissioner to respond to the report in a particular way, dismiss the report, order financial compensation to a victim, or make any other order they consider appropriate.

A matter cannot be referred to the tribunal if an agreement has been reached under the facilitation process. This is to ensure there is not a disincentive to meaningfully engage in the facilitation process.

Defining persons involved in reports

Clearer terms referring to persons involved in reports have been included to make the rights and responsibilities of each party clearer, and to assist with making the limited role of third-party reporters clear.

The terms are '*reporting person*', who is the person who lodges a report; '*respondent*', who is a person who is alleged to have engaged in a conversion practice; and an '*affected person*', who is alleged to have had a conversion practice directed against them.

Language has also been made consistent. For example, previously language mostly referred to conversion practices being 'directed towards' a person, however there were some references to conversion practices being 'carried out' on a person. Language now consistently refers to conversion practices being 'directed towards' a person.

Consideration of report

The language in clause 30 has been changed from "is satisfied" that a person has engaged in conversion practices to "considers that there are reasonable grounds to suspect" a person has engaged in conversion practices.

This language reflects that these provisions apply to the matters the Commissioner must consider during the report process, and therefore apply during the early stages when a report has been received, before the Commissioner has necessarily been satisfied that a conversion practice has occurred.

Referral to the Commissioner

Considerable consultation feedback recommended adding provisions requiring the referral of reports of conversion practices to the Commissioner.

Provisions have been inserted (clause 33) requiring the Health Complaints Commissioner, Commissioner for Children and Young People, Independent Regulator, Custodial Inspector, Commissioner of Police, Integrity Commission, Public Guardian, Chief Psychiatrist, and other prescribed persons to refer reports of conversion practices to the Commissioner.

Non-response to reports

The provisions allowing the Commissioner to not respond to a report have been amended to include the grounds that the conduct does not amount to a conversion practice. This was likely already covered by several provisions, including paragraph (d) and (f), however it was felt that clear grounds should be included in this regard.

Targeted education

The powers of the Commissioner to provide targeted education have been clarified to provide that the costs must be paid by the Commissioner, and the education may be delivered either by the Commissioner or through a third-party provider.

Investigations

Notifications

Provisions have been included to allow for notification to the subject of an investigation that an investigation has commenced. If the investigation arises from a report, the reporting person and affected persons may also be notified.

Similar provisions are included in clause 48 relating to the outcome of the investigation.

Exemption from information sharing

Based on consultation feedback, clarification has been inserted that a duty of confidentiality arising from law or professional relationships provides an exemption from sharing information with the Commissioner in the course of an investigation.

Self-incrimination

The investigation self-incrimination provisions (AKA abrogation of privilege) have been amended to ensure that the information obtained can't be used for proceedings related to the criminal offences under the Act, and only to proceedings arising from the false or misleading nature of the information or document.

Child and victim-centred provisions

Principles in respect of children

As a result of feedback, the principles of the Act now include an acknowledgement of the particular risks and harms conversion practices pose to children.

The principles for dealing with reports also include that responses should be developmentally appropriate, and the child should be supported in the participation and making of decisions affecting them.

Child and youth safe organisations

Laurel House recommended a broad review of legislation to consider a consistent application in respect of child abuse across legislation, as well as a stronger alignment with Tasmania's broader child safeguarding framework.

In conducting a review of relevant legislation, we identified amendments to the *Child and Youth Safe Organisations Act 2023* to include conversion practices as reportable conduct and to include the Conversion Practices Commissioner under the information sharing provisions.

Victim-centred provisions

The principles for dealing with reports now include that responses should be trauma-informed, culturally-safe and accessible, and that regard should be had to the privacy, safety and wishes of any person affected by the alleged conversion practices.

The matters to be considered in responding to a report also include provisions requiring the consideration of the ongoing safety and wellbeing of persons affected by conversion practices.

Notification of outcomes

Provisions allowing the Commissioner to not disclose information to a reporting person now also include that the Commissioner doesn't consider it appropriate to do so in the circumstances, having regard to the principles for dealing with reports and the matters to be considered in responding to a report.

Referral of reports

Under the original draft the Commissioner could only refer a report that isn't required to be referred under law, with the consent of each person affected by the alleged conversion practices. The Commissioner can now make a referral if one or more person does not consent, if they are satisfied that the referral is reasonably necessary to protect the safety or wellbeing of another person.

Support person

Based on recommendations from COTA, we have included provisions allowing a non-participating support person to attend a facilitation process. Given the voluntary nature of the process to all involved, this can only occur with the consent of each party.

General 'Education, Prevention & Response Scheme' matters

Conversion Practices Commissioner

Based on the feedback from the Anti-Discrimination Commissioner, we have established a new office of the Conversion Practices Commissioner.

This will make it clear that the Anti-Discrimination Commissioner and Conversion Practices Commissioner are distinct statutory roles.

Civil Response Scheme

Informal feedback suggested that the Civil Response Scheme's name was somewhat confusing. It did little to describe the scheme and had the potential to be confused with civil court matters. It has been renamed the Education, Prevention and Response Scheme (EPRS).

Relationship with historic conduct

Several provisions have been inserted relating to the relationship with historic conduct (which remains unactionable in the final bill).

Based on the recommendations of COTA, provisions have been inserted in the Commissioner's functions that provide for receiving and responding to historical conversion practices for the purposes of providing acknowledgement, information, support, research and education. This was recommended to provide that victims of historic conduct can receive information and referral to support services from the office of the Commissioner.

It has also been further clarified that while historic conduct can be used as background information for an investigation, it cannot be the subject of the investigation or a compliance or enforcement action.

Practice guidelines

Based on the feedback of the Anti-Discrimination Commissioner, we have replaced the requirement to give notice of guidelines in the Gazette, with requirements to publish on their website and circulate to persons to whom the guidelines are relevant.

Prejudicing proceedings

On the recommendation of the Health Complaints Commissioner, they have been included under clause 69 to prevent the prejudicing of proceedings.

Immunity provisions

Clarification has been included in the immunity provisions (clause 71) to clarify that the immunity provided in making a report does not apply to subsequent public communications on the matter.