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Submission on the Conversion Practices Prohibition Bill 2026

Thank you for the opportunity to comment on this draft Bill. This response has been approved by the Board of the Tasmania Law Reform Institute (TLRI). This submission is based on the recommendations of the TLRI contained in the *Sexual Orientation and Gender Identity Conversion Practices: Final Report 32* (2022). It also reflects its consideration of the privilege against self-incrimination contained in the *Commission of Inquiry Act 1995 (Tas)* and the *Evidence Act 2001 (Tas) s 194K: Research Paper 8* (2025).

About the Tasmania Law Reform Institute

The TLRI is Tasmania's peak independent law reform body. It was established on 23 July 2001 by agreement between the Government of the State of Tasmania, the University of Tasmania and The Law Society of Tasmania.

The work of the Institute is to conduct impartial and independent reviews or research on areas of law and legal policy in order to provide independent and impartial advice and recommendations on the area investigated, with a view to, or for the purposes of:

- the modernisation of the law; and/or
- the elimination of defects in the law; and/or
- the simplification of the law; and/or
- the consolidation of any laws; and/or
- the repeal of laws that are obsolete or unnecessary; and/or
- adopting new or more effective methods for administering the law and dispensing justice; and/or
- providing improved access to justice; and/or
- uniformity between laws of other states, territories and the Commonwealth; and/or
- the codification of laws; and/or
- promoting equality before the law.

The TLRI's 2022 Report: *Sexual Orientation and Gender Identity Conversion Practices: Final Report* 32

The TLRI's report made 16 recommendations for law reform in Tasmania in relation to Sexual Orientation and Gender Identity (SOGI) conversion practices, following the release of an Issues Paper in 2020 and community consultation. Conversion practices were considered to involve a course of conduct that aims to change, suppress or eradicate the sexual orientation or gender identity (which, under Tasmanian law, includes 'gender expression') of another person. In the Report, the TLRI recommended that the law be reformed to address harms for SOGI conversion practices (Recommendation 1). The model proposed for reform by the TLRI focused on clarifying, strengthening and expanding:

- Health law to deal with direct SOGI conversion practices and some indirect practices (Recommendations 2 – 9).

Direct conversion practices were described as direct conduct that involve interventions, procedures or actions aimed at bringing about change, suppression or eradication of the SOGI of another person or group of people.

Indirect conversion practices were described as indirect conduct that involve actions aimed at convincing others that they can and should suppress or eradicate their own SOGI attributes or community members that certain SOGI attributes can and should be changed so as to generate pressure on people with divergent SOGI to subject themselves to direct practices.

- Anti-discrimination law to deal with indirect, public acts (Recommendations 10 – 12).
- Civil law to compensate a person who has suffered damages from conduct that occurred after the introduction of law reforms (Recommendations 13 – 14).
- Criminal law to sanction conduct which causes serious and clearly foreseeable harm (Recommendation 15).

The TLRI's view was that the health law framework was the most appropriate to regulate conversion practices with principal amendments recommended to be made to the *Mental Health Act 2013* (Tas). This approach was considered to provide an existing legislative basis for an adaptive, evidence-based, health service model for regulation of direct SOGI conversion practices.

Central to the recommendations of the TLRI was the intention that the proposed reforms should not affect:

- Legitimate health care, relating to SOGI, conducted by appropriately qualified health professionals, consistent with disciplinary standards declared by the appropriate chief health officer.
- Statements, expressions of faith, interpretations of moral, philosophical or religious doctrine about SOGI unless they involve the direct or indirect conduct set out above.
- Public acts done in good faith for academic, artistic, scientific or research purposes or any purpose in the public interest.
- Supportive care, guidance, or mentoring of a child by a parent or guardian which are conducted in the best interest of the child.

The TLRI's view was the criminal law was to be a matter of last resort for serious, egregious or repeated forms of SOGI conversion practices that manifested as serious physical or mental harms or recklessness about such harms manifesting. This was based, in part, on the TLRI's concern that there was a need to limit the scope and application of the criminal laws to ensure that they do not have a chilling effect on legitimate conduct.

In relation to indirect conversion practices, the TLRI's view was that anti-discrimination law was the most

appropriate legal framework to respond on the basis that indirect conversion practices are a form of speech act directed to the characteristics of a class of people. It considered that anti-discrimination was a less useful regulatory instrument to respond to direct conversion practices. Recommendations were not made by the TLRI to provide the Anti-Discrimination Commission with additional investigative powers, including with new coercive powers.

Feedback on the *Conversion Practices Prohibition Bill 2026*

The TLRI observes that there are aspects of the proposed Bill that reflect the recommendations of the TLRI, however, there are also several aspects that are not based on its views and recommendations. The primary concern of the TLRI in relation to the proposed Bill is the use of the criminal law framework as a primary response to conversion practices, including in some circumstances without the proof of injury, rather than a backstop measure of last resort for egregious and repeated conduct. In addition, there are more expansive powers given to the Anti-Discrimination Commissioner than currently exist under the *Anti-Discrimination Act 1998* (Tas).

1. Amendment Model

The proposed Bill creates a standalone act that encompasses all law reform around conversion practices. This is the approach in New South Wales¹ and Victoria,² In contrast, in South Australia, the criminal offences are created in the *Conversion Practices Prohibition Act 2024* (SA) and the provisions of the *Equal Opportunity Act 1994* were amended to make conversion practices unlawful with the discrimination powers applying. This is also the approach in the Australian Capital Territory.³ In Queensland, the criminal offences were created through amendments made to the *Public Health Act 2005* (ACT).

The TLRI's view was that the law reform should not be done by way of a standalone act and should rather be done through amendments to existing legislation. Further, the TLRI did not recommend establishing a standalone body or legal regime to respond to conversion practices. In summary, the TLRI proposed a minimal amendment model. This was on the basis that it would clarify the application of existing laws to conversion practices and not result in duplication. In particular, the TLRI's view (as discussed below) was that criminal offences ought to be created in the *Criminal Code* (Tas) and the powers of the Anti-Discrimination Commissioner should be clarified as they related to conversion practices rather than there being a separate act.

2. Definition of conversion practices

The definition of conversion practices and the conduct that is excluded from the definition underpins the operation of the criminal law and the role for the Anti-Discrimination Commissioner under the proposed Bill.

Under the proposed Bill, conversion practices are defined as:

- a practice or conduct directed towards a person, whether with or without the person's consent –
 - (a) on the basis of the person's sexual orientation or gender identity; and
 - (b) for the purpose of –
 - (i) changing, suppressing or eradicating the sexual orientation or gender identity of the person;
or
 - (ii) inducing the person to change, suppress or eradicate their sexual orientation or gender identity.

¹ *Conversion Practices Ban Act 2024* (NSW).

² *Change or Suppression (Conversion) Practices Prohibition Act 2021* (Vic).

³ See *Sexuality and Gender Identity Conversion Practices Act 2020* (ACT).

The definition excludes conduct (provided it is not engaged in as part of a conversion practice) that is

- Health service provided by a registered health practitioner that has been assessed as clinically appropriate for a person in the registered health practitioner’s reasonable professional judgement and complies with all relevant legal, professional and ethical requirements.
- Genuinely facilitates a person’s coping skills, development or identity exploration to meet the person’s needs including by providing acceptance, support or understanding to the person.
- An expression of religious belief or principle.
- An expression that a belief or principle that ought to be followed.
- Stating what religious teachings are or what religion says about a topic.
- The making, application or communication of general requirements in relation to religious orders, or membership or leadership of a religious community.
- Parents discussing matters relating to sexual orientation, gender identity, sexual activity or religion with their children.

In the TLRI report, it was stated that ‘it is important to limit the scope of conversion so as only to target acts which genuinely aim to bring about change in another person’s state of sexual orientation or gender identity’. A distinction was drawn between conduct that amounted to a conversion practice and conduct that may be discriminatory: ‘The intent to exclude, stigmatise or otherwise treat such a person in a prejudicial way may be highly damaging, and described as discrimination, but that is not, alone and of itself, evidence of “conversion.”’

Broadly speaking, the definition of a conversion practice in the proposed Bill, reflects the exclusions suggested by the TLRI. There are similarities between the definition in the proposed Bill and the approach taken in other jurisdictions (see Appendix A). However, there is greater clarification in some jurisdictions as to what is and is not a conversion practice through the provision of examples (see Appendix A).

3. Extra-territorial application

The extra-territorial application of reforms relating to conversion practices was not addressed in the TLRI’s report. The proposed Bill applies to conduct outside Tasmania if there is a real and substantial link between the conduct and Tasmania.⁴ The TLRI observes that generally Tasmanian laws apply to conduct within Tasmania. There are exceptions for some offences in the *Criminal Code* (Tas),⁵ the *Police Offences Act 1935* (Tas) for offences relating to computers in Part VA, unlawful trafficking in firearms in the *Firearms Act 1996* (Tas) s 110B, the *Electricity Reform Act 2012* (Tas), *Marine Safety (Misuse of Alcohol) Act 2006* (Tas), the *National Gas (Tasmania) Law 2008* (Tas), and under the *Sex Industry Offences Act 2005* (Tas) for offences against sex workers and offences relating to participation of children (s 10).

This is discussed further at 4 in relation to criminal offences.

⁴ This is the approach in Victoria (*Change or Suppression (Conversion) Practices Prohibition Act 2021*, s 8). It is noted that Victoria, a conversion practice is defined as one directed to person remotely including online or in person (*Change or Suppression (Conversion) Practices Prohibition Act 2021*, s 5(4)). See also NSW. *Conversion Ban Act 2024* (NSW), s 5(3); South Australia, *Conversion Practices Prohibition Act 2024* (SA), s 6(3).

⁵ These are stalking and bullying (s 192A), crimes relating to computers (s 257F).

4. Criminal offences

In its report, the TLRI observed that there are existing crimes that can be used for conversion practices (depending on the circumstances) such as assault, wounding and causing grievous bodily harm, ill-treatment of a child as well as stalking and bullying offences. However, it considered that criminalisation of conversion practices as an offence should be one aspect of the legislative response.

As noted, the TLRI's view was that the criminal law should have limited scope in relation to conversion practices, and should be limited in its application to conduct that results in clearly foreseeable and serious harm that is not suitably dealt with under health or anti-discrimination law. The TLRI was concerned that the criminal law would not have a chilling effect on legitimate conduct, particularly for medical practice relating to gender identity and sexual orientation.

Approach to creation of criminal offences

The proposed Bill creates indictable offences that are not contained in the *Criminal Code* (Tas). It provides that 'a person is guilty of an indictable offence punishable under the *Criminal Code*' (see s 9(1) for example). This is not common but uses the same approach as is taken in the *Guardianship and Administration Act 1995* (Tas) s 38(2) which provides that a person who contravenes s 38(1) by carrying out special treatment 'is guilty of a crime and liable to punishment on indictment under the *Criminal Code* accordingly'. The *Criminal Code Act* s 4(1) makes it clear that the *Criminal Code* (Tas) applies to all offences which 'may be prosecuted on indictment or information'. Although indictable offences are created in a number of Acts in Tasmania, most are found in the *Criminal Code* (Tas) and aligned with the previous views of the TLRI, a better approach would be to create the offence in the *Code* itself so that the criminal law is consolidated and more accessible.

No requirement for injury to be caused

In the Bill Explainer, it is stated that the criminal offences are for serious offences. However, while the proposed Bill contains a protection in that the approval of the Office of the Director of Public Prosecutions is required before proceedings for indictable offences are commenced, the provisions are wide in scope. The proposed Bill creates several indictable offences. In relation to adult complainants, an element of the offence is that injury is caused (s 9(1)(b)) or that a person is reckless as to engaging in the conversion practice will cause injury (s 9(1)(b)). Injury is defined as a physical injury or harm to mental health whether temporary or permanent and harms to mental health includes psychological harm, but does not include an emotional reaction (including distress, grief, fear or anger) unless it results in a psychological harm (s 3). For child complainants, harm or recklessness in relation to causing harm is caused by the conversion practice is not an element of the offence. For children, there is no need for injury to be caused by the conversion practice.

The TLRI expresses concern that there is no requirement that serious physical or mental harm caused by the conversion practice is serious as recommended by the TLRI. It is not even a requirement that injury is caused given that for adults no injury is required if the person is reckless as to whether an injury is caused, and for children, there is no requirement for injury. This differs considerably from the TLRI model. The TLRI recommended that the offence have a requirement that a person intentionally engages in a conversion practice (as appears in the proposed Bill), and that a person knew or was reckless about whether that course of conduct would cause the other person serious physical or mental harm (not in the proposed Bill) and that the course of conduct cause serious physical or mental harm (not in the proposed Bill). Harm was required for both adult and child complainants.

In summary, the offences that would be created under the proposed Bill have a wider application than the model proposed by the TLRI, and undermines the TLRI's intention that the criminal law would only be available as a last resort.

It also differs from the approach to indictable offences in other jurisdictions where the harm caused needs to be serious. For example, in New South Wales, the conversion practice must cause mental or physical harm to the individual that endangers the individual's life or is substantial.⁶ In South Australia, serious harm must be

⁶ *Conversion Practices Ban Act 2024* (NSW) s 5(1)(b).

caused.⁷ In Victoria, there are a hierarchy of offences with the most serious offence requiring serious injury be caused and a less serious offence involving injury.⁸

Mental element

Under the proposed Bill, an element that must be proved beyond reasonable doubt before a person is guilty of a conversion practice offence against an adult complainant is that the person intentionally engages in conversion practices. If no injury is caused, the prosecution must also establish that the person was reckless as to whether injury was caused. For child complainants, the requirement is that the person intentionally engage in conversion practices. As noted, there is no need to establish an injury or recklessness as to injury.

This differs from the mental element proposed by the TLRI for criminal offences, which was that the person intentionally engaged in a conversion practice AND the person knew or was reckless as to whether serious harm was caused. In addition, as noted, under the TLRI model serious harm must have been caused.

A single act

In relation to the criminal offences created in the proposed Bill, an element of the offence is that a person ‘intentionally engages in a conversion practice’ (s 9(1)). This is defined as ‘a practice or conduct directed towards a person’. This appears to allow for criminal liability where a person engages in one act that amounts to a conversion practice.⁹ This differs from the TLRI’s model which prohibited a course of conduct, defined as conduct that is ‘sustained or occurs on one or more occasion’. It did not criminalise a single act. It also differs from the definition of conversion practice in South Australia, which is ‘a practice, treatment or sustained effort that consists of more than 1 event or occurs on more than 1 occasion’.¹⁰ In New South Wales, conversion practice is defined as a ‘practice, treatment or sustained effort’.¹¹

Exemptions for medical practitioners

Under the proposed Bill, conversion practices are defined to exclude health services provided by a registered health practitioner who has assessed the practices as clinically appropriate for a person in the registered health practitioner’s reasonable professional judgement and complies with all relevant legal, professional and ethical requirements.

The TLRI’s view was that criminal sanctions should contain express provisions exempting medical professionals where the conduct is a medical practice undertaken in good faith, in compliance with relevant medical standards and authorised by law. The TLRI’s model for regulating conversion practices was that assessing and treating gender-related disorders should be regulated by clinical guidelines set by the Chief Civil Psychiatrist under the Mental Health Act in consultation with appropriate professional bodies. This has not been done in the exemption created in the Bill, which instead relies on a health service provider’s reasonable judgement.

In its Report, the TLRI expressed the view that ‘reasonable professional judgement’ may import too much subjectivity and uncertainty into the assessment of what is legitimate or not. The phrase is not consistent with healthcare regulation. It places a burden on healthcare professionals to make decisions based on their own opinion rather than with explicit reference to appropriate professional codes or standards. Accordingly, without

⁷ *Conversion Practices Prohibition Act 2024* (SA), s 6(1).

⁸ *Change or Suppression (Conversion) Practices Prohibition Act 2021* (Vic), s 10 and 11.

⁹ See also s 9(2)(b).

¹⁰ *Conversion Prohibition Act 2024* (SA), s 4(1).

¹¹ *Conversion Ban Act 2024* (NSW), s 3.

the corresponding amendments to the *Mental Health Act 2013* (Tas), and the development of clinical guidelines, there is a lack of certainty for medical professionals.

As set out in Appendix A, there is also clarification within the approaches in other jurisdictions of what forms of medical treatment would or would not amount to a conversion practice.

Other exemptions

The exemptions in relation to religious belief and the family/parental role are aligned with the approach of the TLRI, and are the same as the exemptions that apply in New South Wales and South Australia (see Appendix A).

Application of offences outside Tasmania

The proposed bill makes it an offence to take a person from Tasmania for the purposes of conversion practice. This is the approach in Victoria,¹² New South Wales,¹³ South Australia,¹⁴ and the Australian Capital Territory.¹⁵ This gives the proposed Bill a wider application than most conduct that is criminalised under Tasmania law.

As a general rule, Tasmanian offences only apply to conduct that takes place in Tasmania. There are some exceptions to this, such as where the conduct involves instigation of a crime that occurs in other jurisdiction (*Criminal Code* s 9), some forms of conduct (predominately relating to the use of postal, phone or electronic means of communication) that amount to stalking and bullying if there is a real and substantial link between the action taken and Tasmania (*Criminal Code* s 192A), crimes relating to computers if there is a real and substantial link between the conduct and Tasmania (*Criminal Code* s 257E), and contamination of goods (*Criminal Code* s 287G). There is only one existing offence under the *Criminal Code*, where it is an offence to remove a person from the state for the purpose of conducting behaviour that is unlawful in Tasmania. This applies in relation to female genital mutilation where it is an offence to remove a child from Tasmania with the intention of having female genital mutilation performed on that child (*Criminal Code* s 178B).

5. Civil Response scheme

As described in the Bill Explainer, the proposed Bill establishes a ‘Civil Response Scheme’ to be administered by the Anti-Discrimination Commissioner. The scheme is to provide education and prevention and promote compliance with the Conversion Practices Prohibition Bill 2026. It provides for reports to be made in relation to conversion practices and the Anti-Discrimination Commissioner to investigate, with no distinction made between direct and indirect conversion practices.

In the TLRI’s review, the role of the Anti-Discrimination Commissioner was considered separately from any reforms to civil law in Tasmania. Under the TLRI’s model, the Anti-Discrimination Commissioner would have a role in responding to indirect conversion practices (the promotion of harmful beliefs about the nature of SOGI and whether those attributes can or should be changed) as a form of discrimination through amendments made to the *Anti-Discrimination Act 1998* (Tas). The TLRI’s view was that indirect conversion practices were a form of speech directed to the characteristics of a class of people, and so are most appropriately described and regulated as discriminatory conduct. The approach proposed in the TLRI model relied on the existing dispute resolution processes of the Anti-Discrimination Commissioner. The TLRI’s view was the exemptions under the *Anti-Discrimination Act 1998* (Tas) and the investigative and conciliatory approach to mediation and resolving conflicts were appropriate to use for indirect conversion practices. The TLRI’s approach was to recommend changes to the *Anti-Discrimination Act 1998* (Tas) as were required to

¹² *Change or Suppression (Conversion) Practices Prohibition Act 2021* (Vic), s 12.

¹³ *Conversion Ban Act 2024* (NSW), s 6.

¹⁴ *Conversion Practices Prohibition Act 2024* (SA), s 7.

¹⁵ *Sexuality and Gender Identity Conversion Practices Act 2020* (ACT), s 9.

allow it to more clearly address conversion practices as discriminatory conduct without significant changes in the process itself.

A different approach is taken in the proposed Bill, which would create a separate scheme (with a report process and an investigation process) to be administered by the Anti-Discrimination Commissioner separately from the powers and functions of the Anti-Discrimination Commissioner under the *Anti-Discrimination Act 1998* (Tas). In the proposed Bill during the investigation process, the Commissioner would have the power to require documents to be provided and for a person to attend before the Commissioner to answer questions as part of an investigation. It would be a criminal offence not to comply. Further, the Bill provides that a person is not excused from answering a question, providing information or a document on the grounds that it may incriminate them. However, the information provided is not admissible as evidence against that individual in civil or criminal proceedings. After an investigation, the Commissioner has the power (amongst other things) to accept an enforceable undertaking or issue a compliance notice to a person.

The TLRI is concerned that the abrogation of the privilege against self-incrimination is a significant expansion to the powers of the Anti-Discrimination Commissioner. This is not a power that the Anti-Discrimination Commissioner currently possesses in relation to investigations under the *Anti-Discrimination Act 1998* (Tas). The Civil Response scheme set out in the Bill has close parallels with the Victorian model and the process for investigation undertaken by the Victorian Equal Opportunity and Human Rights Commission under the *Change or Suppression (Conversion) Practices Prohibition Act 2021* (Tas)¹⁶ and in New South Wales by the President of the Board under the *Anti-Discrimination Act 1997* as set out in the *Conversion Practices Ban Act 2024* (NSW). However, in Victoria, the privilege against self-incrimination still operates for natural persons in the investigation process (s 39). In New South Wales, a person can refuse to provide information or supply documents as part of an investigation if they have a reasonable excuse (s 17). The privilege against self-incrimination also still applies in South Australia¹⁷ and the Australian Capital Territory.¹⁸ There is no comparable Civil Response scheme in Queensland (with criminal offences created for health professionals under the *Public Health Act 2005* (Qld)).

The privilege against self-incrimination is a fundamental common law principle that is that:

[A] person who believes on reasonable grounds that he or she is suspected of having been a party to an offence is entitled to remain silent when questioned or asked to supply information by any person about the occurrence of an offence, the identity of the participants and the roles which they play.¹⁹

It is ‘not a privilege which is concerned only with the use to which answers given may be put at, or in connection with a trial’.²⁰ The protection extends beyond this given that, even if the answers cannot be used directly or indirectly:

the requirement to give answers, after being charged, would fundamentally alter the accusatorial judicial process that begins with the laying of a charge and culminates in the accusatorial (and adversarial) trial in the courtroom. No longer could the accused person decide the course which he or she should adopt at trial, in answer to the charge, according only to the strength of the prosecution's case as revealed by the material provided by the prosecution before trial, or to the strength of the evidence led by the prosecution at the trial. The accused person would have to decide the course to be followed in light of that material and in light of any self-incriminatory answers which he or she had been compelled to give at an examination conducted after the charge was laid. That is, the accused person would have to decide what plea to enter, what evidence to challenge and what evidence to give or lead at trial according to what answers he or she had given at the examination. The accused person is thus prejudiced in his or her defence of the charge that has been laid by being required to answer questions about the subject matter of the pending charge.²¹

Justifications for excluding the privilege against self-incrimination include that it serves the public interest because ‘information is revealed to agencies responsible for regulating crime or misconduct’.²² However, this

¹⁶ See [Change or Suppression \(Conversion\) Practices | Victorian Equal Opportunity and Human Rights Commission](#).

¹⁷ *Equal Opportunity Act 1984* (SA) s 94(4).

¹⁸ *Human Rights Commission Act 2005* (ACT), s 73.

¹⁹ *Petty v The Queen* (1991) 173 CLR 95, 99.

²⁰ *X7 v Australian Crime Commission* (2013) 248 CLR 92 [104].

²¹ *X7 v Australian Crime Commission* (2013) 248 CLR 92 [124].

²² Australian Law Reform Commission, *Traditional Rights and Freedoms – Encroachments by Commonwealth Law* (ALRC Report 129, 2016) [11.45].

involves the balancing of the public interest in ensuring that authorities have adequate power to investigate and the public interest in upholding an important individual human right.²³ In this balancing exercise, the Law Council of Australia has argued that ‘to justify abrogating the privilege, there should be an “assessment that the public benefit which will derive from negation of the privilege must decisively outweigh the resultant harm to the maintenance of civil rights”’.²⁴ The Law Council considered that this may be appropriate where there was an investigation into:

major criminal activity, organised crime or official corruption’ might justify an abrogation of the privilege, as would risks such as ‘danger to human life, serious personal injury or damage to human health, serious damage to property or the environment or significant economic detriment’.²⁵

It is also noted that the Senate Standing Committee for the Scrutiny of Bills (Scrutiny of Bills Committee) has expressed concern at the loss of the privilege, and has observed that:

it was ‘reluctant to see the use of provisions abrogating the privilege—even with a use/derivative use indemnity—being used as a matter of course.’ The Committee preferred to see the use of such provisions ‘limited to “serious” offences and to situations where they are absolutely necessary’.²⁶

The TLRI observes that in Tasmania, there are circumstances where the privilege against self-incrimination has been abrogated for investigatory processes. The privilege is abrogated for Commissions of Inquiry and the Coroners Court. The privilege is also abrogated under the *Biosecurity Act 2019* (Tas), the *Child and Youth Safe Organisations Act 2023* (Tas), the *Dangerous Goods (Road and Rail Transport) Act 2010* (Tas), the *End-of-Life Choices (Voluntary Assisted Dying) Act 2021* (Tas), the *Environmental Management and Pollution Control Act 1994* (Tas), the *Explosives Act 2012* (Tas), the *First Home Owner Grant Act 2000* (Tas), the *Health Practitioners Tribunal Act 2010* (Tas), the *HomeBuilder Grants Act 2020* (Tas), the *Petroleum (Submerged Lands) Act 1982* (Tas), the *Racing Regulation and Integrity Act 2024* (Tas), the *Security-sensitive Dangerous Substances Act 2005* (Tas) the *Pharmacy Control Act 2001* (Tas) and the *Work Health and Safety Act 2012* (Tas).²⁷

Legislative provisions also preserve a person’s right to refuse to provide information or documents or answer questions in an investigatory process on the basis that they have a reasonable excuse (which includes the privilege against self-incrimination). These include the *Agricultural and Veterinary Chemicals (Control of Use) Act 1995* (Tas), the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011* (Tas), the *Audit Act 2008* (Tas), the *Biological Control Act 1986* (Tas), the *Births, Deaths and Marriages Registration Act 1999* (Tas), the *Building Act 2016* (Tas), the *Gaming Control Act 1993* (Tas), the *Integrity Commission Act 2009* (Tas), and the *Custodial Inspector Act 2016* (Tas).²⁸

Accordingly, the TLRI considers that careful scrutiny is required to ensure that there is an appropriate justification for abrogating the privilege and that this is proportionate, in the sense that ‘the law limiting the right pursues an objective of sufficient importance to warrant limiting the right’.²⁹

6. Conversion practices a form of Child Abuse

Under the proposed Bill, amendments are proposed to the *Criminal Code Act 1924*, *Limitation Act 1974* and the *Civil Liability Act 2002* to include conversion practices as a form of child abuse. This was not considered in the TLRI’s 2022 Report.

²³ Australian Law Reform Commission, *Traditional Rights and Freedoms – Encroachments by Commonwealth Law* (ALRC Report 129, 2016) [11.46] – [11.47].

²⁴ Australian Law Reform Commission, *Traditional Rights and Freedoms – Encroachments by Commonwealth Law* (ALRC Report 129, 2016) [11.49].

²⁵ Australian Law Reform Commission, *Traditional Rights and Freedoms – Encroachments by Commonwealth Law* (ALRC Report 129, 2016) [11.49].

²⁶ Australian Law Reform Commission, *Traditional Rights and Freedoms – Encroachments by Commonwealth Law* (ALRC Report 129, 2016) [11.51].

²⁷ It is noted that this is not an exhaustive list.

²⁸ It is noted that this is not an exhaustive list.

²⁹ Australian Law Reform Commission, *Traditional Rights and Freedoms – Encroachments by Commonwealth Law* (ALRC Report 129, 2016) [11.53].

Appendix A: Scope of conversion practices in other Australian jurisdictions

	South Australia and New South Wales	ACT	Victoria	Queensland	Tasmania (proposed Bill)
Definition	In this Act, a conversion practice means a practice, treatment or sustained effort that consists of more than 1 event or occurs on more than 1 occasion, and that is— (a) directed to an individual on the basis of the individual's sexual orientation or gender identity; and (b) directed to changing or suppressing the individual's sexual orientation or gender identity. For the purposes of subsection (1), it is irrelevant whether a practice, treatment or sustained effort directed to an individual on the basis of the individual's sexual orientation or gender identity is based on an incorrect assumption or belief about the individual's sexual orientation or gender identity.	Sexuality or gender identity conversion practice means a treatment or other practice the purpose, or purported purpose, of which is to change a person's sexuality or gender identity.	A change or suppression practice means a practice or conduct directed towards a person, whether with or without the person's consent— (a) on the basis of the person's sexual orientation or gender identity; and (b) for the purpose of— (i) changing or suppressing the sexual orientation or gender identity of the person; or (ii) inducing the person to change or suppress their sexual orientation or gender identity. A practice includes, but is not limited to the following— (a) providing a psychiatry or psychotherapy consultation, treatment or therapy, or any other similar consultation, treatment or therapy; (b) carrying out a religious practice, including but not limited to, a prayer based	Conversion therapy is a practice that attempts to change or suppress a person's sexual orientation or gender identity. <i>Examples—</i> a practice attempting to change or suppress a person's sexual orientation or gender identity by— • inducing nausea, vomiting or paralysis while showing the person same-sex images • using shame or coercion to give the person an aversion to same-sex attractions or to encourage gender-conforming behaviour • using other techniques on the person encouraging the person to believe being lesbian, gay, bisexual, transgender or intersex is a defect or disorder.	Conversion practice means a practice or conduct directed towards a person, whether with or without the person's consent – (a) on the basis of the person's sexual orientation or gender identity; and (b) for the purpose of – (i) changing, suppressing or eradicating the sexual orientation or gender identity of the person; or (ii) inducing the person to change, suppress or eradicate their sexual orientation or gender identity. For the purposes of subsection (1), it is irrelevant whether a practice, treatment or sustained effort directed to an individual on the basis of the individual's sexual orientation or gender identity is based on an incorrect assumption or belief about the individual's sexual orientation or gender identity.

			practice, a deliverance practice or an exorcism; (c) giving a person a referral for the purposes of a change or suppression practice being directed towards the person.		
General exemption		However, sexuality or gender identity conversion practice does not include a practice the purpose of which is to— (a) assist a person who is undergoing a gender transition; or (b) assist a person who is considering undergoing a gender transition; or (c) assist a person to express their gender identity; or (d) provide acceptance, support or understanding of a person; or (e) facilitate a person's coping skills, social support or identity exploration and development Example – s(2) • diagnosis and assessment of a person with gender dysphoria or gender non conforming behaviour or identity • support for a person with social adjustments related to gender dysphoria	A practice or conduct is not a change or suppression practice if it— (a) is supportive of or affirms a person's gender identity or sexual orientation including, but not limited to, a practice or conduct for the purposes of— (i) assisting a person who is undergoing a gender transition; or (ii) assisting a person who is considering undergoing a gender transition; or (iii) assisting a person to express their gender identity; or (iv) providing acceptance, support or understanding of a person; or (v) facilitating a person's coping skills, social support or identity exploration and development	<i>n/a</i>	<i>n/a</i>

		• gender-affirming hormone treatment • other gender transition services, for example, speech pathology services for a transgender or gender-diverse person who wishes to alter their voice and communication to better align with their gender identity • support for a person exploring and expressing their sexuality			
Health care	A conversion practice does not include— (a) a health service or treatment provided by a registered health practitioner that— (i) the registered health practitioner has assessed as clinically appropriate in the registered health practitioner's reasonable professional judgement; and (ii) complies with all relevant legal, professional and ethical requirements Examples of health services or treatments that do not constitute a conversion practice Any of the following health services or treatments assessed by a registered health practitioner as clinically appropriate—	General exemption applies. In addition sexuality or gender identity conversion practice does not include a practice by a health service provider that, in the provider's reasonable professional judgment, is necessary to— (a) provide a health service in a manner that is safe and appropriate; or (b) comply with the provider's legal or professional obligations.	A change or suppression practice is not a practice or conduct of a health service provider that is, in the health service provider's reasonable professional judgement, necessary— (i) to provide a health service; or (ii) to comply with the legal or professional obligations of the health service provider.	Conversion therapy does not include a practice by a health service provider that, in the provider's reasonable professional judgement— (a) is part of the clinically appropriate assessment, diagnosis or treatment of a person, or clinically appropriate support for a person; or (b) enables or facilitates the provision of a health service for a person in a manner that is safe and appropriate; or (c) is necessary to comply with the provider's legal or professional obligations. Without limiting subsection (2), the following are examples of the types of practices to which that subsection may apply—	A conversion practice does not include – (a) a health service provided by a registered health practitioner that – (i) the registered health practitioner has assessed as clinically appropriate for a person, in the registered health practitioner's reasonable professional judgement; (ii) complies with all relevant legal, professional and ethical requirements.

	•genuinely assisting an individual who is exploring the individual's sexual orientation or gender identity or considering or undergoing a gender transition; •genuinely assisting an individual who is receiving care and treatment related to the individual's gender identity; •genuinely advising an individual about the potential impacts of gender affirming medical treatment.			(a) assisting a person who is undergoing a gender transition; (b) assisting a person who is considering undergoing a gender transition; (c) assisting a person to express the person's gender identity; (d) providing acceptance, support or understanding of a person; (e) facilitating a person's coping skills, development or identity exploration, or facilitating social support for the person. <i>Examples of the types of practices—</i> • exploring psychosocial factors with a person or probing a person's experience of sexual orientation or gender identity • providing a speech pathology or gender transition service for a trans-gender or gender-diverse person wishing to alter the person's voice and communication to better align with the person's gender identity • advising a person about the potential side effects of sex-hormonal drugs or the risks of having, or not having, surgical procedures	
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Religious belief	A conversion practice does not include the use by a person, without more, of the following expressions: (i) an expression, including in prayer, of a belief or principle, including a religious belief or principle; (ii) an expression that a belief or principle ought to be followed or applied. To avoid doubt, the following are examples of what does not constitute a conversion practice under this section: (a) stating what relevant religious teachings are or what a religion says about a specific topic; (b) general requirements in relation to religious orders or membership or leadership of a religious community;	General exemption and Note Under the <i>Human Rights Act 2004</i>, s 14, a person has the right to freedom of thought, conscience and religion, including the freedom to demonstrate their religion or belief in worship, observance, practice and teaching, either individually or as part of a community and whether in public or private. It is not intended that a mere expression of a religious tenet or belief would constitute a sexuality or gender identity conversion practice.	General exemption	n/a	A conversion practice is not the following conduct, provided the conduct is not engaged in as part of a conversion practice: (i) an expression, including in prayer, of a belief or principle, including a religious belief or principle; (ii) an expression that a belief or principle ought to be followed or applied; (iii) stating what relevant religious teachings are, or what a religion says, about a specific topic; (iv) the making, application or communication of general requirements in relation to religious orders, or membership or leadership of a religious community.
Family/parental role	To avoid doubt, the following are examples of what does not constitute a conversion practice under this section, parents discussing, or providing guidance on, matters relating to sexual orientation, gender identity, sexual activity or religion with their children.	General exemption	General exemption	n/a	A conversion practice is not parents discussing matters relating to sexual orientation, gender identity, sexual activity or religion with their children.
Other	To avoid doubt, the following are examples of what does not constitute a conversion practice under this section, general rules in educational institutions.	General exemption	General exemption	n/a	A conversion practice is not genuinely facilitating a person's coping skills, development or identity exploration to meet the person's needs, including by

	A conversion practice is not genuinely facilitating an individual's coping skills, development or identity exploration to meet the individual's needs, including by providing acceptance, support or understanding to the individual.				providing acceptance, support or understanding to the person.
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