

# Proposed Law to Ban Conversion Practices

---

## Bill Explainer

### Summary of the Proposed Law

The draft *Conversion Practices Prohibition Bill 2026*, prepared by the Tasmanian Greens, is a proposed new law to prohibit practices and conduct aimed at changing, suppressing or eradicating the sexual orientation or gender identity of a person ('conversion practices').

The model provides for a tiered approach of new criminal offences for serious conduct, and a framework for education and prevention (the Civil Response Scheme).

The Civil Response Scheme is proposed to be run by the Anti-Discrimination Commissioner. The Scheme provides for education about, and prevention of, conversion practices.

This framework allows for a person to make a report about a conversion practice that has happened to them, and allows for a voluntary process facilitated by the Commissioner, where an agreement can be reached.

It also provides for the Commissioner to proactively investigate serious or systemic conversion practices and to publish findings, as well as accept an undertaking, or issue compliance notices, to prevent conversion practices.

For serious conduct, the bill establishes crimes for:

- engaging in conversion practices that cause injury;
- conversion practices towards a child;
- taking a person outside Tasmania for conversion practices;
- lesser offences for advertising conversion practices.

The bill also sets out that conversion practice against a child is a form of child abuse for the purposes of civil litigation and limitations periods.

The bill is not retrospective. It only applies to new conduct.

### Definition of Conversion Practices

Clause 5 of the bill provides a definition of conversion practice, as well as clearly setting out circumstances that *are not* a conversion practice.

### What constitutes a conversion practice?

To meet the definition of a conversion practice under the draft bill, a practice or conduct needs to meet all the following requirements –

- It must be directed towards a person.
- It must be a practice or conduct motivated by that person's sexual orientation or gender identity, or perceived sexual orientation or gender identity.
- It must be intended to change, suppress or eradicate a person's sexual orientation or gender identity, or to induce the person to change, suppress or eradicate their sexual orientation or gender identity.

### What does not constitute a conversion practice?

While any conduct that does not meet the above criteria is not a conversion practice, clause 5 also explicitly clarifies that a range of conduct does not constitute a conversion practice.

Provision of a health service is exempt if it is conducted by a registered health practitioner, if that health practitioner has assessed the service as clinically appropriate, and if it complies with all relevant legal, professional and ethical requirements.

Conduct is also exempt if it is genuinely facilitating a person's coping skills, development or identity exploration to meet the person's needs.

The bill also makes it clear that, so long as it is not part of a conversion practice, none of the following is a conversion practice in and of itself:

- an expression, including in prayer, of a belief or principle, including a religious belief or principle;
- an expression that a belief or principle ought to be followed or applied;
- stating what relevant religious teachings are, or what a religion says, about a specific 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.

### Clause 5 – Meaning of conversion practice

(1) In this Act, 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.

(2) For the purposes of subsection (1), it is irrelevant whether a practice or conduct directed towards a person on the basis of the person's sexual orientation or gender identity is based on an incorrect assumption or belief about the person's sexual orientation or gender identity.

(3) 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; and
  - (ii) complies with all relevant legal, professional and ethical requirements; or
- (b) genuinely facilitating 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; or
- (c) 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;
  - (v) parents discussing matters relating to sexual orientation, gender identity, sexual activity or religion with their children.

## Objects and Principles

Clause 3 sets out the objects of the proposed Act, and clause 8 sets out the principles to be observed in the operation, administration and enforcement of the Act.

The objects set out the high-level mechanical functions of the Act, and the principles are a set of guiding values that the legislation operates under.

These provisions do not set strict requirements but rather provide interpretive guidance.

### Clause 3 – Objects of Act

The objects of this Act are to –

- (a) prohibit conversion practices; and
- (b) confer functions on the Anti-Discrimination Commissioner to –
  - (i) promote understanding of this Act and the prohibition on conversion practices; and
  - (ii) administer the civil response scheme; and
  - (iii) receive, assess and resolve reports of conversion practices; and
  - (iv) investigate serious or systemic conversion practices; and
- (c) establish a civil response scheme to –
  - (i) discourage conversion practices; and
  - (ii) provide for facilitated outcomes in relation to reports of conversion practices; and
  - (iii) provide for compliance notices and enforceable undertakings in response to serious or systemic conversion practices; and

(d) provide for offences relating to conversion practices.

## Clause 8 – Principles

The following principles are to be observed in the operation, administration and enforcement of this Act:

- (a) conversion practices are deceptive and harmful to the persons subjected to them and to the community, and should be denounced and eliminated as far as possible;
- (b) all people, regardless of sexual orientation or gender identity, should be welcomed, valued and respected, and should be able to live authentically and with pride;
- (c) a person's sexual orientation or gender identity is not broken and does not require fixing, changing or suppression;
- (d) no sexual orientation or gender identity constitutes a disorder, disease, illness, deficiency or shortcoming.

## Conduct Outside of Tasmania

Clause 6 sets out that the Act captures conduct that occurs outside of Tasmania if a significant part of the conduct occurs in Tasmania, or the effects of the conduct occurred in full or in part in Tasmania.

This is to ensure that after conversion practices are banned, the laws can't be skirted by involving practitioners based outside of Tasmania.

## Offences under the Act

Part 2 of the bill sets out offences related to conversion practices. These include offences for engaging in conversion practices, taking a person outside of Tasmania for conversion practices, and advertising conversion practices.

Clause 16 provides that employers or 'principals' (the person in charge) are responsible for a conversion practice of employees, contractors and volunteers, unless they could not have known of or prevented the conversion practice. Clause 17 ensures that any victims of a conversion practice are in no way criminally liable for that conversion practice.

Clause 18 requires that a proceeding against a Division 1 or 2 offence (the offences punishable under the *Criminal Code*) cannot occur without the written consent of the Director of Public Prosecutions.

## Conversion practice that causes injury

Division 1 sets out offences for conducting a conversion practice that causes injury. These offences are punishable under the *Criminal Code*.

Clause 9 establishes an offence of engaging in one or more conversion practices that cause injury. For this offence it must be established that a person intentionally engaged in a

conversion practice, and they caused injury or were reckless as to whether they would cause injury.

Clause 10 establishes a similar offence for engaging in a conversion practice directed towards a child. In the case of a child, injury does not need to be demonstrated, it is taken as a given. This clause also establishes the offence does not apply if the perpetrator is a child. However, if an adult causes, directs, induces or procures any person (including a child) to conduct a conversion practice, that adult is liable.

### **Taking a person outside of Tasmania**

Division 2 provides offences for taking a person outside of Tasmania for a conversion practice.

Clause 11 establishes an offence for taking a person from Tasmania for the purposes of a conversion practice. This offence applies when someone takes, or arranges to take, a person from Tasmania for the purpose of a conversion practice, and that conversion practice occurs. Similar to the clause 9 offence it must be demonstrated that the conversion practice caused injury, or there was recklessness as to whether it would cause injury.

Clause 12 creates an offence for taking a child from Tasmania for the purposes of a conversion practice. This offence applies when someone takes, or arranges to take, a child from Tasmania for the purpose of a conversion practice, and that conversion practice occurs. As with the clause 10 offence, the offence does not apply if the perpetrator is a child, but if an adult causes, directs, induces or procures any person (including a child) to engage in the conduct, that adult is liable.

### **Advertising a conversion practice**

Division 3 relates to advertising conversion practices. Unlike the other offences in Part 2, an advertising offence is *not* a *Criminal Code* offence and does not have a potential period of imprisonment as a penalty.

Clause 13 establishes an offence for advertising a conversion practice, which carries a penalty of up to 60 penalty units for an individual (currently \$12,300) or 300 penalty units for a body corporate (currently \$61,500).

Clause 14 provides that a person can be compelled to provide documents for the purposes of proceedings for such an offence, and if they fail to produce the documents without reasonable excuse can be subject to a penalty of 60 penalty units for an individual or 300 penalty units for a body corporate.

Clause 15 sets out that proceedings for such an offence may be brought by the Anti-Discrimination Commission, a person authorised by the Commission, or a police officer.

Clause	Offence	Injury / Recklessness	Penalty	DPP Consent
9	Conversion practices causing injury	Must be proven	Punishable under the Criminal Code	Required
10	Conversion practice towards a child	Assumed	Punishable under the Criminal Code	Required
11	Taking person from Tasmania for conversion practice	Must be proven	Punishable under the Criminal Code	Required
12	Taking child from Tasmania for conversion practice	Assumed	Punishable under the Criminal Code	Required
13	Advertising a conversion practice	Not part of Offence	Individual: 60 penalty units Body Corporate: 300 penalty units	Not Required
14	Failure to produce documents	Not part of Offence	Individual: 60 penalty units Body Corporate: 300 penalty units	Not Required

## Civil Response Scheme

Parts 3, 4 and 5 establish the 'Civil Response Scheme', which is a scheme to provide education and prevention, and promote compliance with the Act.

### Role of the Anti-Discrimination Commissioner

Part 3 sets out that the scheme is administered by the Anti-Discrimination Commissioner (the Commissioner). It sets out their functions as well as administrative matters such as delegation powers, establishment of a reference (advisory) body, and the ability to issue practice guidelines on any matter relating to the Act.

#### Clause 19 – Functions of Commissioner

(1) The functions of the Commissioner are –

- (a) to advise and make recommendations to the Minister on matters relating to conversion practices;
- (b) to promote understanding of, and compliance with, this Act and the prevention of conversion practices;
- (c) to consult and inquire into conversion practices and the effects of conversion practices;

- (d) to disseminate information about conversion practices, the effects of conversion practices, and the operation and objects of this Act;
- (e) to undertake, or promote the undertaking of, research and education programs relating to conversion practices;
- (f) to receive, consider, investigate and seek to resolve reports relating to conversion practices;
- (g) to facilitate outcomes in relation to reports made by persons affected by conversion practices;
- (h) to collect, analyse and report on information and data relating to reports and outcomes under this Act;
- (i) to submit reports to the Minister on any matter arising from the performance of the Commissioner's functions;
- (j) to intervene, with the leave of a court or the Tribunal, in proceedings that involve issues relating to conversion practices;
- (k) to perform any other functions imposed or conferred on the Commissioner under this Act or any other Act.

Clause 56 sets out requirements for the Commissioner, the reference body, and staff, to ensure that protected information is kept confidential. Clause 57 provides the Commissioner with the power to share information with other entities if necessary.

Clause 58 provides a general requirement on the Commissioner to ensure they do not prejudice criminal proceedings or investigations, or investigations conducted by the Integrity Commissioner or any other prescribed integrity body.

Clause 59 outlines that the Commissioner may, if agreed to by a court or tribunal, involve themselves in a matter pertaining to conversion practices, including by making submissions or otherwise assisting the court or Tribunal.

The bill provides that Commissioner has the same immunity as a judge of the Supreme Court in performing their functions.

## Report process

Part 4 establishes the Civil Response Scheme, which consists of a *report* process and an *investigation* process.

Clause 24 outlines that any person – not just an individual who has been subject to a conversion practice – can make a report that a conversion practice has occurred or is occurring.

Clause 25 sets out the principles that must be considered when dealing with a report.

### Clause 25 – Principles for dealing with reports

In responding to a report, the Commissioner must have regard to the following principles:

- (a) that a response is provided to the person who made the report;

- (b) that the response is informed by the needs and wishes of any person affected by the alleged conversion practice;
- (c) that the response is appropriate having regard to the nature of the report;
- (d) that the response is fair to all persons concerned; and
- (e) that the response is consistent with the objects of this Act.

The Commissioner has the power to request information from the person who made the report as well as the persons alleged to have engaged in conversion practices (clause 26).

Clause 28 sets out that the Commissioner can respond to a report with targeted education, a facilitation process, a referral to a more appropriate body, or they may decline to respond in particular circumstances.

### Clause 30 – Discretion to decline to respond to report

The Commissioner may decline to respond to a report if the Commissioner is satisfied that –

- (a) the report is frivolous, vexatious or lacking in substance; or
- (b) the person alleged to have engaged in the conversion practice cannot be reasonably located; or
- (c) the report relates to conduct in respect of which sufficient information is no longer available; or
- (d) the report relates to conduct that has been adequately dealt with, or would be more appropriately dealt with, by another person, court, board or Tribunal; or
- (e) having regard to all the circumstances, it is not appropriate to respond to the report.

However, under Clause 27, if the Commissioner considers that a conversion practice has occurred, they must have regard to a number of matters when determining their response.

### Clause 27 – Consideration of report

- (a) the wishes of any person affected by the conversion practice;
- (b) whether the conversion practice was an isolated incident or formed part of a pattern of conduct;
- (c) the number of persons affected by the conversion practice;
- (d) the nature and extent of any harm caused by the conversion practice;
- (e) any steps taken by a person to cease the conversion practice or to remedy any harm caused by it.

## Facilitation

Sections 31 through 33 outline the facilitation process. Participation in the process is entirely voluntary for both parties, and any party may withdraw at any time. The Commissioner has the discretion to run the process in the manner they consider appropriate, and may end the facilitation at any time.

Matters involved in the facilitation process are entirely confidential, unless agreed otherwise by both parties, and cannot be used in civil or criminal proceedings, with the exception of administrative proceedings relating to the facilitation process – obstruction, and false or misleading information offences.

Information can also be disclosed to the extent that it is provided for in any agreement reached between the parties as part of the facilitation process.

If an agreement is reached, and the Commissioner is satisfied both parties freely entered into the agreement, the Commissioner must record an agreement signed by both parties, and provide a copy to each party and keep a copy on record. The agreement is an enforceable order, as if it were made by the Tribunal.

## **Investigation**

Division 3 sets out the investigation process. An investigation may be launched on the Commissioner's own initiative if they consider that the relevant matter is of a serious or systemic nature, that the Act may have been contravened, if it relates to a class or group of persons, and it would advance the objects of the Act.

The investigation process is separate to the report process, but may be initiated in response to information that has come out of a report process, regardless of whether or not that report process has concluded.

Clause 36 requires the Commissioner to have regard to the rules of natural justice in the conduct of an investigation.

Unlike the report process, the Commissioner has to power to require documents, and attendance for answering questions, as part of an investigation. Either requirement must provide a reasonable period or deadline for compliance. If a person is required for an attendance, they are allowed a legal or personal representative and may be subject to a prescribed allowance. If no allowance is prescribed, the Commissioner may determine an appropriate amount.

Failure to comply with either requirement without a reasonable excuse can result in a fine of up to 60 penalty units for an individual, or 300 penalty units for a body corporate.

Clause 40 outlines that a person is not excused from providing information on the grounds that it may incriminate them. However, information provided is exempt from civil or criminal proceedings, other than proceedings under the Act or proceedings relating to the information being false or misleading.

The Commissioner may also order that a person's identity, or identifying information, be protected if it is necessary to protect them from victimisation, or to protect their employment, privacy or other lawful interests. Failure to comply with this order without lawful excuse can result in a fine of up to 60 penalty units for an individual, or 300 penalty units for a body corporate.

The Commissioner may also order that any information obtained in the investigation process is not published, or is to be restricted in some way. A range of matters are outlined that the Commissioner must consider when making such a decision.

### Clause 42 – Restrictions on publication

(2) In making a direction, the Commissioner must have regard to the need to prevent such of the following as are relevant to the circumstances:

- (a) prejudice to intergovernmental relations;
- (b) disclosure of Cabinet deliberations;
- (c) prejudice to the proper functioning of government;
- (d) disclosure of confidential law enforcement sources;
- (e) risk to the safety of any person;
- (f) prejudice to law enforcement or public safety;
- (g) disclosure prohibited by or under another Act;
- (h) unreasonable disclosure of personal or confidential information.

Failure to comply with publication restrictions without a reasonable excuse can result in a fine of up to 60 penalty units for an individual, or 300 penalty units for a body corporate.

The Commissioner has broad discretion in how to respond to an investigation. Their responses include the ability to take no further action, enter into an agreement with a person, accept an enforceable undertaking, issue a compliance notice, and publish a report on the investigation.

In making a report the Commissioner must give a reasonable opportunity to comment to any person who may be adversely affected, and protect personal information and confidential information unless it is necessary for the purposes of the report.

### Enforceable undertakings

The subject of an investigation may enter into an enforceable undertaking as a result of the investigation. Such an undertaking may stipulate particular actions the person will do, or refrain from, for the purposes of complying with the Act.

Undertakings may be published in a public register, and any information may be omitted if necessary for safety or privacy purposes, to avoid prejudicing an investigation or enforcement action, or to comply with a requirement of the Act or any other Act.

If the enforceable undertaking is not complied with, the Commissioner may take the matter to the Tribunal which may issue a compliance order, discharge or vary the undertaking, or make any other order the Tribunal considers appropriate.

### Compliance notices

The Commissioner also has the power to issue compliance notices. A compliance notice must state the following:

## Clause 46 – Compliance notices

- (a) the grounds on which the Commissioner is satisfied that a conversion practice has occurred or is occurring;
- (b) the provision or provisions of this Act that the Commissioner considers have been contravened;
- (c) the date by which the person must take, or refrain from taking, specified action in relation to the practice;
- (d) the action the Commissioner may take if the person fails to comply with the notice; and
- (e) that the person may apply to the Tribunal for a review of the issuing of the notice or of any term of the notice.

A person to whom a compliance notice is issued may appeal the notice as a whole, or particular terms of the notice, to the Tribunal under clause 47. This must be lodged within 28 days of receiving the notice, which remains operational while the matter is being reviewed.

The Tribunal may confirm, vary or quash the notice, and may direct the Commissioner to take such action as the Tribunal considers appropriate.

If the compliance notice is not complied with, the Commissioner may take the matter to the Tribunal. The Tribunal may issue a compliance order, vary the notice, order the Commissioner to withdraw the notice, or make any other order it considers appropriate.

### **Matters related to enforceable undertakings and compliance notices**

In the case of employees, contractors and volunteers, the employer or principal (person in charge) is taken to be responsible for conversion practices unless they can establish, on the balance of probabilities, that reasonable precautions were taken to prevent the practice from occurring.

Proceedings related to enforceable undertakings and compliance notices may be brought by a police officer, the Commissioner, or a person authorised by the Commissioner.

### **Administrative Offences**

The bill establishes it is an offence to obstruct or hinder a person performing a power or function under the Act, or to abuse, threaten or attempt to intimidate such a person. The penalty is a fine of up to 100 penalty units or imprisonment for a term not exceeding 6 months, or both.

There is also an offence for making a statement while knowing it to be false or misleading, or omitting information knowing that, without that information, the statement is misleading. The penalty is a fine of up to 10 penalty units.

A police officer, the Commissioner, or a person authorised by the Commissioner may bring proceedings for these offences.

Furthermore, infringement notice provisions may be provided for in regulations.

## Victimisation

Clause 55 protects a person from being victimised for taking an action under this Act, and provides a penalty of a fine of up to 100 penalty units or imprisonment for a term not exceeding 6 months, or both.

Victimisation occurs if a person subjects, or threatens, another person or an associate to any detriment, on the following grounds.

### Clause 55 – Prohibition of victimisation

- (1) A person must not victimise another person because that other person –
- (a) made, or intends to make, a report under this Act; or
  - (b) participates, or proposes to participate, in a process under this Act; or
  - (c) gave, or intends to give, evidence or information in connection with an investigation or any proceedings under this Act; or
  - (d) alleged, or intends to allege, that any person has committed an act which would amount to a contravention of this Act; or
  - (e) refused or intends to refuse to do anything that would amount to a contravention of this Act; or
  - (f) has done anything in relation to any person under or by reference to this Act.

## Conversion Practices a form of Child Abuse

Amendments are made 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.

The amendments to the *Civil Liability Act 2002* include conversion practices under the provisions that deal with organisational liability for child abuse. This sets out that organisations that have a responsibility for children have a duty of care to prevent people associated with the organisation from using that position or association to conduct a conversion practice, and establishes liability for the organisation if that duty of care is not met.

The *Limitation Act 1974* amendments include a conversion practice as a form of child abuse is not subject to a limitation period.

The *Criminal Code Act 1924* amendments include conversion practices as an offence for the purposes of a *failing to report the abuse of a child* offence.

## Review of the Act

The bill provides for the Act to be independently reviewed after five years of operation. The review will cover the operation of the Act in achieving its objects, the operation of the Commissioner, and any other matters relevant to the effect of this Act on improving the accessibility and effectiveness of procedures for dealing with conversion practices reports.