

TASMANIA

**JUSTICE MISCELLANEOUS (CONVERSION
PRACTICES) BILL 2024**

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CONSULTATION DRAFT

JUSTICE MISCELLANEOUS (CONVERSION PRACTICES) BILL 2024

(Brought in by the Minister for Justice, the Honourable Guy Barnett)

A BILL FOR

An Act to amend the *Police Offences Act 1935* and the *Health Complaints Act 1995* to prevent harm caused by practices that attempt to change or eradicate a person's sexual orientation or gender identity

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Justice Miscellaneous (Conversion Practices) Act 2024*.

2. Commencement

This Act commences 3 months after the day on which this Act receives the Royal Assent.

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Part 2 – Police Offences Act 1935 Amended

PART 2 – POLICE OFFENCES ACT 1935 AMENDED

3. Principal Act

In this Part, the *Police Offences Act 1935** is referred to as the Principal Act.

4. Part II, Division VI inserted

After section 26 of the Principal Act, the following Division is inserted in Part II:

Division VI – Conversion practices

27. Interpretation of Division

In this Division –

consent has the same meaning as in section 2A of the *Criminal Code*;

conversion practice - see section 28;

gender identity has the same meaning as in the *Anti-Discrimination Act 1998*;

health service has the same meaning as in the *Health Complaints Act 1995*;

*No. 44 of 1935

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health service provider has the same meaning as in the *Health Complaints Act 1995*;

recipient, in relation to a conversion practice, means the person on whom the conversion practice is carried out;

sexual orientation has the same meaning as in the *Anti-Discrimination Act 1998*.

28. Meaning of *conversion practice*

- (1) Subject to this section, for the purposes of this Division, a *conversion practice* is a practice that attempts to change or eradicate the sexual orientation or gender identity of the recipient of that practice.
- (2) For the purposes of this Division, *conversion practice* does not include a practice by a health service provider that, in the provider's reasonable judgment –
 - (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

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- (c) is necessary to comply with the provider's legal or professional obligations.
- (3) For the purposes of this Division, ***conversion practice*** does not include the following practices:
- (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.
- (4) For the avoidance of doubt, a practice that amounts to no more than the expression of an opinion, idea or belief by a person, including a statement of religious principle or the provision of parental guidance, is not a conversion practice for the purposes of this Division.

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29. Offence to carry out conversion practice

- (1) A person must not carry out a conversion practice that causes physical or mental harm to the recipient of that conversion practice.
- (2) A natural person who is convicted of an offence under subsection (1) is liable to –
 - (a) if the recipient of the conversion practice is a child, a fine not exceeding 150 penalty units or imprisonment for a term not exceeding 18 months, or both; or
 - (b) in any other case, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 12 months, or both.
- (3) A body corporate that is convicted of an offence under subsection (1) is liable to –
 - (a) if the recipient of the conversion practice is a child, a fine not exceeding 300 penalty units; or
 - (b) in any other case, a fine not exceeding 200 penalty units.
- (4) It is a defence in proceedings for an offence under subsection (1), if the defendant establishes that the recipient of the conversion practice –
 - (a) was an adult; and

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- (b) consented to the carrying out of the conversion practice; and
- (c) understood, at the time consent was given, that the conversion practice could cause physical or mental harm.

30. Offence to promote conversion practice

(1) A person commits an offence if –

- (a) the person publishes or displays, or causes or permits the publication or display of, an advertisement or other notice; and
- (b) the advertisement or other notice –
 - (i) indicates, or could reasonably be understood as indicating, that the person or any other person intends to carry out one or more conversion practices; or
 - (ii) promotes the carrying out of one or more conversion practices.

Penalty: In the case of –

- (a) an individual, a fine not exceeding 100 penalty units or imprisonment for

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a term not exceeding 6 months, or both; or

(b) a body corporate, a fine not exceeding 200 penalty units.

- (2) Subsection (1) does not apply in respect of the publication or display of an advertisement or notice, if that advertisement or notice is published or displayed for the purpose of warning of the harm caused by conversion practices.
- (3) It is a defence in proceedings for an offence under subsection (1), if the defendant establishes that the defendant took reasonable steps to prevent the publication or display of the advertisement or notice.

31. Liability of body corporate

Any conduct engaged in on behalf of a body corporate by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority is, for the purposes of this Division, taken to have been engaged in also by the body corporate unless the body corporate establishes that the body corporate took reasonable precautions and exercised due diligence to avoid the conduct being engaged in.

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32. Proceedings on prosecutions

Proceedings for an offence under this Division are to be dealt with summarily.

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**PART 3 – HEALTH COMPLAINTS ACT 1995
AMENDED**

5. Principal Act

In this Part, the *Health Complaints Act 1995** is referred to as the Principal Act.

6. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended by omitting paragraph (a) from the definition of *health service* and substituting:

- (a) a service specified in Part 1 of Schedule 1, but does not include a service specified in Part 2 of that Schedule; or

7. Schedule 1 amended (Health Services)

Schedule 1 to the Principal Act is amended by inserting after item 11A in Part 1 the following item:

- 11B.** A service provided for, or purportedly for, the assessment or treatment of a person in relation to that person's sexual orientation or gender identity including, but not limited to, attempting to change or eradicate the person's sexual orientation or gender identity.

*No. 95 of 1995

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Part 4 – Concluding Provision

PART 4 – CONCLUDING PROVISION

8. Repeal of Act

This Act is repealed on the first anniversary of the day on which it commenced.

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