

Analysis of the *Conversion Practices Prohibition Bill 2026*



Executive Summary

The signatories support laws that protect people from coercive, abusive and genuinely harmful practices directed towards their sexual orientation or gender identity. The Greens' bill goes far beyond that objective. It combines an uncertain and exceptionally broad definition of “conversion practice” with serious criminal, civil, institutional and regulatory consequences.

The central problem is that the bill does not clearly distinguish harmful conversion practices from ordinary religious practice, parental guidance, counselling and support freely sought by adults. A single interaction can fall within the definition; “suppression” and “inducing” are undefined; consent is expressly disregarded; and there is no requirement for coercion or harm before conduct becomes a “conversion practice”. The exclusions for religious practice, parents and supportive care contain important protections, but leave significant uncertainty about their practical boundaries.

The principal concerns are:

- **Religious practice and parental guidance remain uncertain.** The bill protects “expressions of belief” and parental “discussion”, but does not clearly protect requested spiritual guidance, the practical application of religious teaching and parental decision-making. Many of the protections apply to conduct “of itself”, raising uncertainty about multiple conversations or prayers.
- **The criminal threshold is too low for an indictable offence.** Sections 12 and 14 require injury – including temporary harm to mental health – and negligence concerning that injury. New South Wales and South Australia require serious or substantial harm. The Tasmania Law Reform Institute (TLRI) recommended serious harm together with knowledge or recklessness. The Greens' bill instead exposes defendants to the Criminal Code's general maximum of 21 years' imprisonment.
- **The broad s 5 definition is carried into child-safety and child-abuse laws.** Conversion practices directed towards children become reportable conduct and are incorporated into institutional child-abuse provisions without requiring the injury necessary for a criminal offence. Conduct falling within the broad s 5 definition may therefore trigger child-safety reporting, investigation and organisational liability even where no harm has been established.
- **The bill imposes extensive obligations and liability on churches, schools and other organisations.** Section 11 creates a positive duty to take reasonable and proportionate measures to eliminate conversion practices. Employers and principals can be deemed to have committed offences committed by employees, contractors and volunteers, while separate civil attribution provisions and child-abuse duties create further overlapping liabilities.
- **The bill creates substantial exposure to claims and legal costs.** It expressly removes limitation barriers for qualifying historical childhood personal-injury claims, including claims already time-barred. Churches and other institutions may also face Tribunal compensation proceedings, civil claims, criminal proceedings, child-safety investigations and regulatory enforcement arising from the same alleged conduct.
- **The Commissioner is given extensive coercive powers.** Reports may be made by people with no direct involvement. The Commissioner may initiate investigations, compel documents and answers, issue compliance notices, accept enforceable undertakings and publish findings. The bill removes the privilege against self-incrimination, subject to direct-use immunity, and does not expressly provide derivative-use immunity.
- **Substantive amendments to other laws are presented as consequential changes.** These include a new definition of sexual orientation throughout the *Anti-Discrimination Act 1998* and a broader non-discrimination principle under the *Health Complaints Act 1995*. Their effects extend well beyond conversion practices and should be separately scrutinised.

Comparison with other States

The Greens' bill is NOT equivalent to that of other states.

Even after the changes made following consultation, the Greens' bill remains **at least as restrictive as Victoria's – and in important respects goes even further**. On parental rights and freedom of religion, conscience and speech, it is substantially more intrusive than the more recent laws adopted in New South Wales and South Australia.

The differences are not minor drafting details. They include the breadth of the definition, the treatment of consent, the criminal threshold and penalties, child-abuse and reportable-conduct provisions, organisational liability, the positive duty, retrospective claims and the powers given to the Commissioner.

	Victoria	NSW	SA
Single event	Same	Similar	Worse
"Inducing" element	Same	Worse	Worse
Consent ignored	Same	Worse	Worse
Criminal injury threshold	Same	Worse	Worse
Maximum imprisonment	Worse	Worse	Worse
Child-abuse and reportable-conduct amendments	Worse	Worse	Worse
Positive duty	Worse	Worse	Worse
Employer criminal liability	Worse	Worse	Worse
Civil vicarious liability	Similar	Worse	Worse
Third-party reports	Same	Worse	Worse
Own-initiative investigations	Similar	Similar	Worse
Compulsory evidence	Similar	Similar	Worse
Self-incrimination	Worse	Worse	Worse
Evidence and natural justice	Worse	Worse	Worse
Publication of investigation findings	Worse	Worse	Worse
Practice guidelines	Worse	Worse	Similar
Historical claims	Worse	Worse	Worse
Advertising offence	Similar	Worse	Worse

Legislation Compared

Tasmania: Conversion Practices Prohibition Bill 2026, Bill 45, as introduced; Criminal Code Act 1924, sch 1, s 389(3).

Victoria: Change or Suppression (Conversion) Practices Prohibition Act 2021, version 002.

New South Wales: Conversion Practices Ban Act 2024, No 19.

South Australia: Conversion Practices Prohibition Act 2024; Equal Opportunity Act 1984 (including the conversion-practices amendments).

Comparison with TLRI Recommendations

*The Greens' bill **does NOT implement** the model recommended by the TLRI*

The Tasmania Law Reform Institute recommended a **narrower, health-led and harm-focused model**, with criminal law as a last resort and existing legal systems adapted to deal with conversion practices. The Greens' bill instead adopts a **broader definition, lower criminal threshold, wider institutional liability and a new coercive regulatory framework**.

While some elements draw on TLRI recommendations, the overall structure and many of the bill's most significant provisions go substantially beyond the model the TLRI proposed, while other TLRI proposals are ignored.

Significant departures from the TLRI model:

- **Broader definition** – the Greens' bill uses a single definition across criminal, civil, regulatory and institutional provisions, rather than the TLRI's more targeted approach.
- **Single acts captured** – the Greens' bill can capture an isolated interaction; the TLRI's proposed criminal and civil models required a course of conduct.
- **Undefined "suppression"** – the Greens' bill relies on an undefined concept of suppression without providing the clearer boundary between conversion and legitimate conduct emphasised by the TLRI.
- **Additional "inducing" limb** – the Greens' bill expressly captures conduct intended to induce a person to suppress or change themselves; the TLRI treated indirect conduct separately rather than incorporating it into the general definition.
- **Consent disregarded across the entire scheme** – the TLRI excluded consent as a defence to its serious-harm criminal offence, but did not exclude it in the broader definition as the Greens' bill does.
- **No principal-purpose threshold** – the Greens' bill does not require conversion to be the dominant or principal purpose, despite the TLRI's emphasis on whether conduct was legitimately and principally pursued for another purpose.
- **Uncertain exclusions for protected conduct** – the Greens' bill uses undefined concepts such as "genuinely" meeting a person's "needs" and an unclear "of itself" qualification, rather than providing clear boundaries around legitimate support and protected conduct.
- **Narrower parental protection** – the Greens' bill expressly protects parental "discussion", while the TLRI contemplated care, guidance and mentoring by parents or guardians in the child's best interests.
- **Lower criminal threshold** – the TLRI proposed a course of conduct causing serious physical or mental harm, with knowledge or recklessness; the Greens' bill requires only injury and negligence concerning that injury.
- **Standalone advertising offence** – the Greens' bill creates a specific criminal offence and associated document powers; the TLRI instead considered promotion through existing health, anti-discrimination and consumer-law frameworks.
- **General prohibition and positive duty** – the Greens' bill creates community-wide obligations applying to the broad definition of conversion practice that were not part of the TLRI model.
- **Broader child-abuse classification** – the Greens' bill applies its broad s 5 definition to institutional child-abuse provisions rather than the TLRI's narrower course-of-conduct civil definition.

- **New reportable-conduct category** – the Greens' bill separately makes conversion practices involving children reportable conduct without requiring the criminal injury threshold; the TLRI did not recommend this additional regime.
- **Retrospective exposure to historical claims** – the TLRI recommended prospective civil reforms following a transition period; the Greens' bill expressly removes limitation barriers for qualifying historical claims, including claims already time-barred.
- **Vicarious employer criminal liability** – employers and principals can be deemed to have committed offences committed by employees, contractors and volunteers; the TLRI recommended no equivalent general criminal attribution regime.
- **Vicarious civil attribution** – the Greens' bill attributes employee, contractor and volunteer conduct to employers and principals beyond the TLRI's child-specific organisational liability model.
- **Standalone regulatory regime** – the TLRI recommended targeted amendments using existing health, anti-discrimination, civil and criminal systems; the Greens' bill creates a new conversion-practices regulatory framework.

Elements in this regime not recommended by the TLRI include:

- anyone may report an alleged conversion practice, including someone not directly affected;
- the Commissioner can compel documents, information and attendance;
- a new compensation jurisdiction under s 60 rather than civil-liability reforms;
- power to compel compliance despite self-incrimination, subject to direct-use immunity;
- new coercive enforcement mechanisms;
- the Commissioner receives a general power concerning conversion-practice guidelines;
- broad powers to publish Commissioner findings and recommendations;

TLRI recommendations not implemented:

- **Health-led model** – the TLRI treated direct conversion practices principally as a health-law problem; the Greens' bill ignored this approach and placed the Conversion Practices Commissioner at the centre of a much broader scheme.
- **TLRI clinical-governance safeguards** – the bill does not implement the proposed health system:
 - Authorised-practitioner and Standing Order system for assessment and treatment
 - Prescribed clinical guidelines under Tasmanian health law, linked to the Standing Order system
 - Referral and investigation arrangements through the Mental Health Act, Health Complaints Commissioner and Ombudsman
 - Health Complaints Commissioner as the principal investigative body for direct conversion practices
 - Reporting of findings by the Health Complaints Commissioner to the Chief Civil Psychiatrist

Additional legislation changes beyond TLRI recommendations:

- **Broader health non-discrimination amendment** – the TLRI recommendation concerned sexual orientation and gender identity; the Greens' bill inserts a principle covering discrimination generally under the *Anti-Discrimination Act*.
- **Wider redefinition of sexual orientation** – the Greens' bill changes the definition throughout the *Anti-Discrimination Act*, extending the reform beyond the conversion-practices-specific amendments proposed by the TLRI.

1 Base Definition of Conversion Practices

The definition of a “conversion practice” provided in the legislation is both overly broad and imprecise.

1.1 Single acts rather than sustained or repeated conduct

Section 5(1) defines a conversion practice as a “practice or conduct”, without requiring repetition, a sustained effort or a course of conduct. A single interaction can therefore satisfy the definition; it need not form part of an organised program or continuing practice.

This differs from the model proposed by the Tasmania Law Reform Institute which stated, in its July 2026 submission, that criminal liability for a single act was a departure from its recommendations.¹ The TLRI’s proposed model required a course of conduct, rather than an isolated act, reflecting its stated concern about the effect of criminal prohibitions on legitimate conduct.

1.2 The undefined meaning of “suppression”

Section 5(1)(b) of the Greens’ bill includes conduct intended to *suppress* a person’s sexual orientation or gender identity, or to induce the person to suppress it themselves. However, neither the interpretation provision nor s 5 defines “suppression”. The legislation therefore relies on this term without expressly identifying its boundaries.

This gives no clarity on the distinction between suppressing a person’s orientation or identity and helping them exercise restraint concerning behaviour or relationships. Supporting someone’s decision not to act on an attraction is not necessarily an attempt to change or suppress the attraction itself. The Greens’ bill does not clearly explain how those different purposes are to be distinguished.

This distinction is particularly relevant where someone requests support to live consistently with their own beliefs. For example, an adult may choose not to act on a specific attraction, choosing celibacy, deciding not to enter a particular relationship, or maintaining faithfulness in their marriage. If that adult asks for support from a friend, counsellor or religious adviser, there is no clarity as to whether that support violates the new prohibition. Without a clear definition, the assistance may be characterised as an attempt to suppress sexual orientation rather than support a decision about conduct.

The uncertainty is compounded by the proposed re-definition of *sexual orientation*, which includes intimate or sexual relationships as well as attraction. Incorporating relationships into that definition makes it harder to distinguish whether advice about sexual relationships is conduct directed towards *suppressing* orientation.

The Tasmania Law Reform Institute emphasised the importance of distinguishing conduct genuinely directed towards conversion from the expression of beliefs or other conduct concerning sexuality and gender.² Its 2022 report warned that ambiguous legislation could undermine legal certainty for both the public and enforcement authorities. Its July 2026 submission reiterated that exclusion, stigma or discrimination does not, by itself, establish an intention to convert someone. These observations reinforce the need for an identifiable boundary around suppression.³

¹ Tasmania Law Reform Institute, *Sexual Orientation and Gender Identity Conversion Practices* (Final Report No 32, April 2022) 178–180.

Tasmania Law Reform Institute, *Submission on the Conversion Practices Prohibition Bill 2026* (Submission, 31 July 2026) 6.

² TLRI Report, 21–22.

³ TLRI Submission 2–4.

1.3 The additional “inducing” limb

Section 5(1)(b)(ii) of the Greens' bill goes beyond conduct directed at actually changing, suppressing or eradicating a person's sexual orientation or gender identity. It also captures conduct undertaken for the purpose of *inducing* the person to change, suppress or eradicate it themselves. This creates a separate and broader pathway into the definition. A person need not themselves attempt to change or suppress another person; it is enough that their conduct is directed towards persuading the other person to do so.

“Inducing” is not defined. In ordinary usage it can extend well beyond coercion, threats or pressure and encompass persuasion, encouragement or influence. This creates particular uncertainty for counselling, pastoral care, religious teaching and parental guidance, where the purpose of the interaction may be to encourage a person to make choices consistent with their own values. The Greens' bill does not explain when ordinary persuasion or moral guidance becomes unlawful inducement.

The breadth of the provision is significant because the inducement does not need to succeed. The recipient does not need to actually change or suppress anything. Nor does the definition require coercion, harm or a course of repeated conduct. A single conversation may therefore fall within the definition where it is characterised as having the purpose of inducing the recipient to suppress their sexual orientation or gender identity.

The inducing limb is also broader than the equivalent definitions in South Australia and New South Wales. Neither jurisdiction contains a separate prohibition on “inducing” a person to change or suppress their sexual orientation or gender identity. Their definitions focus instead on the practice, treatment or sustained effort itself being directed towards changing or suppressing the person's orientation or identity.⁴

1.4 Consent

Section 5(1) of the Greens' bill expressly applies “whether with or without the person's consent”. Section 20(2) separately provides that the recipient's consent is not a defence to a criminal charge under Part 3. Consent is therefore excluded not only as a defence to specified criminal offences, but within the definition governing the entire scheme.

Placing this provision in the broad definition extends its effect beyond criminal conduct to the general prohibition, positive duty, reporting scheme and organisational obligations. A competent adult's informed and continuing request for assistance cannot, by itself, prevent that assistance from being classified as a conversion practice. Conduct may therefore attract civil and regulatory consequences despite being voluntarily requested and causing no injury.

The Greens' bill does not expressly distinguish assistance directed by an adult's freely chosen goals from a coercive practice. An adult may seek help to maintain a marriage, remain celibate, refrain from a particular relationship or live consistently with religious commitments. The uncertainty arises when a counsellor, religious adviser or other person helps them pursue those goals. The recipient's voluntary request does not resolve whether that assistance is protected support or prohibited suppression.

This affects both the person providing assistance and the adult seeking it. The issue is not simply whether a religious adviser may express a belief, but whether another adult can obtain practical support to apply their own beliefs to their own life.

Section 8(b) recognises that people should be able to live authentically. The Greens' bill does not explain how that principle applies when an adult's authentic chosen way of life includes religious commitments concerning relationships or sexual conduct, and they request assistance to maintain those commitments.

⁴ Conversion Practices Prohibition Act 2024 (SA) s 4(1). Conversion Practices Ban Act 2024 (NSW) s 3.

1.5 Whether the prohibited purpose must be the main purpose

Section 5(1) of the Greens' bill requires conduct to be undertaken “for the purpose of” changing, suppressing or eradicating a person’s sexual orientation or gender identity, or inducing the person to do so. It does not specify whether this must be the sole purpose, the dominant or substantial purpose, or merely one purpose among several.

This creates significant uncertainty where conduct has several purposes. A parent may be concerned about a child’s welfare, maturity, religious formation and relationships. A counsellor may be helping a client address marriage difficulties, personal values and mental health. A religious leader may be providing spiritual guidance about relationships and sexual conduct. Some aspect of the interaction may affect the expression of sexual orientation or gender identity without that being its principal purpose.

The distinction is important because the Greens' bill does not require coercion or harm before conduct satisfies the general definition. If the prohibited purpose need only be one incidental or subsidiary purpose, conduct principally undertaken for another legitimate reason may nevertheless become a conversion practice. The Bill provides no threshold for determining how significant the prohibited purpose must be.

1.6 No requirement for coercion or harm

Section 5 of the Greens' bill does not require conduct to be coercive, abusive or harmful before it qualifies as a conversion practice. Force, threats, intimidation and abuse of authority are not elements of the definition. Nor is it necessary to establish actual injury or a substantial risk of injury. The definition instead turns on the basis and purpose of the conduct.

An interaction can satisfy the definition even where the recipient freely requests it, remains free to reject the advice or end the interaction, and suffers no injury. Whether the conduct is prohibited depends on broad and vague definitions around its purpose.

The requirement to prove injury under ss 12 and 14 applies to the principal criminal offences, not to the general definition. It therefore does not restrict the general prohibition, positive duty or reporting framework to injury-causing conduct. Similarly, Schedule 1’s addition of conversion practices directed towards children to the reportable-conduct scheme does not incorporate the criminal injury threshold.

This has consequences throughout the scheme. Section 10 makes engaging in a conversion practice a contravention, and s 11 requires reasonable and proportionate measures to eliminate such practices. Section 27 permits reports without requiring an allegation of injury. The nature and extent of any harm are matters for the Commissioner to consider under s 30, but harm is not a prerequisite to conduct falling within the definition or being reported.

2 Exclusions to definition

The listed exclusions provide some protection for religious practice, parental discussions and genuine support, but their boundaries remain unclear. The ambiguity means that a person cannot determine in advance whether their conduct is protected, or whether it may later be characterised as a “conversion practice” under a narrower interpretation of these vague exclusions.

2.1 Unclear protection for genuine support and identity exploration

Section 5(3)(b) of the Greens' bill excludes

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.

This is an independent exclusion available to counsellors, social workers, religious leaders, chaplains, teachers, parents and volunteers. It is not confined to registered health practitioners and is not subject to the “of itself” qualification applying to the activities listed in s 5(4). Conduct satisfying this exclusion is

outside the definition of conversion practice.

The difficulty lies in identifying what satisfies the exclusion. The Greens' bill does not define “genuinely facilitating”, “development”, “identity exploration” or “the person’s needs”. It does not explain how those needs are to be identified or what weight should be given to the person’s own informed understanding of the support they need. The protection therefore depends on concepts whose application may be disputed in retrospect, particularly where the person’s goals involve religious beliefs, relationships or sexual restraint.

The Greens' bill does not specify how an assessment is to distinguish a “genuine” attempt to support the recipient from conduct pursuing a prohibited purpose. This leaves the provider unclear regarding the legality of their actions, even where the recipient requested and values the assistance.

2.2 The limits of the “of itself” qualification

Section 5(4) of the Greens’ bill provides that the listed conduct does not, “of itself”, constitute a conversion practice. The bill does not identify the additional circumstances that take listed conduct beyond this protection. It does not specify whether there must be separate conduct, a particular manner of delivery, or further evidence of a prohibited purpose. Nor does it establish coercion, threats, abuse or injury as the additional threshold. The boundary between protected activity and prohibited conduct therefore remains completely unclear.

For example, a person may ask a religious leader how a teaching applies to their circumstances. The response may explain the teaching, encourage the person to follow it and include prayer for assistance. These activities correspond to several listed protections. The legislation does not expressly explain when their application to an individual’s circumstances becomes something more than the protected expression of belief.

2.3 Repeated protected activity

The construction “of itself” also leaves it ambiguous as to whether protected activities continue to be protected if they reoccur.

This matters because many of the activities listed in s 5(4) are naturally repeated. Religious teaching occurs regularly. Pastoral care and spiritual direction may involve a series of conversations. A parent may discuss the same issue with their child many times over months or years. A person may repeatedly ask for prayer or advice about the same struggle. Repetition is an ordinary feature of these relationships and does not change the character or purpose of the activity.

The Greens' bill does not give any clarity as to whether “of itself” excludes repeated conduct that is otherwise protected. Nor does it identify the point at which repetition could transform a series of individually protected activities into a conversion practice. This is particularly significant because s 12(2) expressly permits multiple practices to be considered together when determining whether they caused injury.

The result is great uncertainty for continuing pastoral care and parenting. A minister may be confident that one requested prayer or conversation falls within s 5(4), but cannot determine from the legislation whether providing the same requested support over an extended period changes its legal character. Parents face the same uncertainty where guidance about relationships, sexuality, gender or religion necessarily occurs through repeated conversations rather than a single discussion.

2.4 Prayer and requested spiritual support

Section 5(4)(b) of the Greens' bill addresses “an expression, including in prayer, of a belief or principle, including a religious belief or principle”. The wording expressly identifies prayer as a means of *expressing belief*. However, most world religions see prayer as a means of asking for effective support from a divine

power. The legislation does not consider praying with or for someone, at their request, for spiritual or divine assistance in living according to their beliefs.

Prayer for assistance is distinct from explaining or stating religious teaching. A person who already understands and accepts a teaching may seek prayer for wisdom, strength or help in applying it. For example, explaining a religious belief about marital faithfulness is different from praying with an adult who requests strength to remain faithful to their marriage. The latter is a request for divine assistance, not merely an expression of doctrine. The exclusion does not expressly describe this aspect of prayer and spiritual support.

The Greens' bill therefore leaves uncertainty about the scope of its prayer protection. Religious leaders and those seeking their support cannot determine from the wording whether a request for divine assistance is covered in the same way as a statement of religious belief.

2.5 Explaining and applying religious teaching to individual circumstances

Sections 5(4)(b)–(d) of the Greens' bill address expressions of belief, statements that beliefs ought to be followed or applied, and statements of religious teaching. They do not separately describe helping a person work out how that teaching applies to their particular circumstances. Expressing that a principle should be followed is different from advising someone about the practical decisions involved in following it.

Personal religious guidance involves more than reciting a general rule. A person may need help understanding how different religious obligations bear upon a relationship decision, how to honour existing commitments, or what a teaching requires when responsibilities or desires appear to conflict. The adviser must consider the person's circumstances, explain the available choices and discuss their implications. The religious-teaching provisions are not clear regarding this process of applying a general teaching to a concrete decision.

Elsewhere, the Greens' bill expressly distinguishes stating a requirement from applying it. Section 5(4)(e) addresses the making, application and communication of general religious membership and leadership requirements. There is no equivalent express reference to applying religious teachings through personal advice in paragraphs (b)–(d). This leaves the scope of protection for practical religious guidance less clearly stated than the protection for communicating the teaching itself. Religious advisers are left to interpret whether explaining what a belief requires in an individual situation receives the same protection as explaining the belief in general terms.

2.6 Parental guidance and decision-making

Section 5(4)(f) of the Greens' bill expressly addresses parents *discussing* sexual orientation, gender identity, sexual activity or religion with their children. It does not separately identify parental advice, guidance or decisions concerning a child's care, education and religious upbringing. The provision describes one aspect of parenting without expressly addressing the wider responsibilities through which parents support their children.

Parenting is full of actions and decisions that are not merely discussions, including choosing a school, arranging religious education, educating on sex and sexuality, and deciding what activities and content are appropriate for that child at that time. Section 5(4)(f) does not clarify when *action* taken to guide or care for a child is protected. This leaves parents without clarity regarding all the decisions involved in raising a child.

2.7 Guardians, foster carers and other people caring for children

Section 5(4)(f) of the Greens' bill refers only to *parents* discussing sexual orientation, gender identity, sexual activity or religion with their children. It does not mention guardians, foster carers, kinship carers, step-parents, grandparents or other adults who may have day-to-day responsibility for a child.

3 Blurred lines between offence and allegation

Section 4(2) of the Greens' bill allows a person to be treated as “affected by” a conversion practice where the practice is merely alleged:

For the purposes of this Act, a person is affected by a conversion practice if the conversion practice is being, has been, or is alleged to be or have been, directed towards the person. (emphasis added)

This is particularly significant because the Act attaches substantial processes and consequences to the concept of a person being “affected by” a conversion practice.

Given the uncertainty surrounding the boundary between prohibited conduct and protected religious practice, the legislation should maintain a clear distinction between an allegation and an established contravention. The legislation should therefore clearly identify which powers and consequences may be triggered by an allegation, and which require a finding that the conduct occurred.

4 Criminal provisions

4.1 Criminal threshold

Sections 12 and 14 of the Greens' bill create indictable offences where a person intentionally engages in a conversion practice that causes injury and the person is negligent as to whether the practice would cause that injury. “Injury” includes physical injury or harm to mental health, whether temporary or permanent. The Greens' bill therefore does not require serious or substantial harm and does not require the accused to have known of or consciously disregarded the risk of harm.

This is a substantially lower criminal threshold than the more recent legislation in New South Wales and South Australia. In New South Wales, s 5 of the Conversion Practices Ban Act 2024 requires the accused to intend to change or suppress the individual’s sexual orientation or gender identity and the practice must cause mental or physical harm that endangers the individual’s life or is substantial.⁵ South Australia similarly requires the accused to intend to change or suppress the individual’s sexual orientation or gender identity and requires the practice to actually cause serious harm, defined as harm that endangers life or is substantial.⁶

Victoria also distinguishes between different levels of injury. Section 10 of the Change or Suppression (Conversion) Practices Prohibition Act 2021 applies to practices causing serious injury, while s 11 creates a separate offence for injury.⁷ Tasmania does not adopt that hierarchy. The Greens' bill creates an indictable offence at the level of “injury”, including temporary harm to mental health, without reserving its most serious criminal offence for serious injury.

The fault requirement is also significantly lower than the model recommended by the Tasmania Law Reform Institute. The TLRI regarded criminal law as a measure of last resort for serious and clearly foreseeable harm, stating:

The TLRI is generally sceptical of the criminal law and incarceration as a useful tool for preventing harm or guiding social behaviour.

The *Criminal Code* should be used as an option of last resort for serious, egregious or repeated forms of SOGI conversion practices that manifest as serious physical or mental harm (or a person is reckless about them manifesting that harm), proven beyond reasonable doubt.⁸

⁵ Conversion Practices Ban Act 2024 (NSW), s 5.

⁶ Conversion Practices Prohibition Act 2024 (SA), ss 3, 6.

⁷ Change or Suppression (Conversion) Practices Prohibition Act 2021 (Vic), ss 10–11.

⁸ TLRI Report 176.

It specifically warned against that criminal law should operate as a “capstone” response to seriously harmful conduct, noting:

The scope and application of criminal offences can also have a chilling effect on legitimate conduct.⁹

The Greens' bill departs from that approach on both sides of the offence: it lowers serious harm to injury, and lowers knowledge or recklessness to negligence.

This combination is particularly concerning given the uncertainty surrounding the underlying definition of conversion practice. Criminal liability should attach to clearly defined and seriously harmful conduct, with a level of personal culpability appropriate to an indictable offence. Tasmania should at least adopt the serious-harm threshold used in New South Wales and South Australia and the knowledge-or-recklessness requirement recommended by the TLRI.

4.2 Advertising conversion practices

Section 16 of the Greens' bill makes it an offence to publish, display or authorise an advertisement or other notice that indicates, or could reasonably be understood as indicating, that someone intends to engage in a conversion practice. The offence uses the broad definition in s 5 and does not require a practice to have occurred or anyone to have suffered injury. It is not confined to paid advertising or commercial services, creating potential criminal exposure for notices about pastoral support where their wording is reasonably understood as offering a conversion practice.

The threshold of “could reasonably be understood as indicating”, combined with the overly broad and vague definition of s 5, results in an offence that could be triggered simply from the ambiguity of the definition.

Section 17 empowers the Commissioner to require documents for advertising-offence proceedings, with failure to comply without reasonable excuse constituting a separate offence. Under s 18, prosecution may be brought by the Commissioner, a police officer or a person authorised by the Commissioner. The Director of Public Prosecutions' written consent required by s 21 for the injury-causing offences is not required. These provisions create criminal exposure and potential legal costs arising from publications, independently of any injury-causing practice.

4.3 Maximum criminal penalties

Sections 12 and 14 of the Greens' bill create indictable offences without specifying their own maximum penalties. The general sentencing provision in s 389(3) of the Criminal Code therefore applies, exposing an individual to a maximum of 21 years' imprisonment, a fine, or both.¹⁰ That maximum applies to offences requiring injury and negligence concerning injury, without requiring the injury to be serious or permanent.

Victoria adopts substantially lower, graduated penalties. Section 10 of the Change or Suppression (Conversion) Practices Prohibition Act 2021 provides a maximum of 10 years' imprisonment for practices causing serious injury, while s 11 provides a maximum of five years for practices causing injury. The equivalent interstate-removal offence under s 12 carries a maximum of two years.¹¹ The Greens' bill instead applies the same 21-year maximum to both its injury-causing and interstate-removal offences.

The Greens' bill therefore combines an injury threshold below serious harm with a maximum prison term more than twice Victoria's serious-injury maximum and more than four times its injury maximum. Parliament should specify proportionate maximum penalties in the bill itself and distinguish between levels of harm, rather than rely on the Criminal Code's general maximum.

⁹ TLRI Report, 176–180.

¹⁰ Criminal Code Act 1924 (Tas), sch 1, s 389(3).

¹¹ Change or Suppression (Conversion) Practices Prohibition Act 2021 (Vic), ss 10–12.

5 Conversion practices classified as child abuse

The Greens' bill uses the broad definition in s 5 to extend particular child-abuse and child-safety provisions to conversion practices directed towards children. The amendments affect organisational prevention duties, reportable conduct, limitation periods and certain historical settlements. These apply to any conduct that falls under the definition in s 5, not just the criminal offences that require actual injury. Conduct can therefore be defined as “child abuse” simply for falling under the overly-broad and vague definition of s 5, even if it was fully consensual, caused no harm or injury, and none of the participants lodged a complaint or considered it a conversion practice.

Tasmania's existing child-protection laws already cover physical and emotional abuse of children. The reportable-conduct framework also expressly covers physical violence and conduct that causes, or is likely to cause, significant emotional or psychological harm to a child. Harmful conversion practices meeting those thresholds are therefore already covered, regardless of whether they are described as conversion practices.¹²

5.1 Reportable conduct and organisational safeguarding obligations

Schedule 1 adds conversion practices directed at children to the definition of reportable conduct in s 7(2) of the *Child and Youth Safe Organisations Act 2023*. For organisations covered by that scheme, information supporting a *reasonable suspicion* of a conversion practice – as defined in the broad definition in s 5 – by a worker would engage the existing reporting requirements. The organisational head must notify the Independent Regulator within three business days, provide further information as soon as practicable and no later than 30 days, and investigate or arrange an investigation. Failure to comply with the notification requirement without reasonable excuse is an offence.¹³

The existing scheme includes volunteers, contractors and religious leaders within its coverage of workers, and qualifying allegations may concern conduct outside their organisational duties. Schedule 1 also adds the Conversion Practices Commissioner to the information-sharing provisions in s 40. The amendment therefore creates reporting, investigation and information-sharing consequences beyond the process set out even by the Greens' original draft bill. These obligations operate at the allegation stage, without requiring a prior finding that the conduct occurred or caused injury.

5.2 Organisational duty to prevent child abuse and presumption of breach

Schedule 2 adds conversion practices directed towards children to the definition of child abuse in s 49H(5) of the *Civil Liability Act 2002*. This extends the duty on an organisation responsible for a child to take reasonable precautions to prevent conversion practices – as defined in the broad definition in s 5 – by associated individuals whose organisational position provides authority, power, control, or the child's trust. The associated-individual provisions include employees, volunteers, contractors and religious leaders.¹⁴

Where a claimant establishes a conversion practice (by the broad definition) and the organisational connection required by s 49H(3), the organisation is presumed to have breached its duty unless it establishes that it took reasonable precautions. The amendment therefore places the broad definition of conversion practices within an existing civil liability regime which contains a presumption of breach. This concerns the organisation's duty of care from which remaining requirements of the negligence claim, including causation and compensable damage, can then be established.

¹² Children, Young Persons and Their Families Act 1997 (Tas), s 3, definition of “abuse or neglect”; Child and Youth Safe Organisations Act 2023 (Tas), ss 7(1), 7(2)(c), 7(2)(e).

¹³ Child and Youth Safe Organisations Act 2023 (Tas), ss 4, 8, 34–35, 40.

¹⁴ Civil Liability Act 2002 (Tas), ss 49F–49H.

6 Changes to Limitation Act and retrospective claims

Schedule 1 inserts s 5B(1)(ab) into the *Limitation Act 1974*, removing limitation periods for personal-injury claims arising from or related to alleged conversion practices directed towards a person while they were a minor. The schedule also adds s 38B which expressly extends this change to historical claims, including those whose limitation periods have already expired.

While the newly amended s 49H(5) and Limitation Act s 5C exclude acts that were “lawful at the time”, that wording does not appear in the new s 5B(1)(ab) provision or in the new reportable-conduct category.

This means that individuals and institutions could face compensation claims regarding conduct undertaken decades before the relevant amendments commenced if that conduct falls in the broad and vague definition of s 5. This is despite the fact that the conduct was not prohibited at the time, or considered child abuse.

Schedule 1 also adds conversion practices directed towards children to the definition of child abuse in s 5C of the *Limitation Act 1974*. This brings qualifying claims within the mechanism allowing a court to set aside a settlement if it determines that doing so is in the interests of justice.¹⁵

These changes open the possibility that behaviour that was outside of the definition of “child abuse” at the time would then fall under the category under the broad definitions of s 5 and attract a retrospective claim.

7 Positive Duty to eliminate conversion practices

Section 11 of the Greens' bill imposes a duty to take reasonable and proportionate measures to eliminate conversion practices engaged in by a person or by another person acting on their behalf. This goes beyond the general prohibition in s 10. It requires preventive action, rather than merely refraining from personally engaging in prohibited conduct. The duty applies to individuals as well as organisations and is not confined to employers, health practitioners or institutions responsible for children.

The duty is tied to the general definition in s 5, not the criminal offences in ss 12 and 14. It therefore concerns practices that need not involve coercion, actual injury or give rise to a complaint. For an organisation, compliance requires identifying and addressing conduct – within that broader definition – by people acting on its behalf. The uncertainty surrounding suppression and the scope of the exclusions consequently affects not only individual interactions, but also the preventive measures an organisation is expected to take.

The provision does not specify minimum measures or a defined route by which an organisation can establish compliance. Its application requires a (potentially retrospective) assessment of what measures were appropriate in the organisation's circumstances. The practical result is that organisations must determine what preventive arrangements are required while also interpreting the boundary between prohibited conduct and protected religious teaching, pastoral support and parental discussion.

¹⁵ Limitation Act 1974 (Tas), s 5C.

8 Criminal and civil liability for the conduct of others

Section 19 of the Greens' bill provides that, where an employee or agent commits an offence under the legislation, the employer or principal is taken to have committed the same offence. The definition of employee includes contractors and volunteers. The provision therefore extends criminal responsibility beyond the individual offender to the person or organisation engaging them, subject to the statutory defence. It applies to offences under the legislation generally, not only the injury-causing offences in ss 12 and 14.

Section 19 does not require separate proof that the employer authorised, encouraged or knew about the offence. Instead, s 19(3) places the burden of establishing the defence on the employer or principal. They must prove that they could not have known of or prevented the offence despite taking all reasonable precautions and exercising all due diligence. Simply establishing that the conduct was unauthorised or unknown to the organisation does not, by itself, satisfy that test.

The provision does not expressly require the offence to occur in the course of employment or agency, within the individual's authorised responsibilities, or for the organisation's benefit. This contrasts with s 54, which expressly limits civil attribution to conduct in the course of employment or while acting as an agent. The absence of equivalent words in s 19 leaves uncertainty about criminal responsibility for personal conduct outside an employee's or volunteer's organisational role.

Section 54 creates a separate civil attribution rule for Parts 5 and 7. Where a person engages in a conversion practice – in the broader definition of s 5 – in the course of employment or while acting as an agent, both that person and the employer or principal are taken to have engaged in the practice. Employment again includes contractors and volunteers. The employer or principal must establish, on the balance of probabilities, that reasonable precautions were taken to prevent the practice to avoid that attribution.

9 Impact on faith communities, schools and other institutions

The combined effect of the Greens' bill is substantially greater than any individual provision considered in isolation. Churches, faith-based schools, charities and community organisations would be required to interpret the broad definition of conversion practices in s 5, take positive steps to eliminate those practices, supervise employees and volunteers, respond to allegations, potentially bear civil or criminal responsibility for the conduct of others, and face retrospective claims for activity that was not prohibited at the time. For organisations working with children, the same conduct would also engage reportable-conduct requirements and the institutional child-abuse provisions.

This creates strong incentives for organisations to adopt restrictive policies to minimise legal risk, resulting in people not getting the advice and support that they desire. Ministers and volunteers may limit themselves in the advice they provide for fear of falling under the broad definition. School students may be unable to get substantive answers on questions of gender and sexuality from teachers, chaplains and wellbeing staff. Organisations may require conversations to be documented, creating significant privacy issues. These responses are foreseeable risk-management responses to the combination of uncertain definitions and significant institutional liability.

The child-safety amendments add another layer of institutional risk. Where conduct towards a child is alleged to constitute a conversion practice (according to the broad and vague definition of s 5), organisations may need to treat the matter through systems designed to respond to child abuse and reportable conduct, even though the allegation might be of conduct that caused no harm and raised no complaint from the people involved. This risks collapsing the practical distinction between genuinely abusive conduct and disputed religious, pastoral or educational interactions.

The Tasmania Law Reform Institute expressly identified the risk that conversion-practice legislation could

have a chilling effect on legitimate conduct. It recommended a minimal amendment model using existing health, anti-discrimination, civil and criminal laws, rather than establishing a standalone regulatory regime with overlapping duties and liabilities.¹⁶ The Greens' bill instead creates multiple layers of responsibility that institutions must manage simultaneously.

9.1 Exposure to claims and litigation costs

The financial exposure for faith communities will also be significant. Churches may face Tribunal compensation applications under s 60, civil proceedings alleging negligence or breach of the organisational child-abuse prevention duty, and criminal prosecutions concerning their own conduct or offences attributed to them under s 19. Section 54 separately attributes employee, contractor and volunteer conduct to employers and principals for the reporting and compliance framework, subject to its reasonable-precautions defence.

Legal costs may also arise from responding to third-party reports, Commissioner investigations, compulsory evidence notices, positive-duty compliance action and child-safety investigations, or from seeking review and defending enforcement proceedings. The same alleged conduct may engage several processes. Section 53 expressly permits orders requiring payment of enforcement proceedings costs.

Historical exposure includes the removal of limitation periods for qualifying childhood personal-injury claims, including claims already time-barred, and the reopening of certain settlements. Institutions could therefore face proceedings concerning conduct decades before commencement. As discussed above, the “lawful at the time” exclusion applies to settlement reopening under s 5C, not the separate removal of time limits under s 5B.

The costs extend beyond compensation or penalties. Legal representation, document searches, expert evidence, locating witnesses and management time can impose substantial expense even where allegations are not established. Historical claims add difficulties where records or witnesses are unavailable. Expenses, settlements and damages not covered by insurance or otherwise recovered, together with any fines, must be met from institutional resources. Depending on their scale, these costs could reduce funding for education, pastoral care and community services, or require assets to be sold.

10 Civil Investigations, evidence and procedural safeguards

The Greens' bill establishes reporting, investigation and enforcement processes that operate independently of criminal prosecution. These processes use the general definition of conversion practice in s 5 and can therefore address conduct falling within that broad definition.

There are a number of areas of concern in the civil provisions:

10.1 Reports by people with no direct involvement.

Section 27 permits anyone to report an alleged conversion practice, whether or not they were affected. It does not require the reporting person to have witnessed the conduct or obtained the affected person's authority.

10.2 Commissioner-initiated investigations

Section 39 allows the Commissioner to initiate an investigation without a report and regardless of whether an existing report has been finalised. Non-compliance with the positive duty and indications of systemic or ongoing conversion practices are expressly identified as possible serious issues. The threshold does not require established injury or a criminal offence.

¹⁶ TLRI Report, 116–119; TLRI Submission, 2–3.

An investigation begins when the Commissioner decides to investigate. Section 39(4) leaves written notice of that decision to the Commissioner's discretion, rather than requiring notice in every case. The provision also leaves the details disclosed in that notice to the Commissioner. It does not guarantee that a person under investigation will receive an initial written statement identifying the full scope of the inquiry and the allegations being examined.

10.3 Compulsory documents, attendance and confidential information

Sections 42 and 43 permit the Commissioner to compel relevant and necessary information, documents and attendance for questioning. Under s 44, failure to comply without reasonable excuse is an offence. Section 44(2) provides that a duty of confidentiality arising by law or through a professional relationship may constitute a reasonable excuse. It does not create an unconditional exclusion for pastoral, counselling or health records, or expressly set out a procedure for resolving disputed confidentiality and privilege claims before compliance is required.

10.4 Rules of evidence and procedural fairness

Section 73 provides that the Commissioner is not bound by the rules of evidence and may obtain information in whatever manner the Commissioner considers appropriate. While s 41(2) requires regard to the rules of natural justice, the bill does not prescribe controls for disclosing adverse material, testing disputed accounts or determining the reliability of evidence before adverse findings are made.

10.5 Compliance notices and enforceable undertakings

Sections 49 and 51 permit action where the Commissioner is satisfied that a conversion practice occurred or the positive duty was breached. An undertaking is accepted from the person during or after an investigation; a compliance notice is issued by the Commissioner after an investigation. Both can specify action to be taken or avoided. These provisions allow ongoing requirements to follow from the Commissioner's findings without a criminal prosecution or proof of the criminal injury threshold. Under s 53, non-compliance with a notice or undertaking can lead to further enforcement orders.

10.6 Tribunal proceedings and compensation

Under s 60 the Tribunal can award compensation, order targeted education, require an investigation, dismiss the report or make other appropriate orders. The power to award compensation contains no monetary cap within the bill. Section 60(3) identifies loss or damage resulting from the conduct as a matter the Tribunal may consider when deciding whether to award compensation and its amount. It does not set out a complete test specifying the findings and causal connection required for compensation. That leaves the basis for such orders unclear.

10.7 Publication of findings and independent review

Section 48 permits publication of investigation findings and recommendations. Before publication, the Commissioner must take reasonable steps to protect personal and confidential information, except where disclosure is reasonably necessary for the report, and give people whose interests may be adversely affected a reasonable opportunity to comment. Publication does not require a prior court or Tribunal finding that a conversion practice occurred.

The bill expressly provides merits review of compliance notices, but does not provide an equivalent, standalone merits-review procedure for the contents of an investigation report. The opportunity to comment before publication is not an independent rehearing of disputed findings. An individual or organisation may therefore face publication of adverse findings without first obtaining the kind of Tribunal determination available for a compliance notice.

11 Unrelated amendments

Schedule 1 of the Greens' bill contains substantive changes to anti-discrimination and health-complaints law whose operation is not confined to conversion practices. These amendments do more than establish the machinery needed to administer the prohibition. They change a protected-attribute definition across an existing Act and add a principle governing health-service complaints generally. Describing them as consequential amendments understates their wider legal effect.

These “consequential” amendments should be separated from this bill and introduced separately for a rigorous examination of their impacts across all legislation.

11.1 Anti-Discrimination Act 1998 – Redefinition of sexual orientation

Schedule 1 replaces the definition of sexual orientation in s 3 of the *Anti-Discrimination Act 1998*. The existing definition refers inclusively to heterosexuality, homosexuality and bisexuality. The proposed wording expressly encompasses emotional, affectional and sexual attraction, intimate or sexual relationships, and the absence of attraction or relationships. It changes the definition in the *Anti-Discrimination Act* itself, rather than supplying a definition confined to the Greens' bill.¹⁷

The replacement definition would therefore operate across discrimination law concerning employment, education, facilities, goods and services, accommodation, club membership and other areas covered by the Act. It would also apply to the Act's provisions concerning prohibited conduct and incitement. These provisions do not require an allegation of conversion practices. The effect extends to disputes unrelated to attempts to change or suppress anyone's orientation or identity.

Including relationships within sexual orientation also affects its relationship with the separately protected attributes of lawful sexual activity and relationship status. For schools, employers, service providers and religious organisations, the legal classification of decisions concerning relationships and conduct may affect which prohibitions and exceptions apply.

11.2 Health Complaints Act 1995 – General non-discrimination principle

Schedule 1 inserts a new principle into s 20(3) of the *Health Complaints Act 1995*: that a person should receive health care and health services free of discrimination within the meaning of the *Anti-Discrimination Act 1998*. The Health Complaints Commissioner must consider that principle when developing or reviewing the Charter of Health Rights. It is not limited to services involving conversion practices or to discrimination concerning sexual orientation and gender identity.

The amendment also affects assessment of complaints. Section 75 requires the Commissioner to have regard to both the Charter and the s 20(3) principles when determining whether a provider acted reasonably. Section 23 permits complaints concerning unreasonable refusal or provision of services and conduct inconsistent with the Charter. The new principle would consequently apply beyond Charter development, becoming relevant to complaints in which no conversion practice is alleged.¹⁸

For health providers, the wider issue is how the principle applies to decisions about the services they offer, as distinct from discriminatory treatment of individual patients. Providers differ in clinical capacity, staffing, purpose and ethical frameworks.

¹⁷ Anti-Discrimination Act 1998 (Tas), ss 3, 16–19, 22 and Part 5.

¹⁸ Health Complaints Act 1995 (Tas), ss 20(3), 23(1)(a), (c), (k), 75.



Rt Rev Dr Richard Condie
Bishop
Anglican Diocese of Tasmania



Imam Shadi Alsuleiman
President
Australian National Imams Council



Matt Garvin
Mission Director
Tasmanian Baptists



Dr Ali Alsamail
Director
Shia Muslim Council of Australia



Very Rev Fr Joshua Tadros
Papal Legate
Coptic Orthodox Church



Ps Mark Edwards
National Religious Freedom Representative
Australian Christian Churches



Kojo Akomeah
Director of Public Affairs and Religious Liberty
Seventh Day Adventist Church, Australia



Rt Rev Mark Powell
Moderator
Presbyterian Church of Tasmania



Steve Mazey
National Leader
Acts Global Churches



Major Dean Clarke
Divisional Commander
The Salvation Army, Tasmania



Bruce Bennett
National Director
Fellowship of Independent Evangelical Churches



Gary Hourigan
National Director
International Network of Churches



Full Gospel Australia
life for communities

Ps Justine Simms
National Leader
Full Gospel Australia



Kent Medwin
Head of Strategy
Hillsong Church



**CHRISTIAN REFORMED
CHURCHES OF AUSTRALIA**

Graham Sayer
Classis Tasmania Representative
Christian Reformed Churches of Australia



**AUSTRALIAN
ASSOCIATION
OF CHRISTIAN
SCHOOLS**

John Metcalfe
Chair
Australian Association of Christian Schools



Mike Southon
Executive Director
Freedom for Faith