



The Greens' draft legislation *is not equivalent* to other States

It is incorrect to claim that the Tasmanian Greens' draft legislation is equivalent to that of other states.

In almost every aspect of parental rights, and freedom of religion, conscience and speech, the Tasmanian Greens' draft legislation is ***as bad as Victoria, and often worse***, and is dramatically worse than NSW or South Australia.

	Vic	NSW	SA
Convers a single event	Same	Similar	Worse
"Inducing" element	Same	Worse	Worse
Consent ignored	Same	Worse	Worse
Religious and parental protections	Similar	Worse	Worse
Health practitioner protection	Worse	Worse	Worse
Criminal offense without harm	Worse	Worse	Worse
Child Abuse definition	Worse	Worse	Worse
Organisational criminal liability	Worse	Worse	Worse
Commissioner initiated investigations	Same	Worse	Worse
Reports from unconnected third parties	Same	Worse	Worse
Power to compel evidence	Same	Worse	Worse
Protection from self-incrimination	Worse	Worse	Worse
Rules of evidence protected	Worse	Worse	Worse
Publication of findings	Worse	Worse	Worse
Practice guidelines to faith communities	Worse	Worse	Worse
Compliance notices / undertakings	Same	Worse	Worse

Explanation of each issue

Covers a single event

The Tasmanian draft can capture a single event. Its definition uses the broad words "practice or conduct" and does not require repetition, treatment, a course of conduct or sustained effort. A single conversation, prayer or act of guidance can therefore fall within the definition.

This is the same approach as Victoria. South Australia is narrower because it expressly requires more than one event or occasion. NSW uses the phrase "practice, treatment or sustained effort", but does not clearly state whether a single event is enough.

“Inducing” element

The Tasmanian definition includes conduct intended to “induce” a person to change, suppress or eradicate their sexual orientation or gender identity. This expands the definition beyond directly changing or suppressing a person and captures conduct claimed to encourage the person to do so themselves.

Victoria uses the same “inducing” element. South Australia and NSW do not.

Consent ignored

The Tasmanian draft expressly excludes consent within the definition itself. Conduct can therefore be a conversion practice whether or not the person freely requested or agreed to it.

Victoria takes the same approach. South Australia and NSW do not make consent irrelevant at the definitional stage. Instead, they exclude consent only for particular offences, such as criminal harm or offences involving minors.

Religious and parental protections

The Tasmanian protections for religious practice and parents are circular and ambiguous. They say certain religious and parental conduct is not a conversion practice, but only where that conduct is not engaged in as part of a conversion practice. The protection therefore depends on the very question it is supposed to answer.

Victoria has no equivalent protections and specifically identifies prayer-based religious practices as capable of being caught. NSW has some of the same circularity, but also includes separate “for the avoidance of doubt” protections outside the circular clause. South Australia avoids the circular drafting and provides the protections “without more”.

Health practitioner protection

The Tasmanian protection is narrowed by the interpretation section, which defines the relevant practitioner as a person registered “to practise in the medical profession”. This excludes many mental health and allied health practitioners who routinely provide counselling and psychological care.

Victoria, NSW and South Australia protect a broader range of health service providers or registered health practitioners.

Criminal offence requires harm

The Tasmanian draft does not require actual harm in all cases. Section 9 allows criminal liability where a person is reckless as to whether a conversion practice will cause injury, even where no injury actually occurs. Section 10 goes further and creates a separate offence for conversion practices directed towards children without requiring proof of harm at all.

Victoria, NSW and South Australia require actual serious or substantial harm for their principal criminal offences.

Child abuse definition

The Tasmanian draft goes further by defining conversion practices directed towards a minor as “child abuse” for important civil-law purposes. This will have a dramatic impact on parents, religious

leaders, schools and faith-based organisations, exposing them to the stigma, safeguarding consequences and civil liability associated with child abuse even where the conduct was a single conversation, prayer or piece of guidance that caused no harm.

There is no equivalent provision in Victoria, NSW or South Australia. Those jurisdictions do not connect alleged conversion practices with child abuse.

Organisational criminal liability

The Tasmanian draft provides that an organisation is “taken to have committed the same offence” as an employee, contractor or volunteer. The organisation can therefore be criminally liable even where it did not itself authorise or carry out the conduct.

Victoria uses a narrower model that requires knowledge and intention to be attributed to the organisation under s 15. That provision also provides a defence where the organisation “exercised due diligence to prevent the conduct”. Tasmania imposes a much more demanding test, requiring the organisation to prove that it “could not, despite taking all reasonable precautions and exercising all due diligence, have known of or prevented the commission of the offence”.

NSW and South Australia have no equivalent provision deeming an organisation to have committed the same criminal offence as an employee or volunteer.

Commissioner-initiated investigations

The Tasmanian Commissioner can initiate investigations on their own initiative. An affected person does not need to make a complaint before an investigation can begin.

Victoria gives its Commission a similar power. NSW and South Australia do not give their conversion-practices regulators an equivalent broad power to initiate investigations independently.

Third-party reports

Any person can make a report under the Tasmanian draft, even if they were not affected by the alleged conduct and have no direct connection to the incident.

Victoria uses the same broad approach. NSW formal complaints are more restricted to affected persons and authorised representatives. South Australia uses the ordinary Equal Opportunity complaints process.

Compelled evidence

The Tasmanian Commissioner can compel people to provide documents, information and answers during an investigation. These powers can be used against respondents and third parties.

Victoria gives its Commission similar compulsory powers. NSW and South Australia use more conventional complaints and tribunal processes and do not replicate the same broad investigatory model.

Privilege against self-incrimination

The Tasmanian draft expressly removes the privilege against self-incrimination. A person cannot refuse to answer a question or provide information simply because it may incriminate them. This is a significant departure from ordinary criminal justice principles

Victoria expressly preserves the privilege against self-incrimination. NSW and South Australia contain no equivalent provision removing it.

Rules of evidence

The Tasmanian Commissioner is expressly not bound by the rules of evidence. This gives the Commissioner very broad discretion in how material is received and considered.

Victoria has no equivalent provision and expressly requires its Commission to comply with natural justice. NSW and South Australia have no equivalent rule removing the ordinary evidentiary framework.

Publication of findings

The Tasmanian Commissioner can publish investigation findings and recommendations. This allows serious public findings to be made outside the ordinary court or tribunal process.

Victoria does not include an equivalent publication power among its investigation outcomes. NSW and South Australia use more conventional complaint and tribunal processes.

Practice guidelines

The Tasmanian Commissioner can issue practice guidelines on any matter relating to the legislation. Those guidelines may shape how organisations, churches, schools and individuals understand what conduct is considered acceptable.

Victoria, NSW and South Australia have no equivalent broad power to issue practice guidelines across the entire operation of their conversion-practices laws.

Compliance notices / undertakings

The Tasmanian Commissioner can require undertakings and issue compliance notices directing future conduct. These powers allow the Commissioner to move beyond investigating a complaint and impose ongoing regulatory requirements.

Victoria has a similar undertakings and compliance-notice regime. NSW and South Australia use more conventional complaint, conciliation and tribunal processes.