

The Victorian Women's Guild.
www.victorianwomensguild.org



Tasmanian Law Reform Institute
*Conversion Practices: Law
Reform Options for Tasmania*

Submission
January 2021.

The Victorian Women's Guild promotes the rights and concerns of women and girls in the State of Victoria, Australia.

Our concerns encompass many spheres of life in Victoria ranging across areas as varied as:

- Medical Care
- Sport
- Women's Safety
- Children's Rights
- Legal Protections

Recently, we've been focused on Victoria's *Change or Suppression (Conversion) Practices Bill*, which we feel has many unintended consequences due to its poor drafting. Ultimately, the bill will have a chilling effect on health professionals, parents, teachers and youth & community workers who care for people questioning their gender identity. It will also erode gay and lesbian rights.

Through responding to this inquiry, we hope that Tasmania can avoid the pitfalls we see in Victoria's Bill.

A summary of our critique of Victoria's Bill can be found here:
<https://www.victorianwomensguild.org/conversion-therapy-bill>

Question 1: After considering the background and working definition (see [1.3.23] on page 13), in your opinion, what are and are not ‘sexual orientation and gender identity conversion practices’?

The Victorian Women’s Guild is concerned with the premise of this question. The question conflates the barbaric history of conversion practices enacted on people based on their sexual orientation with simply counselling people who are gender dysphoric.

This is because the working definition outlined the Issues Paper section 1.3.23 states these conversion practices are based on the claim that non-conforming sexual orientation or gender identity is not a physical or psychological dysfunction.

The Guild agrees that non-confirming sexual orientation (i.e., homosexuality if we’re to assume heterosexuality is what’s meant by “conforming”.) is not a physical or psychological dysfunction. But gender dysphoria – which would cause someone to question their gender identity – is considered a psychological dysfunction in the fifth edition of the Diagnostic and Statistical Manual (DSM-5). It should **not** be considered a conversion practice to allow individuals to explore their gender identity and attempt to resolve gender dysphoria through talk therapy.

What should be considered a conversion practice is supporting the medical transitioning of a person to whose gender expression is non-conforming to stereotypes of their sex and who otherwise identifies as gay or lesbian in order to convert their homosexuality to heterosexuality.

This is a practice widely adopted for religious reasons in Iran and is seen increasingly amongst devout Christian families in The United States of America.

In a well-intentioned effort to ban “pray the gay away” conversion practices, the precedents set out in the Issues Paper from other parts of Australia and the world have effectively opened a loophole to “trans the gay away”. This will cause further harm to individuals who would otherwise identify as gay or lesbian. This is because these precedents outline only affirming practices such as ‘assisting a person undergoing a gender transition’, ‘assisting a person who is considering undergoing a gender transition’, ‘assisting a person to express their gender identity’ as acceptable treatments for people questioning their gender identity.

The chilling effect this will have on medical professionals means the people they’re treating for gender dysphoria will not be given the option of a ‘wait and see’ approach as

a resolution but will be set on a path of affirmation practices that include experimental medical interventions as well as gay and lesbian erasure from society.

Question 2: Should people be allowed to consent to SOGI conversion practices? If so, at what age and under what conditions?

In line with the recent *Bell v Tavistock* in the UK and the *Re Imogen* case in Australia, we believe that children should not be considered able to consent to gender affirmation surgery or medication such as cross-sex hormones.

We also suggest that even with parental consent or court authorization, more protections should be in place for children and clearer information needs to be given to parents. Parents and children should be told about all of the side effects of cross-sex hormone this treatment such as: infertility, deterioration in bone health, vaginal atrophy, decreased sexual function, poor cardiovascular function and strokes. They should also know that these affirmation treatments are experimental and that there is no standardized approach to care for people wanting to transition.

Given there is no standardized approach to care for people wanting to transition, we would also encourage that a full gamut of care approaches be discussed such as the 'wait and see' approach.

Measures should also be in place to ensure the child is not being forced or coerced into transition by their parents because the parents suspect the child is a homosexual.

In terms of conversion practices on the basis of sexual orientation, an argument could be made by religious groups that religious homosexuals should be free to have discussions about their religion's teachings on homosexuality. However, we believe this is outside our focus as a women's rights group.

Question 3: Have you been involved in or offered, or are you aware of, any forms of SOGI conversion practices in Tasmania? If so, what were the effects on you, or the person exposed to them?

Three community consultations in Victoria found no evidence of conversion or suppression practices on the basis of gender identity. We would not be surprised to find this could also be the case in Tasmania.

As a women's rights group with many lesbian members, we have many stories of people who've been shamed for their sexual orientation, who've been subjected to

conversion therapies, or who live in fear of coming out as lesbian for fear of excommunication or rejection from their religious community or family.

We also see the increasing pressure put on lesbians or out-right rejection of lesbians from the queer community if lesbians oppose the idea that transwomen (i.e., males who perform stereotypes of 'woman' in mannerisms and dress style) should be accepted as sexual partners. And this is its own type of conversion therapy.

The intended law reforms criminalizes everyone's right to establish and hold their own sexual boundaries.

Question 4: Do you think that Tasmanian law should be changed to address SOGI conversion practices? If so, should this be through comprehensive reform, amendment or both (a hybrid)?

The Victorian Women's Guild wholeheartedly supports a law that bans conversion or suppression practices of people's sexual orientation. However, the proposed reforms conflate sexual orientation and gender identity.

No laws should be made that would enshrine surgery, cross-sex hormones or compelled speech/participating in delusions as the only acceptable form of affirming someone's gender identity. And the proposed reforms will have a chilling effect on health practitioners, community leaders, youth workers, parents and teachers that will essentially force this scenario.

Question 5: Should some or all forms of SOGI conversion practices be criminalized in Tasmania? If so, which, if any, should be dealt with as serious (indictable) crimes and which, if any, should be dealt with as less serious (summary) offences?

The Victorian Women's Guild supports criminalizing conversion and suppression practices based on changing someone's sexual orientation. There is a long, horrific history of this, and we must ensure these practices cease.

However, because gender identity is a nebulous concept and we've yet to see any conversion or suppression practices take place on the basis of gender identity, we don't believe any law that references this could be enforceable. At least, not without having unintended consequences (or, perhaps fully intended by trans activists) on broader

society. See above re: compelled speech and the chilling effect it would have on health practitioners or anyone who works with/cares for young people.

Question 6: Should some or all forms of SOGI conversion practices be made civil wrongs in Tasmania? If so, what sort of practices should people be liable for and how should those subject to such practices be compensated?

Any and every legal measure should be taken to stamp out and deter conversion practices that are done on the basis of someone's sexual orientation.

Since conversion practices on the basis of gender identity don't appear to take place and definitions of gender identity suppression/conversion practices in the precedents set out by the Issues Paper are poorly defined, we don't believe the law needs to legislate on the issue.

What should be considered a civil wrong and should be heavily penalized is the practice of giving children or young adults whose personalities simply don't conform with societal expectations of their sex on experimental medication and pushing them down a path of mutilation for profit. It is never medically necessary to cut off or alter perfectly healthy body parts. In whatever this future legislation looks like, we advocate for pathways that allow detransitioners and gender clinic whistleblowers to be heard without being considered criminals.

Question 7: Should any existing Tasmanian laws (besides criminal laws or the Civil Liability Act 2002 (Tas)) be amended to cover SOGI conversion practices? If so, which ones and in what way?

If any laws were to be amended, we'd recommend the following be kept in mind:

1. Sex and gender are different concepts and should be used to positively define the other.

For example, the Victorian Health Complaints Commissioner's definition of conversion practices refers to "efforts to eliminate sexual and/or romantic attractions or feelings toward individuals of the **same gender**, or efforts to change gender expressions."

Sexual orientation is not related to attraction to gender, it's related to attraction to someone on the basis of their sex. This definition in Victoria goes against common societal understanding of sexual orientation. The definition used in Victoria sets up a

law that only protects people who perform stereotypes, not people of a clear, observable and definable class.

2. The law must clearly define what would be considered suppression acts on the basis of gender identity.

There is a clear and broad understanding of what it means to convert someone's sexual orientation.

But none of the precedents highlighted by the issues paper set out are what would be considered gender identity conversion practices/conduct/acts. We feel it's poor law writing to intentionally leave this undefined or poorly defined. If this practice were occurring, it would be easy to state what practices are banned as opposed to only giving practices that aren't banned.

Question 8: Are there any other models or approaches that are preferable to, or should complement, changing the law?

We would encourage the Tasmania law to not make the same mistake as the Victorian bill has made in overhauling the definitions of sexual orientation and gender identity in a way that conflates the two.

The Victorian bill *requires* the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) to engage in public information campaigns, which we see as an overstep and akin to state-sponsored ideological re-education.

The bill also gives VEOHRC extraordinary powers to accept reports of change or suppression practices and facilitate mediations; and to investigate complaints. This puts VEOHRC in the position where it has a vested interest in finding change or suppression practices in Victoria, even though the three inquiries leading to the bill did not identify harmful conversion practices in Australia on the basis of gender identity. So, what will VEOHRC find and who will they subject to investigation and 're-education'?

Question 9: Are there any other matters that you consider relevant to this Inquiry and would like to raise?

The Victorian Women's Guild has written a summary of our critiques of the Victorian Change or Suppression Bill and would encourage the Law Institute reviews it for guidance on how not to draft the Tasmanian bill:

<https://www.victorianwomensguild.org/conversion-therapy-bill>