



200 Hoddle Street
Abbotsford VIC 3067
P 61 3 9865 6700
F 61 3 9826 2700
Toll Free 1800 134 840

Positive Living Centre
51 Commercial Road
South Yarra VIC 3141
P 61 3 9863 0444
F 61 3 9820 3166
Toll Free 1800 622 795

Centre Clinic
Rear of 707 Fitzroy Street
St Kilda VIC 3182
P 61 3 9525 5866
F 61 3 9525 3673

PRONTO! / Equinox
175 Rose Street
Fitzroy VIC 3065
P 61 3 9416 2889

SAMESH
57 Hyde Street
Adelaide SA 5000
P 61 8 7099 5300

Thorne Harbour Country
56/60 King Street
Bendigo VIC 3551
P 61 3 4400 9000

thorneharbour.org

ABN: 52 907 644 835

28 January 2021

Tasmania Law Reform Institute
Faculty of Law, University of Tasmania
Private Bag 89
HOBART TAS 7001

By email: Law.Reform@utas.edu.au

Re: Submission to consultation on law reform options for conversion practices in Tasmania

Thorne Harbour Health is one of Australia's largest community-controlled LGBTI and HIV health service providers, primarily servicing LGBTI people and people living with HIV in Victoria and South Australia. Thorne Harbour Health provides a range of services including health promotion, sexual health testing, general practice, and mental health and wraparound support services.

Having consulted extensively with survivors of conversion practices, Thorne Harbour Health supports the prohibition of these practices through a mix of civil and criminal laws, and a response that centres the views of survivors, is based on restorative justice, and grounded in a human rights approach. This is what the Victorian Government seeks to achieve through the *Change or Suppression (Conversion) Practices Prohibition Bill 2020 (Vic)* (the Bill). We believe the approach taken by this Bill is world-leading and that Tasmania should adopt the same approach.

The Bill prohibits persons or organisations from engaging in change or suppression practices,¹ which are defined as "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 or suppressing the sexual orientation or gender identity of the person; or

(ii) inducing the person to change or suppress their sexual orientation or gender identity."²

Importantly, there are also exceptions for the provision of reasonable health care services and conduct that supports or affirms a person's gender identity or sexual orientation.³

¹ *Change or Suppression (Conversion) Practices Prohibition Bill 2020 (Vic)*, s 9.

² *Ibid.* s 5(1).

³ *Ibid.* s 5(2).

By limiting the prohibition of change or suppression practices to that which is 'directed towards a person' the Bill clearly avoids entering the territory of publicly vilifying statements about groups of people that can and should be dealt with separately under anti-vilification laws.

All change or suppression practices are based on conversion ideology, so it is not necessary to limit the definition of prohibited change or suppression practices to that which is based on conversion ideology. The qualifying criteria for a prohibited conversion practice should be that which aims to change or suppress, or induce someone to change or suppress, their sexual orientation or gender identity on the basis of their sexual orientation or gender identity.

Consent is vitiated because change or suppression practices are based on false and misleading claims that would lead any rational person who believes these claims to be true to act on them in a way that has the potential to cause them harm.

The Bill creates offences that target the advertising of change or suppression practices,⁴ persons who engage in change or suppression practices that cause injury or serious injury,⁵ and persons who remove others from the jurisdiction for the purposes of subjecting them to change or suppression practices that cause injury.⁶

The Bill also establishes a civil response scheme within the Victorian Equal Opportunity and Human Rights Commission (the Commission).⁷ It is intended to capture a range of conduct that is broader than the offences and it does not require injury to be proven. The scheme is based on educative and restorative functions, and own-motion investigative and enforcement powers are only available for serious or systemic practices.

Under the scheme, the Commission would develop and provide community education on change or suppression practices, and receive and respond to reports about change or suppression practices from any person. Importantly, outcomes affecting both parties, such as an apology, financial compensation, or an agreement to stop or change behaviour, must be agreed by both parties. And participation in facilitation of an outcome in matters relating to a report is voluntary.⁸ Likewise, the Commission would support people who may be victims of criminal offences should they wish to voluntarily report these to police.⁹

The Commission would be granted enforcement powers for serious or systemic practices including the power to issue compliance notices that say people have breached the act, to compel information or give evidence, make agreements with people about their behaviour and accept enforceable undertakings from people to not engage in behaviour or to provide financial compensation.

The Bill includes an independent review to begin two years after the commencement of the Act, and to be completed within six months.¹⁰ The Bill requires that the review consider whether a redress scheme should be adopted. Thorne Harbour Health believes survivors of

⁴ *Change or Suppression (Conversion) Practices Prohibition Bill 2020 (Vic)*, ss 13-14.

⁵ *Ibid.* ss 10-11.

⁶ *Ibid.* s 12.

⁷ *Ibid.* Part 3.

⁸ *Ibid.* s 28(2).

⁹ *Ibid.* s 17(1)(h).

¹⁰ *Ibid.* s 57.

conversion practices have already waited too long for the redress they deserve, and that a redress scheme should be established without delay, with its operation reviewed along with the effectiveness of any criminal offences or civil response scheme.

Should you wish to discuss this matter further, please contact:

[REDACTED]

Sincerely,

A handwritten signature in blue ink, appearing to read 'SR', with a small horizontal line at the end.

Simon Ruth, CEO
Thorne Harbour Health