



Change or Suppression (Conversion) Practices Prohibition Bill 2020

Bill Brief

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Links to key documents including the Bill, Explanatory Memorandum, Statement of Compatibility and Second Reading Speech can be found at the Library's Infolink [page for this Bill](#).

For further information on the progress of this Bill, please visit the [Victorian Legislation and Parliamentary Documents website](#).

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Executive summary

The Change or Suppression (Conversion) Practices Prohibition Bill 2020 was introduced in the Legislative Assembly in November 2020. It seeks to denounce and prohibit Lesbian, Gay, Bisexual and Transgender (LGBT) change or suppression practices, which are sometimes collectively referred to as ‘conversion therapy’.

Conversion therapy involves practices aimed at changing the sexual orientation, gender identity or expression of lesbian, gay, bisexual, trans and gender diverse people. The purported aim of conversion therapy is to result in the person’s gender identity matching that which was assigned at birth, generally a heterosexual and cisgender identity. The Victorian Government uses the term ‘change or suppression practices’, rather than ‘conversion therapy’, as it does not wish to convey the impression that the practices have a basis in medicine.

Background

Intervention into people’s sexual identities and gender orientations has a long history in Australia, however, explicit attempts to ‘reorient’ or ‘convert’ LGBT people are relatively recent. Historically, criminality was complemented by medical and psychiatric attempts to treat ‘deviant’ sexual practices. From the 1960s, a range of clinical interventions against LGBT people were experimented with and were typically designed to control or prevent behaviour, rather than convert preferences and identities. From the early 1970s, health and psychiatric authorities in Australia began to declassify homosexuality and ceased to define LGBT people as pathologized or suffering from mental illness. Around the same time, religious conversion therapies aimed at the explicit reorientation of LGBT people emerged among some conservative Christian communities—in what was commonly known as the ‘ex-gay movement’—and have been practised in these and other communities ever since. While some approaches view LGBT people as suffering from a curable ‘sexual brokenness’, others have shifted away from claims that ‘conversion’ to a heteronormative existence is possible. However, in the sections of the community where conversion practices are occurring, it is maintained that LGBT behaviours and identities are pathological or sinful.

There are no studies of the prevalence of conversion therapy in contemporary Australia, though a 2018 report, *Preventing Harm, Promoting Justice: Responding to LGBT conversion therapy in Australia* attempts to bridge that gap. The study found that conversion practices are actively performed in Australia’s mainstream, conservative Protestant Christian communities, as well as in conservative Jewish, Muslim, Buddhist and Hindu communities. Roman Catholic communities rarely promote conversion practices, and instead tend to encourage chastity and celibacy for those who are not in heterosexual marriages. The report suggested that up to ten per cent of LGBT Australians were still vulnerable to conversion practices, and found that there were at least ten organisations publicly advertising the provision of ex-gay and ex-trans therapies in Australia and New Zealand at that time.

In Australia, conversion practices are not explicitly prohibited nationally. However, there are a number of existing laws and standards that may provide protections against conversion practices. These include the Health Practitioner Regulation National Law, the *Health Complaints Act 2016* (Vic), and the country’s obligations under international human rights law. Further, many professional bodies in the Australian health services sector condemn conversion practices, and attempts to change or suppress a person’s sexual orientation or gender identity would likely be in breach of those bodies’ codes of conduct/ethics. However, while existing legislation and professional standards may restrict some conversion therapy practices, these regulatory frameworks do not capture all conversion practices—

such as those undertaken by religious or unregistered counsellors, or conducted within some religious communities.

In May 2018, then-Minister for Health, the Hon. Jill Hennessy, referred the matter of 'gay conversion therapy' or 'ex-gay ideology' to the Health Complaints Commissioner. The Commissioner was tasked with investigating who is conducting conversion practices, and the context in which they are occurring. The Commissioner's inquiry involved interviews with people who had been subjected to conversion practices, and engaged with churches, religious groups and counselling services. A summary of the Commissioner's findings was published in February 2019 and observed that conversion practices were still being offered in Victoria, in spite of the long-term and significant harm they are said to cause. The Commissioner recommended that the Minister consider introducing legislation to ban conversion practices and provide supports for survivors.

In response to the report, the Andrews Government confirmed that it had accepted this recommendation in full, and committed to introducing legislation to that end. This announcement made Victoria the first jurisdiction in Australia to commit to a ban on conversion practices. The Government also gave in-principle support to funding counselling and support services for those harmed by conversion practices.

In October–November 2019, the Andrews Government held a public consultation and invited feedback from the Victorian community on proposed new laws to ban conversion practices. It also released a discussion paper, seeking the community's views on the best way to implement the proposed changes. Following the consultation period, the Government released an outcomes report summarising the views and themes that had emerged. A clear majority of respondents supported a ban, though views on what that ban should look like were varied. The consultation also considered issues of consent, regulation and freedom of religion.

Change or Suppression (Conversion) Practices Prohibition Bill 2020

The Change or Suppression (Conversion) Practices Prohibition Bill 2020 was introduced to the Victorian Parliament on 25 November 2020. The second reading speech was delivered by the Attorney-General the following day. In addition to eliminating change or suppression practices in Victoria, the Attorney-General explained that the Bill was seeking to affirm that all people have characteristics of sexuality, sexual orientation, gender identity and gender expression, and that no combination of those characteristics constituted a disorder, disease, illness, deficiency, disability or shortcoming.

Under the proposed legislation, the definition of a change or suppression practice is intentionally broad. Conduct must be directed at an individual, on the basis of their sexual orientation or gender identity, and with the intention that they be induced to change or suppress them. In effect, this means that practices such as sermons, opinion pieces and lectures would not be captured by the proposed reforms. The definition is also not intended to capture behaviour that is supportive of or affirms a person's gender identity or sexual orientation, such as assisting a person who is undergoing a gender transition.

The Bill seeks to implement a general prohibition on change or suppression practices. This would take the form of a civil response scheme administered by the Victorian Equal Opportunity and Human Rights Commission, which would be assigned specific functions and powers including the ability to receive reports, provide targeted education and conduct investigations. The Attorney-General envisaged that the civil scheme would be the most common response to alleged change or suppression practices.

The Bill also seeks to create four criminal offences for the most serious conduct, including to prohibit a person from:

- intentionally carrying out a change or suppression practice where that conduct causes injury to another person;
- intentionally carrying out a change or suppression practice where that conduct causes serious injury to another person;
- taking another person from Victoria for the purposes of that person being subject to a change or suppression practice, where that practice causes injury; and
- advertising a change or suppression practice.

The criminal offences proposed by the Bill are targeted at conduct that results in physical or mental injury. The Attorney-General explained that the criminal offences were expected to play an educative role about the seriousness of change or suppression practices and to have a deterrent effect.

Additionally, the Bill seeks to amend the definitions of 'gender identity' and 'sexual orientation' in the *Equal Opportunity Act 2010*, and to insert a definition for 'sex characteristics' in that Act. The Bill would also list 'sex characteristics' as a protected attribute under the Act, to offer greater protection for intersex persons. The Bill also seeks to amend the *Family Violence Protection Act 2008* and the *Personal Safety Intervention Orders Act 2010* to make it clear that, in some circumstances, change or suppressions practices can be considered a form of family violence or harassment.

The Change or Suppression (Conversion) Practices Prohibition Bill 2020 passed the Legislative Assembly on 10 December 2020 and was introduced and second-read in the Legislative Council on that day.

Responses to the Bill

Responses to the Bill have been varied. The proposed ban on conversion practices was welcomed by the Victorian Equal Opportunity and Human Rights Commission, as well as the survivor support and advocacy groups, SOGICE Survivors and Brave Network. Thorne Harbour Health and the Victorian Pride Lobby also welcomed the Bill, as did Equality Australia.

Religious organisations, including the Australian Christian Lobby and the Catholic Archdiocese of Melbourne, expressed significant concerns about the Bill, pointing to what they perceived to be the Bill's overreach and its lack of clarity on issues of free speech and religious identity. By contrast, the Jewish Community Council of Victoria and Jewish Care jointly expressed support for a ban. Various multi-faith, multicultural LGBTQ+ and allied voices published an open letter to Members of the Victorian Parliament, expressing their support for the Bill, while a number of other multifaith leaders had their names published in a large newspaper advertisement calling for the Bill to be retracted.

The Victorian Opposition has called for a delay to voting, requesting that further consultation be undertaken with stakeholders and that clarification be provided on some specific concerns, while the Victorian Greens have welcomed the Bill. The Law Institute of Victoria, which called for the Bill to be passed, welcomed the proposed functions and powers of the Victorian Equal Opportunity and Human Rights Commission, and urged that it be resourced appropriately. The Australian Psychological Society welcomed the Bill, as did the Australian Association of Social Workers, while the Australian Medical Association has previously stated that it condemns conversion practices.

Diverse views were expressed within the research and academic community, with some scholars welcoming the Bill and expressing that it was not an attack on prayer or religious freedom and that religious communities held unfounded fears. Others, including from the Centre for Public Christianity, the Australian Catholic University, the Menzies Research Centre and the Institute for Civil Society,

expressed fears about overreach, how prayer could be impacted under the proposed legislation and what the criminal offences could mean in practice. Some scholars have argued that a national ban would be more effective.

Other jurisdictions

Queensland was the first Australian jurisdiction to legislate a ban on conversion practices. The state's *Health Legislation Amendment Act 2020* inserts a new section into the state's Public Health Act to define conversion practices, introduce a prohibition on conversion therapy and create a criminal offence to that end. In contrast to the proposed law in Victoria, the criminal offence in Queensland's legislation applies only to health services providers, and when a practice is performed on a child or a person with impaired capacity. In practice, this means that informal approaches—for example, unregulated or secular counselling services, pastoral care or counselling, and mentoring programs—are not captured by the legislation.

The Australian Capital Territory became the second jurisdiction to ban conversion practices. Under the *Sexuality and Gender Identity Conversion Practices Act 2020*, it is an offence to perform a conversion practice on a protected person (a child or a person with impaired decision-making ability), whether or not that person or their parent/guardian provides consent. Similar to the proposed reforms in Victoria, it is also an offence to remove a protected person from the ACT for the purposes of a conversion practice. In contrast to the Queensland legislation, the criminal offences in the ACT legislation are not limited to health services providers. The Act comes into operation on 4 March 2021.

The Australian Government does not currently have legislation in place to ban conversion practices. Prime Minister, the Hon. Scott Morrison, has said that he considers it to be a matter for the states. There is currently no legislation in place to ban conversion practices in New South Wales, South Australia, Tasmania or Western Australia, although discussions have been taking place in those jurisdictions. The Northern Territory does not currently have legislation in place to ban conversion practices, and there appear to have been no announcements by the NT Government on its intentions to date.

Conversion practices have been banned in a number of countries around the world, including Brazil, Malta and Germany, as well as in parts of Spain and the United States. Canada is considering a national ban, while a ban has been pledged by leaders in the United Kingdom and in New Zealand. The United Nations has also called for an end to conversion practices around the world, stating that the practice may amount to torture.

Introduction

The Change or Suppression (Conversion) Practices Prohibition Bill 2020 ('the Bill') was introduced in the Legislative Assembly in November 2020. It seeks to denounce and prohibit Lesbian, Gay, Bisexual and Transgender (LGBT)¹ change or suppression practices, which are sometimes collectively referred to as 'conversion therapy'.

The Bill seeks to establish a civil response scheme within the Victorian Equal Opportunity and Human Rights Commission to:

- promote understanding of the prohibition on change or suppression practices and matters relating generally to those practices;
- provide the Commission with powers to consider and resolve allegations of change or suppression practices; and
- enable the Commission to investigate serious or systemic change or suppression practices.

The Bill also seeks to introduce new criminal offences relating to change or suppression practices, to apply to persons who:

- engage in forms of change or suppression practices which cause serious injury or injury;
- advertise change or suppression practices; or who
- take other persons from Victoria for the purpose of a change or suppression practice.

Additionally, the Bill seeks to amend the *Equal Opportunity Act 2010* to amend the definitions of sexual orientation and gender identity, and to include sex characteristics as a protected attribute under that Act. It also makes consequential amendments to the *Family Violence Protection Act 2008* and the *Personal Safety Intervention Orders Act 2010* to make it clear that, in some circumstances, change or suppressions practices can be considered a form of family violence or harassment.

This Brief contains four sections. First, it provides some background to the Bill's introduction, including an overview of terminology, a brief history of conversion practices, a discussion of the current regulatory framework and an outline of consultations, reports and other events that preceded the Bill's drafting. Second, it provides an overview of the Bill, including the proposed civil and criminal provisions. Third, it offers a summary of responses to the Bill from various sections of the community. Lastly, it concludes with a comparison of the relevant legislation in Australian jurisdictions.

Please note that this paper should not be considered a complete guide to the subject.

¹ Other uses of this initialism include LGBTI, LGBTIQ, and LGBTIQA+, which encompass the plurality of identities including lesbian, gay, bisexual, transgender, gender diverse, intersex, queer, asexual and questioning. This paper uses 'LGBT', as consistent with references made by the Victorian Government in the Bill's second reading speech and statement of compatibility.

Background

This section provides an overview of relevant terminology, as well as a brief history of conversion practices and a discussion of the current regulatory framework. It also offers an outline of relevant consultations, reports and events leading up to the introduction of the Change or Suppression (Conversion) Practices Prohibition Bill 2020.

Terminology

What is sexual orientation?

‘Sexual orientation’ is a term that refers to a person’s romantic or sexual attraction to another person and includes, among others: heterosexual, gay, lesbian, bisexual, pansexual, asexual or same-sex attracted.²

In Victorian legislation, sexual orientation is currently defined in the *Equal Opportunity Act 2010* as ‘homosexuality (including lesbianism), bisexuality or heterosexuality’.³

What is gender identity?

The term **‘gender’** is a social and cultural concept that refers to the categories assigned to individuals based on their sex characteristics at birth.⁴ In Western cultures, individuals are generally assigned to one of two gender roles, matching their apparent sex (for example, male = man/masculine and female = woman/feminine), though some cultures recognise other genders.⁵

A person’s **‘gender identity’** refers to that person’s internal and individual feeling of oneself as man, woman, masculine, feminine, neither, both, or moving around freely between or outside of the gender binary.⁶ The way in which a person shows their gender externally to others is referred to as their gender expression.⁷

In Victorian legislation, gender identity is currently defined in the *Equal Opportunity Act 2010* as:

- (a) the identification on a bona fide basis by a person of one sex as a member of the other sex (whether or not the person is recognised as such)—
 - (i) by assuming characteristics of the other sex, whether by means of medical intervention, style of dressing or otherwise; or
 - (ii) by living, or seeking to live, as a member of the other sex; or
- (b) the identification on a bona fide basis by a person of indeterminate sex as a member of a particular sex (whether or not the person is recognised as such)—
 - (i) by assuming characteristics of that sex, whether by means of medical intervention, style of dressing or otherwise; or
 - (ii) by living, or seeking to live, as a member of that sex.⁸

² Australian Human Rights Commission (date unknown) [‘Terminology’](#), AHRC website.

³ [Equal Opportunity Act 2010](#) (Vic), s 4.

⁴ Australian Institute of Family Studies (2019) [‘LGBTIQA+ communities: Glossary of common terms’](#), AIFS website.

⁵ *ibid.*

⁶ *ibid.*

⁷ Australian Human Rights Commission (date unknown) *op. cit.*

⁸ [Equal Opportunity Act 2010](#) (Vic), s 4.

The Australian Human Rights Commission (AHRC) believes in the right of individuals to identify their sexual orientation and gender identity as they choose. The AHRC also acknowledges that terminology is strongly contested, particularly in relation to describing gender identity.⁹

What is ‘conversion therapy’?

‘Conversion therapy’ can be defined as involving ‘practices aimed at changing the sexual orientation, gender identity or expression of lesbian, gay, bisexual, trans and gender diverse people’.¹⁰ The purported aim of conversion therapy is to result in the person’s gender identity matching that which was assigned at birth, generally a heterosexual and cisgender identity.¹¹

Practices that constitute conversion therapy are wide-ranging in nature, and may include psychotherapy, clinical and pharmaceutical interventions, self-help and counselling, or faith-based practices across a wide range of religious traditions. Extreme measures of conversion therapy may include forced medication, electroconvulsive therapy, beatings and rape.¹² Practitioners may include healthcare providers, psychologists, psychiatrists and counsellors, faith organisations or ministries, and state actors.¹³

In Australia, conversion therapy is reported to most commonly occur in faith-based contexts.¹⁴ Typical practices tend to involve counselling, prayer, scripture reading, fasting, retreats or ‘spiritual healing’.¹⁵

Professional bodies and government organisations around the world have discredited conversion therapy as medically and scientifically unfounded, unethical, and physically and psychologically dangerous for those subjected to such practices. Many reports—including a 2020 United Nations report—have documented the long-term harm caused by such practices.¹⁶ Numerous jurisdictions around the world have now legislated to ban conversion therapy practices or are planning such bans.¹⁷

How the Victorian Government is defining conversion therapy

Rather than ‘conversion therapy’, the Victorian Government prefers to use the term ‘change or suppression practices’ in its proposed legislation. The Attorney-General explained that this was not only in recognition of the religious significance of the term ‘conversion’, but also in acknowledgement that use of the term ‘therapy’ ‘inappropriately legitimises these practices by suggesting they have a

⁹ Australian Human Rights Commission (date unknown) op. cit.

¹⁰ L. Sandy, A. Powell & R. Hiscock (2020) ‘[Why Australia needs a national ban on conversion therapy](#)’, *The Conversation*, 8 September.

¹¹ *ibid.* ‘Cisgender’ refers to people who identify their gender with that which was assigned to them at birth—for example, someone who identifies as a woman and was assigned female at birth. See: Australian Human Rights Commission (date unknown) op. cit.

¹² L. Sandy, A. Powell & R. Hiscock (2020) op. cit.

¹³ V. Madrigal-Borloz (2020) *Report on conversion therapy*, Geneva, UN Human Rights Council.

¹⁴ L. Sandy, A. Powell & R. Hiscock (2020) op. cit.; F. Tomazin (2018) ‘[I am profoundly unsettled’: inside the hidden world of gay conversion therapy](#)’, *The Age*, 9 March.

¹⁵ L. Sandy, A. Powell & R. Hiscock (2020) op. cit.

¹⁶ V. Madrigal-Borloz (2020) op. cit.

¹⁷ R. Thoreson (2020) ‘[Why banning anti-LGBT ‘Conversion Therapy’ isn’t enough](#)’, Human Rights Watch website; L. Sandy, A. Powell & R. Hiscock (2020) op. cit.

basis in medicine'.¹⁸ The Government has retained 'conversion' in the title of the Bill, however, so that the legislation can be easily recognised and understood.¹⁹

The Change or Suppression (Conversion) Practices Prohibition Bill 2020 defines a 'change or suppression practice' 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.²⁰

The Bill's Statement of Compatibility explains that the definition is intentionally broad.²¹ The definition also requires that a change or suppression practice be directed at an individual, which the Attorney-General explained was to ensure that conduct not targeting an individual, such as sermons, opinion pieces and lectures, would not be captured by the proposed reforms.²²

Queensland and the Australian Capital Territory have recently passed legislation relating to conversion practices. In the ACT, the preferred term is a 'sexuality or gender identity conversion practice', and is defined under the Territory's *Sexuality and Gender Identity Conversion Practices Act 2020* as 'a treatment or other practice the purpose, or purported purpose, of which is to change a person's sexuality or gender identity'.²³ In Queensland, the term 'conversion therapy' is used and is defined under the state's *Health Legislation Amendment Act 2020* as 'a practice that attempts to change or suppress a person's sexual orientation or gender identity'.²⁴

The term 'change or suppression practice' is not intended to capture a practice or conduct that is supportive of or affirms a person's gender identity or sexual orientation, such as assisting a person who is undergoing a gender transition.²⁵

Within Australia, survivor groups use the term 'LGBTQA+ conversion practices', as they argue it 'more accurately captures the ways in which conversion ideology specifically targets LGBTQA+ people through practices beyond formal therapy'.²⁶ Conversion practices are sometimes also referred to as Sexual Orientation and Gender Identity Change Efforts (SOGICE).²⁷

NB: This paper uses the term 'conversion practices' as a general/umbrella term to capture the behaviour that is referred to elsewhere as 'change or suppression practices', 'sexuality or gender identity conversion practices', 'conversion therapy', 'LGBTQA+ conversion practices' and/or 'SOGICE'.

¹⁸ J. Hennessy, Attorney-General (2020) '[Second reading speech: Change or Suppression \(Conversion\) Practices Prohibition Bill 2020](#)', *Debates*, Victoria, Legislative Assembly, 26 November, p. 3723.

¹⁹ *ibid.*

²⁰ [Change or Suppression \(Conversion\) Practices Prohibition Bill 2020](#) (Vic), cl 5(1).

²¹ J. Hennessy, Attorney-General (2020) '[Statement of Compatibility: Change or Suppression \(Conversion\) Practices Prohibition Bill 2020](#)', *Debates*, Victoria, Legislative Assembly, 26 November, p. 3721.

²² *ibid.*, pp. 3721–3722.

²³ [Sexuality and Gender Identity Conversion Practices Act 2020](#) (ACT), s 7(1).

²⁴ [Health Legislation Amendment Act 2020](#) (Qld), s 28.

²⁵ [Change or Suppression \(Conversion\) Practices Prohibition Bill 2020](#) (Vic), cl 5(2).

²⁶ Amnesty International Australia (2020) '[What are conversion practices?](#)', AIA website.

²⁷ *ibid.*

A brief history of conversion practices

Intervention into people's sexual identities and gender orientations has a long history in Australia; however, explicit attempts to 'reorient' or 'convert' LGBT people are relatively recent.²⁸ Homosexual offences were only removed from Victorian criminal law in 1980, following pioneering legislation in South Australia in 1972 and 1975.²⁹

Historically, criminality was complemented by medical and psychiatric attempts to treat 'deviant' sexual practices. From the 1960s, a range of clinical interventions against LGBT people were experimented with by mainstream health practitioners, including surgical, hormonal, pharmacological, behavioural and psychoanalytic therapies. Assuming LGBT behaviour to be pathological, such interventions were typically designed to control or *prevent* behaviour, rather than *convert* preferences and identities.³⁰ Accordingly, at this time mainline churches also aimed to pastorally counsel LGBT people to live moral lives, rather than to seek sexual reorientation.³¹ From the early 1970s, health and psychiatric authorities in Australia began to declassify homosexuality and ceased to recognise LGBT people as pathologized or suffering mental illness—partly in support of the burgeoning gay and lesbian rights movement.³²

According to a recent study into the practice, conversion therapy in Australia has developed and been sustained largely in religious contexts. Religious conversion therapies aimed at the explicit reorientation of LGBT people emerged among some conservative Christian communities in the 1970s, in what was commonly known as the 'ex-gay movement', just as mainstream medicine rescinded its interventions.³³ The ex-gay movement also represented a departure from the dominant, pastoral approaches of mid-century churches. Those supporting conversion therapy now held that all people were born with the ability to develop into heterosexual, cisgender people.³⁴

Ex-gay ministries developed around the idea of repairing trauma that had 'led to a deviation from normative gender and sexual development'.³⁵ These practices included prayer, scripture reading, fasting, spiritual healing and spiritual deliverance. Some ministries also referred clients to medical practitioners and psychiatrists, who continued to offer pharmacological and aversion therapies despite the emerging ethical standards in those professions against such practices. Others rejected these secular approaches as incompatible with religious conversion therapy.³⁶

As in other parts of the world, the ex-gay movement developed independently in Australia as part of broader spiritual healing movements, before becoming integrated and internationally affiliated in the 1990s.³⁷ At this time, many practitioners repositioned themselves as offering assistance to those experiencing 'unwanted' homosexual attractions or gender dysphoria, but continued to characterise

²⁸ M. Johnson & J. Bennett (2018) 'Treatments' as torture: gay conversion therapy's deep roots in Australia', *The Conversation*, 3 May; T. W. Jones et al. (2018) *Preventing harm, promoting justice: Responding to LGBT conversion therapy in Australia*, Melbourne, La Trobe University & Human Rights Law Centre, p. 19.

²⁹ G. Carbery (2014) *Towards Homosexual Equality in Australian Criminal Law – A Brief History*, Parkville, Australian Lesbian & Gay Archives, pp. 3, 13.

³⁰ See: T. W. Jones et al. (2018) op. cit., Appendix, p. 72.

³¹ *ibid.*, p. 13.

³² G. Willett (2005) 'Psyched in: Psychology, psychiatry and homosexuality in Australia', *Gay and Lesbian Issues and Psychology Review*, 1(2), pp. 53–57.

³³ T. W. Jones et al. (2018) op. cit., p. 13.

³⁴ *ibid.*

³⁵ *ibid.*, p. 13.

³⁶ *ibid.*

³⁷ *ibid.*, p. 14.

LGBT people as suffering from a (curable) 'sexual brokenness'.³⁸ By the 2000s, there were informal or formal ex-gay ministries in all Australian states and territories.³⁹

Since 2012, some ministries have shifted away from claims that 'conversion' to a heteronormative existence is possible. However, the sections of the community that offer conversion practices maintain that LGBT behaviours and identities are pathological or sinful and that 'supernatural intervention can result in sexual orientation or gender identity change'.⁴⁰ Reports suggest that these positions may have been reinforced in Australia, following the successful passage of the marriage equality bill in late 2017.⁴¹

How common are conversion practices?

There are no studies of the prevalence of conversion therapy in contemporary Australia.⁴² In 2018, scholars from La Trobe University and the Human Rights Law Centre began to fill this gap by publishing their report, *Preventing Harm, Promoting Justice: Responding to LGBT conversion therapy in Australia*, which presents the first detailed accounts of the impact of conversion therapy on the lives of LGBT Australians of faith.⁴³

According to the report, conversion practices 'remain pervasive' in Australia's mainstream, conservative Protestant Christian communities, as well as in conservative Jewish, Muslim, Buddhist and Hindu communities.⁴⁴ Roman Catholic communities rarely promote conversion practices, though they do not oppose them; rather, Catholic approaches tend to encourage chastity and celibacy for those who are not in heterosexual marriages.⁴⁵ However, the authors also qualified that 'there is scant information on religious conversion therapy in Australia other than in Protestant contexts'.⁴⁶ Extrapolating from evidence in a 2018 survey in the United Kingdom, where the religious demographics are comparable to Australia, the report estimated that up to ten per cent of Australians 'are actively involved in a religion that may potentially promote or practice conversion therapy'.⁴⁷

Drawing on findings from study participants, the report found that several activities and materials make up conversion practices in Australia, including counselling (individual, group or online), pastoral care or other materials and actions in faith settings, aversion therapy and forced travel overseas for conversion therapy.⁴⁸ The report suggests registered medical practitioners are minimally involved in the majority of conversion practices in Australia, if at all. Rather, participants reported being subjected to conversion practices by psychologists, counsellors claiming to provide therapeutic health services (including Christian counsellors), unregistered religious counsellors and religious ministers, or other members of churches. Many participants also reported being shown literature, videos and other material about conversion practices.⁴⁹

³⁸ *ibid.*, pp. 2, 14.

³⁹ *ibid.*, p. 15.

⁴⁰ *ibid.*

⁴¹ *ibid.*

⁴² L. Sandy, A. Powell & R. Hiscock (2020) *op. cit.*

⁴³ T. W. Jones et al. (2018) *op. cit.*, p. 3.

⁴⁴ *ibid.*, p. 11.

⁴⁵ *ibid.*, p. 13.

⁴⁶ *ibid.*, p. 15.

⁴⁷ *ibid.*, p. 16.

⁴⁸ *ibid.*, pp. 58–61.

⁴⁹ *ibid.*

The report also found at least ten organisations publicly advertising ‘ex-gay and ex-trans therapies in Australia and New Zealand’, all connected through two umbrella networks: Renew Ministries in Melbourne, and Exodus Asia Pacific.⁵⁰

What is the current regulatory framework?

In Australia, conversion practices are not explicitly prohibited nationally. However, there are a number of existing laws and standards that may provide protections against conversion practices.⁵¹

Legislation

The Health Practitioner Regulation National Law, which is governed by a nationally consistent law in each state and territory, establishes a national registration and accreditation scheme for the regulation of health practitioners.⁵² One of the main objectives under this scheme is to ‘provide for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered’.⁵³ Scholars have argued that, while the National Law does not expressly prohibit conversion practices, the broader obligations it places on practitioners to ‘provide competent, professional, evidence-based and non-discriminatory health services’ effectively makes it so.⁵⁴

Another legislative instrument that may prevent conversion practices occurring in Victoria is the *Health Complaints Act 2016* (Vic). The Act established the office of the Health Complaints Commissioner and provides for a complaints process and other processes relating to the provision of health services.⁵⁵ The Act also includes a code of conduct for general health services, which states, among other things, that general health service providers must: act in a safe and ethical manner; obtain consent appropriate to the treatment provided; report concerns about other health practitioners; and not engage in any form of misinformation.⁵⁶ Academics have noted that, while the Health Complaints Act does not directly refer to conversion practices, the explanatory memorandum and the second reading speech, given at the time of its introduction, reveal that ‘it is clear that [the Act] was drafted with such practices in mind’.⁵⁷

Additionally, Australia also has obligations under international human rights law and, as a signatory to international instruments, has obligations and duties to uphold the rights enshrined in those treaties.⁵⁸

Professional and ethical standards

Many professional bodies in the health services sector condemn conversion practices. In its 2002 *Position Statement on Sexual Diversity and Gender Identity*, the Australian Medical Association (AMA) stated that it ‘opposes the use of “reparative” or “conversion” therapy that is based upon the assumption that homosexuality is a mental disorder and that the patient should change his or her

⁵⁰ *ibid.*, p 16.

⁵¹ T. W. Jones et al. (2018) *op. cit.*, p. 53.

⁵² In Victoria, the relevant Act is the [Health Practitioner Regulation National Law \(Victoria\) Act 2009](#).

⁵³ [Health Practitioner Regulation National Law Act 2009](#) (Qld), Sch, Part 1, s 3(2).

⁵⁴ T. W. Jones et al. (2018) *op. cit.*, p. 53.

⁵⁵ [Health Complaints Act 2016](#) (Vic), s 1.

⁵⁶ *ibid.*, Sch 2, ss 1–2, 4, 9.

⁵⁷ T. W. Jones et al. (2018) *op. cit.*, p. 55.

⁵⁸ *ibid.*, p. 44.

sexual orientation'.⁵⁹ In 2018, then-AMA President, Tony Bartone, reaffirmed that the AMA 'unequivocally condemns' conversion practices.⁶⁰

The Australian Psychological Society (APS) also rejects conversion practices, stating that it 'strongly opposes any form of mental health practice that treats homosexuality as a disorder, or seeks to change a person's sexual orientation'.⁶¹ As the APS's 2015 *Position Statement on Psychological Practices that attempt to change Sexual Orientation* makes clear:

Approaches to mental health practice variously referred to as 'reparative', 'conversion' or 'ex-gay' are based on the belief that homosexuality is a disorder, and that it can be 'cured'. No professional health organisation in Australia supports these approaches.⁶²

The APS Position Statement states that any psychologist attempting to change a person's sexual orientation, or treating homosexuality as a disorder, is 'likely to be in breach of the APS Code of Ethics'.⁶³ In 2019, the APS called for an Australia-wide ban on conversion practices.⁶⁴

Regulatory gaps

While existing legislation and professional standards may restrict some conversion therapy practices, the authors of the 2018 *Preventing Harm, Promoting Justice* report highlighted that these regulatory frameworks do not capture all conversion practices, such as those undertaken by religious or unregistered counsellors, or conducted within communities of faith. The report concluded that conversion practices conducted in such contexts can ultimately 'fall between the gaps'.⁶⁵ As such, they recommended that the law in Victoria be strengthened to deter and prevent conversion practices from taking place, through legislation that explicitly outlaws those practices. They argue that this action would send 'a clear message that this conduct is ineffective, not based in evidence, unethical and generally harmful'.⁶⁶ According to the report, new legislation should:

- prohibit any conduct by professionals—such as social workers, health practitioners and teachers, among others—that is aimed at changing, 'suppressing', 'curing', 'healing' or 'repairing' the sexual orientation or gender identity of any adult;
- prohibit such conduct by any person where it targets minors or people who are vulnerable to coercion—such as those living with a cognitive impairment, intellectual disability or mental health issue;
- establish beneficial treatments or practices to support LGBT people; and
- create an offence that criminalises any attempted removal of a person from Australia for the purposes of a conversion practice.⁶⁷

⁵⁹ Australian Medical Association (2002) *AMA Position Statement: Sexual Diversity and Gender Identity*, Barton, AMA, p. 4.

⁶⁰ Australian Medical Association (2020) 'AMA President Dr Tony Bartone on SKY News - Conversion therapy - 4 Sep 2018', AMA website.

⁶¹ Australian Psychological Society (2018) *The APS does not support gay conversion therapy*, media release, 17 October.

⁶² Australian Psychological Society (2015) *APS Position Statement on Psychological Practices that attempt to change Sexual Orientation*, Melbourne, APS, p. 1.

⁶³ *ibid.*

⁶⁴ Australian Psychological Society (2019) *APS calls for Australia-wide ban on gay conversion therapy*, media release, 4 February.

⁶⁵ T. W. Jones et al. (2018) *op. cit.*, p. 53.

⁶⁶ *ibid.*, p. 66.

⁶⁷ *ibid.*, p. 67.

What has occurred in Victoria prior to the Bill's introduction?

Health Complaints Commissioner report

In May 2018, then-Minister for Health, the Hon. Jill Hennessy, referred the matter of 'gay conversion therapy' or 'ex-gay ideology' to the Health Complaints Commissioner.⁶⁸ Under the terms of reference, the Commissioner was tasked with:

- understanding who is conducting conversion practices, and the context in which they are occurring;
- assessing whether the powers and functions of the Health Complaints Commissioner to address complaints relating to conversion practices are adequate;
- exploring opportunities for collaboration with other agencies, organisations and levels of government to improve outcomes for survivors of conversion practices; and
- any other related matters.⁶⁹

The Commissioner's inquiry included group and individual interviews with people who had been subjected to conversion practices and, in certain cases, discussion with their family members.⁷⁰ The inquiry also engaged with churches, religious groups and counselling services to determine what advice or referrals were openly supported or suggested in relation to conversion practices.⁷¹

A summary of the Commissioner's findings was published in February 2019, detailing the 'long-term psychological harm and distress to people who have undergone conversion therapy/practices'.⁷² The Commissioner found that there were still psychologists, counsellors and counselling services offering conversion practices, in spite of the 'overwhelming evidence' of the long-term and significant harm they cause.⁷³ Upon completing the inquiry, the Commissioner recommended that the Minister consider introducing legislation to ban conversion practices and provide supports for survivors. The Commissioner explained that a legislative response 'sends a very strong message to the community that conversion therapy/practices are unacceptable'.⁷⁴

Shortly after the Health Complaints Commissioner's report was released, the Andrews Government confirmed that it had accepted in full the recommendation that conversion practices be banned. It committed to introducing legislation to that end, making it the first jurisdiction in Australia to commit to doing so.⁷⁵ This decision was welcomed by the Commissioner.⁷⁶

⁶⁸ Victorian Government (2020) ['Report on the inquiry into conversion therapy - Executive summary'](#), Health.vic website.

⁶⁹ Health Complaints Commissioner (date unknown) [Inquiry into Conversion Therapy/Practices in Victoria: Terms of Reference](#), Melbourne, Health Complaints Commissioner, p. 2.

⁷⁰ Health Complaints Commissioner (2019) [Health Complaints Commissioner welcomes new laws to denounce and prohibit LGBTI conversion practices following HCC inquiry](#), media release, 3 February.

⁷¹ Health Complaints Commissioner (2018) [Health Complaints Commissioner progresses conversion therapy inquiry](#), media release, 4 September.

⁷² Health Complaints Commissioner (2019) [Report on the Inquiry into Conversion Therapy: Executive Summary](#), Melbourne, Health Complaints Commissioner, p. 2.

⁷³ *ibid.*

⁷⁴ *ibid.*, p. 3.

⁷⁵ D. Andrews, Premier of Victoria (2019) [Labor Government to make conversion 'therapy' against the law](#), media release, 3 February.

⁷⁶ Health Complaints Commissioner (2019) [Health Complaints Commissioner welcomes new laws to denounce and prohibit LGBTI conversion practices following HCC inquiry](#), *op. cit.*

The Government also gave in-principle support to funding counselling and support services for those harmed by conversion practices.⁷⁷

Victorian Government consultation period

For six weeks over October–November 2019, the Andrews Government held a public consultation period and invited feedback from the Victorian community on proposed new laws to ban conversion practices.⁷⁸ A discussion paper was also released at that time, to seek the community’s views on the best way to implement the proposed changes.⁷⁹ Some of the key questions posed in the discussion paper related to what should be banned, who should be protected, how it should be regulated—for example, through the criminal law, the civil law, or both—and how concerns about religious freedom could be addressed.⁸⁰

The Government used a ‘dual consultation approach’ to seek feedback on the discussion paper, which involved seeking online responses and written submissions from members of the community via the Engage Victoria website, as well as undertaking face-to-face consultations with key stakeholders.⁸¹ Of the 603 survey contributions, 82 written submissions and 21 face-to-face consultations with survivor organisations, LGBTIQ+ support and advocacy organisations, and religious organisations, the Government found that a ‘clear majority’ supported a ban.⁸²

However, views on what a ban (if any) should look like were varied. The Government released an outcomes report summarising the views and themes that emerged during the consultation period. The face-to-face consultations revealed that, while those with personal experience of conversion practices and LGBT support and advocacy organisations generally supported a ban that would capture all conversion practices, religious organisations generally expressed concern with banning practices outright.⁸³ Further, most religious organisations supported a definition of conversion practices that would not capture religious teachings and beliefs relating to sexuality and gender.⁸⁴

In terms of consent, those who had experienced conversion practices themselves did not support a ban that would allow individuals to consent to such practices—as they questioned whether free and informed consent could be given—whereas the LGBT support and advocacy organisations, as well as religious organisations, were more diverse in their views on consent.⁸⁵ In relation to regulation, most religious organisations supported regulation of health and medical professionals, whereas most LGBT organisations and all survivors that took part in the consultation supported regulating all people who provide conversion practices.⁸⁶

⁷⁷ *ibid.*

⁷⁸ J. Hennessy, Attorney-General (2019) *Consultation begins on LGBTIQ conversion therapy ban*, media release, 14 October.

⁷⁹ Victorian Government (2019) *Discussion Paper: Legislative options to implement a ban of conversion practices*, Melbourne, Victorian Government.

⁸⁰ *ibid.*, pp. 3–9.

⁸¹ Victorian Government (date unknown) *Legislative options to implement a ban on conversion practices: Consultation outcomes report*, Melbourne, Victorian Government, p. 5.

⁸² Department of Justice and Community Safety (date unknown) ‘*Change or Suppression Practices - Legislative Ban*’, Engage Victoria website.

⁸³ Victorian Government (date unknown) *Legislative options to implement a ban on conversion practices: Consultation outcomes report*, *op. cit.*, p. 3.

⁸⁴ *ibid.*

⁸⁵ *ibid.*

⁸⁶ *ibid.*

As to whether these practices should be regulated by civil or criminal law, those with lived experience of conversion practices and LGBT organisations generally supported a combined civil and criminal scheme, with survivors seeking the establishment of a Redress Commission. Of the religious organisations that took part in the consultation process, some supported a civil-only or a criminal law-only scheme; others did not support any regulatory regime.⁸⁷

In response to the question about freedom of religion, religious organisations highlighted its importance and expressed concerns about how religious practices may be impacted. In general, they also supported the ability of individuals to seek religious support for sexuality and gender identity matters.⁸⁸ Conversely, LGBT organisations and those who had been subjected to conversion practices supported a human rights approach, where freedom of religion would not extend to causing harm to others. LGBT organisations also noted that LGBT people should be able to practise their religion ‘in a safe environment’.⁸⁹

The consultation outcomes report explained that the views expressed in the responses received from the community through Engage Victoria broadly mirrored those received during the face-to-face consultations.⁹⁰

⁸⁷ *ibid.*, p. 4.

⁸⁸ *ibid.*

⁸⁹ *ibid.*

⁹⁰ *ibid.*

Change or Suppression (Conversion) Practices Prohibition Bill 2020

The Change or Suppression (Conversion) Practices Prohibition Bill 2020 was introduced to the Victorian Parliament on 25 November 2020.⁹¹

The Andrews Government stated that the Bill would ‘put in place new measures to protect Victorians from the serious damage and trauma caused by conversion practices’ and that it sought to denounce those practices as ‘deceptive and harmful’.⁹² Further, the Government argued that through this action it was ‘sending a clear message: no one is ‘broken’ because of their sexuality or gender identity. These views won’t be tolerated in Victoria, and neither will these abhorrent practices’.⁹³

Second reading speech

The second reading speech was delivered on 26 November 2020 by then-Attorney-General, the Hon. Jill Hennessy, who stated that the Bill ‘recognises change or suppression practices as false, deceptive and seriously harmful acts’ and explained that its purpose was ultimately to eliminate change or suppression practices in the state.⁹⁴

The speech touched upon the harm that conversion practices can cause to LGBT people and highlighted that a disproportionate number of LGBT people are already experiencing mental health concerns. The Attorney-General explained that the rate of attempted suicide is five times higher for LGBT young people than for their peers, while transgender people are 11 times more likely to attempt suicide.⁹⁵ Ms Hennessy asserted that the Bill:

affirms all people have characteristics of sexuality, sexual orientation, gender identity and gender expression, and no combination of these characteristics constitutes a disorder, disease, illness, deficiency, disability or shortcoming.⁹⁶

The Bill, she said, would ensure that Victorians are ‘are able to live their lives authentically with pride’.⁹⁷

Proposed reforms

In the first instance, the Bill seeks to define the meaning of a change or suppression practice. The Attorney-General explained that the definition is broad and has three key elements: first, the conduct must be directed at an individual; second, the conduct must be ‘on the basis’ of the individual’s sexual orientation or gender identity; and third, the person engaging in the conduct must be attempting to change or induce another person to change or suppress their sexual orientation or gender identity.⁹⁸

⁹¹ (date unknown) ‘[Change or Suppression \(Conversion\) Practices Prohibition Bill 2020](#)’, Victorian Legislation website.

⁹² J. Hennessy, Attorney-General (2020) *Banning cruel conversion practices for good*, media release, 25 November.

⁹³ *ibid.*

⁹⁴ J. Hennessy, Attorney-General (2020) ‘[Second reading speech: Change or Suppression \(Conversion\) Practices Prohibition Bill 2020](#)’, *op. cit.*, p. 3723.

⁹⁵ *ibid.*, p. 3722.

⁹⁶ *ibid.*

⁹⁷ *ibid.*

⁹⁸ *ibid.*, p. 3723.

The Bill states that a change or suppression practice could occur in person, or remotely, and gives examples of what that might look like—including, but not limited to:

- providing a consultation, treatment or therapy through psychiatry or psychotherapy (or similar);
- carrying out a religious practice, such as a prayer-based practice, a deliverance practice or an exorcism; and
- giving a person a referral with the intention of that person receiving a change or suppression practice.⁹⁹

In certain circumstances, some religious practices may meet the definition of a change or suppression practice. However, the Attorney-General clarified that the definition had been crafted in such a way that was ‘not designed to capture all religious practices or teachings or to prevent people seeking religious counsel’.¹⁰⁰

The Bill also seeks to implement a general prohibition on change or suppression practices.¹⁰¹ This would take the form of a civil response scheme, and the creation of criminal offences for the most serious conduct (see below). The Statement of Compatibility explained that this framework was ‘developed on the basis [that] no less restrictive means was reasonably available to effectively reduce the harm caused by change or suppression practices’.¹⁰²

Additionally, the proposed reforms are intended to have an extra-territorial application, meaning that the Act would have effect if a person engages in conduct outside or partly outside Victoria and there is a ‘real and substantial’ link between the conduct and Victoria.¹⁰³

Civil response scheme

The Bill seeks to establish a civil response scheme within the Victorian Equal Opportunity and Human Rights Commission (‘the Commission’). The Attorney-General envisaged that the civil scheme would be the most common response to alleged change or suppression practices.¹⁰⁴

Under the proposed scheme, the Commission is given numerous functions and powers in relation to change or suppression practices, some of which include to develop and provide education, receive reports from any person, request further information about those reports and determine appropriate responses to them.¹⁰⁵ The Commission is assigned an educative function that requires it to establish and undertake information and education programs in relation to change or suppression practices, and to promote and advance the objects of the proposed Act and advocate for it.¹⁰⁶ The Commission is also assigned a function that allows it to undertake research on matters relating to the proposed Act’s operation, including the collection and analysis of relevant information and data.¹⁰⁷

⁹⁹ [Change or Suppression \(Conversion\) Practices Prohibition Bill 2020](#) (Vic), cl 5(3)–(4).

¹⁰⁰ J. Hennessy, Attorney-General (2020) ‘[Second reading speech: Change or Suppression \(Conversion\) Practices Prohibition Bill 2020](#)’, op. cit., p. 3723.

¹⁰¹ [Change or Suppression \(Conversion\) Practices Prohibition Bill 2020](#) (Vic), cl 9.

¹⁰² J. Hennessy, Attorney-General (2020) ‘[Statement of Compatibility: Change or Suppression \(Conversion\) Practices Prohibition Bill 2020](#)’, op. cit., p. 3719.

¹⁰³ [Change or Suppression \(Conversion\) Practices Prohibition Bill 2020](#) (Vic), cl 8.

¹⁰⁴ J. Hennessy, Attorney-General (2020) ‘[Second reading speech: Change or Suppression \(Conversion\) Practices Prohibition Bill 2020](#)’, op. cit., p. 3725.

¹⁰⁵ [Change or Suppression \(Conversion\) Practices Prohibition Bill 2020](#) (Vic), cl 17.

¹⁰⁶ *ibid.*, cl 18.

¹⁰⁷ *ibid.*, cl 19.

Furthermore, the Commission is required to receive reports in relation to change or suppression practices and facilitate outcomes, and must establish policies as well as issue procedures and directions on the way in which such reports should be handled.¹⁰⁸ Under the proposed legislation, a person affected by a change or suppression practice, or any other person, may make a report to the Commission.¹⁰⁹ When considering a report and being satisfied that a change or suppression practice has occurred, the Commission is required, where possible, to take into account: the wishes of the person or persons affected; whether the practice was a one-off event or indicative of a pattern of behaviour; the number of people affected; the nature and extent of the harm caused; and any steps taken by a person or organisation to cease engaging in a practice or to address the harms caused.¹¹⁰

When responding to a report, the Commission can offer targeted education to persons or organisations reported to have engaged in change or suppression practices; it can also offer to facilitate an outcome where reports are made by persons affected by those practices.¹¹¹ Further, the Commission can refer the report to another person or body—such as the Health Complaints Commissioner, the Australian Health Practitioner Regulation Agency, the Ombudsman or Victoria Police. It can also decline to respond to the report where persons or organisations can't be located, sufficient information is no longer available, the reported conduct has been adequately dealt with (or would be more appropriately managed in another forum), or where it considers it is not appropriate to respond.¹¹²

Additionally, the Commission is empowered to conduct investigations in certain circumstances, compel the provision of information and the production of documents, and compel attendance before it.¹¹³ Under the proposed reforms, the Commission also has a number of remedies available to it, including enforceable undertakings and compliance notices. Where a person has failed to comply with an enforceable undertaking or a compliance notice, the Commission can apply to the Victorian Civil and Administrative Tribunal (VCAT) to ensure that compliance occurs.¹¹⁴

The Attorney-General stated that the civil response scheme was designed in such a way that it would be trauma-informed and survivor-led, and could accommodate the circumstances unique to each experience.¹¹⁵ As such, under the proposed legislation, the Commission is always required to:

- ensure survivors receive the support they need by directing them to appropriate support services;
- establish facilitation processes that meet the individual survivors' needs; and
- at their request, assist survivors who have been the victims of an alleged criminal offence to report that conduct to police.¹¹⁶

¹⁰⁸ *ibid.*, cl 21.

¹⁰⁹ *ibid.*, cl 24.

¹¹⁰ *ibid.*, cl 27.

¹¹¹ *ibid.*, cl 28.

¹¹² *ibid.*, cl 29–30.

¹¹³ *ibid.*, cl 35–37.

¹¹⁴ *ibid.*, cl 43–46.

¹¹⁵ J. Hennessy, Attorney-General (2020) 'Second reading speech: Change or Suppression (Conversion) Practices Prohibition Bill 2020', *op. cit.*, p. 3725.

¹¹⁶ *ibid.*

Criminal offences

The Bill seeks to create four criminal offences, which prohibit a person from:

- intentionally carrying out a change or suppression practice where that conduct causes *injury* to another person;
- intentionally carrying out a change or suppression practice where that conduct causes *serious injury* to another person;
- taking another person from Victoria for the purposes of that person being subject to a change or suppression practice, where that practice causes injury; and
- advertising a change or suppression practice.¹¹⁷

The criminal offences rely on the definitions of injury and serious injury in the Crimes Act.¹¹⁸ Under the proposed reforms, engaging in one or more practices that cause injury or serious injury will attract significant penalties. These are shown in the table below.

Table 1. Proposed penalties for change or suppression practices that cause injury or serious injury¹¹⁹

	Change or suppression practices that cause injury	Change or suppression practices that cause serious injury
Natural person	<ul style="list-style-type: none"> ▪ Up to five years' imprisonment; or ▪ a fine of up to \$99,132; or ▪ both. 	<ul style="list-style-type: none"> ▪ Up to ten years' imprisonment; or ▪ a fine of up to \$198,264; or ▪ both.
Body corporate	Penalty of up to \$495,660.	Penalty of up to \$991,320.

Taking a person from Victoria for one or more change or suppression practices would attract a penalty of up to two years' imprisonment, or a fine of up to \$39,652, or both, for a natural person; for a body corporate, the penalty is \$198,264.¹²⁰ Advertising a change or suppression practice attracts a fine of up to \$9,913 for a natural person, or \$49,566 for a body corporate.¹²¹

Additionally, refusing, without reasonable excuse, to produce documents relating to an advertising offence when requested also attracts a fine of up to \$9,913 for a natural person, or \$49,566 for a body corporate.¹²²

¹¹⁷ J. Hennessy, Attorney-General (2020) 'Second reading speech: Change or Suppression (Conversion) Practices Prohibition Bill 2020', op. cit., p. 3726.

¹¹⁸ *ibid.*

¹¹⁹ *Change or Suppression (Conversion) Practices Prohibition Bill 2020* (Vic), cl 10–11. The current value of a penalty unit in Victoria for FY 20/21 is \$165.22. See: Department of Justice and Community Safety (2020) 'Penalties and values', DJCS website.

¹²⁰ *Change or Suppression (Conversion) Practices Prohibition Bill 2020* (Vic), cl 12.

¹²¹ *ibid.*, cl 13.

¹²² *ibid.*, cl 14.

The criminal offences proposed by the Bill are targeted at conduct that results in physical or mental injury. The Attorney-General explained that the criminal offences were expected to play an educative role about the seriousness of change or suppression practices and to have a deterrent effect.¹²³

Proposed amendments to the *Equal Opportunity Act 2010*

The Bill seeks to amend several definitions in the *Equal Opportunity Act 2010*. This includes the definition of 'gender identity', which would be changed to mean:

a person's gender-related identity, which may or may not correspond with their designated sex at birth, and includes the personal sense of the body (whether this involves medical intervention or not) and other expressions of gender, including dress, speech, mannerisms, names and personal references.¹²⁴

The definition of 'sexual orientation' would also be changed, to mean 'a person's emotional, affectional and sexual attraction to, or intimate or sexual relations with, persons of a different gender or the same gender or more than one gender'.¹²⁵

The Bill also seeks to insert a definition for 'sex characteristics' in the *Equal Opportunity Act*, which is given as:

a person's physical features relating to sex, including—

- a) genitalia and other sexual and reproductive parts of the person's anatomy; and
- b) the person's chromosomes, genes, hormones, and secondary physical features that emerge as a result of puberty.¹²⁶

It also seeks to add 'sex characteristics' as a protected attribute under the Act,¹²⁷ which the Attorney-General explained in her second reading speech is intended to 'better protect intersex Victorians from discrimination'.¹²⁸ The Attorney-General argued that this move was necessary as the *Equal Opportunity Act* currently offers no express protection for intersex persons, and instead conflates intersex status with gender identity; she also clarified that intersex change or suppression practices are outside the scope of this Bill, and that the issue is being considered separately by the Department of Health and Human Services.¹²⁹

Amendments relating to family violence and personal safety

The Bill also seeks to amend the *Family Violence Protection Act 2008* and the *Personal Safety Intervention Orders Act 2010* to make it clear that, in some circumstances, change or suppression practices can be considered a form of family violence or harassment.¹³⁰ This means that, under the

¹²³ J. Hennessy, Attorney-General (2020) 'Second reading speech: Change or Suppression (Conversion) Practices Prohibition Bill 2020', op. cit., p. 3726.

¹²⁴ *Change or Suppression (Conversion) Practices Prohibition Bill 2020* (Vic), cl. 59(1).

¹²⁵ *ibid.*, cl 59(3).

¹²⁶ *ibid.*, cl 59(2).

¹²⁷ *ibid.*, cl 60.

¹²⁸ J. Hennessy, Attorney-General (2020) 'Second reading speech: Change or Suppression (Conversion) Practices Prohibition Bill 2020', op. cit., p. 3724.

¹²⁹ *ibid.*

¹³⁰ *Change or Suppression (Conversion) Practices Prohibition Bill 2020* (Vic), cl 64–65.

proposed reforms, survivors could make use of family violence safety notices/ intervention orders, and personal safety intervention orders, respectively. It is a criminal offence to breach these orders.¹³¹

Review of the Act

Under the proposed reforms, the Bill makes provision for an independent review of the operation and effectiveness of the Act, which the Attorney-General must ensure is undertaken two years after the ban on change or suppression practices commences.¹³² The review must be led by an independent expert and must consider the functioning of the criminal offences and the civil scheme; it must also determine if any broader investigation or enforcement powers are required, and whether a redress scheme should be developed.¹³³

Bill passes Legislative Assembly

The Change or Suppression (Conversion) Practices Prohibition Bill 2020 passed the Legislative Assembly on 10 December 2020 and was introduced and second-read in the Legislative Council on that day.¹³⁴

¹³¹ J. Hennessy, Attorney-General (2020) 'Second reading speech: Change or Suppression (Conversion) Practices Prohibition Bill 2020', op. cit., p. 3724.

¹³² Change or Suppression (Conversion) Practices Prohibition Bill 2020 (Vic), cl 57.

¹³³ *ibid.*, cl 57(2)–(3).

¹³⁴ (date unknown) 'Change or Suppression (Conversion) Practices Prohibition Bill 2020', Victorian Legislation website.

Responses to the Bill

This section contains a brief overview of some examples of responses to the Change or Suppression (Conversion) Practices Prohibition Bill 2020.

Victorian Equal Opportunity and Human Rights Commission

Commissioner Kristen Hilton said that the Commission welcomed the Bill's introduction and that it represented 'an important step towards preventing and responding to harm still being inflicted on LGBTQ Victorians'.¹³⁵ The Commissioner also stated that the proposed amendments relating to definitions of sexual orientation and gender identity, as well as the inclusion of sex characteristics as a new protected attribute, would strengthen the operation of the Equal Opportunity Act.¹³⁶

Survivors

The conversion practices survivor support and advocacy groups, SOGICE Survivors and Brave Network, have expressed support for the Bill, arguing that it is not 'anti-prayer' or an attack on religious freedom. Rather, they say, it is 'a common-sense law designed purely to prevent people in positions of influence making misleading claims about LGBTQA+ attraction and identity, delivering indefensible practices, and causing life-long harm and trauma'.¹³⁷

Advocacy groups

Thorne Harbour Health (formerly the Victorian AIDS Council), an advocacy and health promotion organisation seeking to serve the health needs of LGBTI communities, announced its support for the proposed legislation.¹³⁸ The organisation's CEO, Simon Ruth, stated that the Bill was of 'an incredibly high standard' and was superior to similar legislation developed in Australia so far, arguing that, by enacting the proposed laws, 'Victoria has a chance to lead the way globally in protecting the human rights of our sexually and gender diverse communities from incredibly harmful practices based on false and misleading claims'.¹³⁹

The Victorian Pride Lobby, a community-based advocacy group working to advance human rights for lesbian, gay, bisexual, queer, and same-sex attracted Victorians, also welcomed the Bill's introduction. The Lobby's Co-Convenor, Nevena Spirovska, said that '[e]veryone should be able to access health services, practice their religion, and go about their day-to-day lives without being exposed to harmful conversion practices'.¹⁴⁰ The Lobby was supportive of the decision to have the Victorian Equal Opportunity and Human Rights Commission oversee the proposed civil response scheme. However, it expressed disappointment that the Bill did not seek to include conversion practices as reportable conduct under child safety laws, nor to prohibit conversion practices in the health services code of conduct.¹⁴¹

¹³⁵ Victorian Equal Opportunity and Human Rights Commission (2020) *Commission welcomes introduction of the Change or Suppression (Conversion) Practices Prohibition Bill 2020*, media release, 25 November.

¹³⁶ *ibid.*

¹³⁷ N. Despott & C. Csabs (2020) 'Victoria's conversion bill is world-leading legislation', *The Age*, 8 December.

¹³⁸ Thorne Harbour Health (2020) *Supporting Victoria's Bill to Ban Conversion Practices*, media release, 25 November.

¹³⁹ *ibid.*

¹⁴⁰ Victorian Pride Lobby (date unknown) *Conversion practices bill welcomed by LGBT+ advocates*, media release.

¹⁴¹ *ibid.*

Equality Australia, a national advocacy organisation for LGBTIQ+ people in the country, called the legislation ‘world-leading’,¹⁴² and the organisation’s CEO, Anna Brown, has described the Bill as ‘a common-sense law that prevents people from causing injury to others’.¹⁴³

Religious organisations

The Australian Christian Lobby (ACL) has condemned the Bill, claiming that it is ‘built on lies’.¹⁴⁴ ACL Managing Director, Martyn Iles, stated that coercion and abuse practices are not happening in Australia, and that the Bill ‘digs up relics of the past as an excuse to ban innocent practices like the teaching of Scripture, friends praying for each other, and parents affirming their kids’ biology’.¹⁴⁵ Mr Iles added that the Bill was ‘an insult to the notions of tolerance and diversity’ and that it represented ‘the worst and most flagrant attack on basic freedom this country has ever seen’.¹⁴⁶ In January 2021, the ACL published a double-page advertisement in the *Herald Sun* newspaper with the text, ‘Dear Premier, we are not criminals’.¹⁴⁷ The advertisement included a letter to Premier Daniel Andrews, undersigned by multifaith religious leaders, stating that under the Bill, ‘all people of faith will be stripped of their freedom to practice and share their faith’.¹⁴⁸ It called for the Bill to be retracted ‘to respect religious freedom and cultural rights’, and for the Premier to meet with the signatories for a roundtable discussion.¹⁴⁹

The Catholic Archdiocese of Melbourne has also expressed concerns about the Bill. Archbishop Peter Comensoli issued an official statement to say that the Bill ‘targets prayer, and appears to impose silence on people of faith from sharing their beliefs in an open, honest and faithful way’.¹⁵⁰ Archbishop Comensoli stated that faith groups were ‘afforded little consultation’ and that they were not shown a draft of the Bill before its introduction.¹⁵¹ The Archbishop said that the Bill seemed to pose ‘a dramatic over-reach of the state into family life, private matters, pastoral contexts of conversion, prayer and spiritual accompaniment’, and argued that the result of this Bill ‘may not actually be to protect anyone who is vulnerable, but to silence people of faith from expressing a view’.¹⁵² The statement included a number of questions from the Catholic Archdiocese in regards to the Bill, touching upon issues of free speech, religious identity and sexuality.¹⁵³

The Jewish Community Council of Victoria (JCCV), the peak body of Victorian Jewry, has expressed its support for a ban on conversion practices. In a joint position paper with Jewish Care Victoria that was submitted to the Victorian Government’s consultation process, the JCCV ‘emphatically denounced’ LGBTIQ+ conversion practices, arguing that these ‘harmful’ practices are ‘a contravention of a person’s fundamental human rights and diminish, devalue, and attempt to erase the presence of LGBTIQ+

¹⁴² Equality Australia (2020) *World-leading LGBTIQ+ conversion legislation introduced in Victoria*, media release, 25 November.

¹⁴³ Cited in F. Tomazin (2020) ‘Gay conversion legislation puts Andrews on a collision course with churches’, *The Age*, 5 December.

¹⁴⁴ Australian Christian Lobby (2020) *Daniel Andrews’ Anti-Conversion Bill Built on Lies*, media release, 30 November.

¹⁴⁵ *ibid.*

¹⁴⁶ *ibid.*

¹⁴⁷ Australian Christian Lobby (2021) ‘Advertisement’, *Herald Sun*, 30 January.

¹⁴⁸ *ibid.*

¹⁴⁹ *ibid.*

¹⁵⁰ Catholic Archdiocese of Melbourne (2020) *Statement re Change or Suppression (Conversion) Practices Prohibition Bill 2020*, media release, 8 December.

¹⁵¹ *ibid.*

¹⁵² *ibid.*

¹⁵³ *ibid.*

people in society'.¹⁵⁴ JCCV President, Jennifer Huppert, stated that 'the practice or treatment to seek change, modify, suppress, or eliminate expression of LGBTQ+ sexuality or gender identity is, in our view, unethical and abhorrent'.¹⁵⁵ The joint submission argued that conversion practices under the umbrella of religion should not be viewed as any different to those being practised outside of that context.¹⁵⁶

Following the Bill's introduction, Jewish Care—an aged care and community services provider for Jewish people throughout Victoria—issued a statement welcoming the latest development, expressing that the Bill:

sends a strong message to all Victorians that conversion practices are not therapeutic, are known to cause significant long-term psychological and emotional harm, and that a person's sexuality or gender identity is real and valid and not a mental disorder to be cured. The real danger to LGBTI+ people and their mental health and wellbeing is societal ignorance, prejudice and the pressure to conform to entrenched heteronormative societal values.¹⁵⁷

In December 2020, various multi-faith, multicultural LGBTQ+ and allied voices published an open letter to Members of the Victorian Parliament, expressing their support for the Bill. Signatories came from a diversity of cultures and a range of faiths, including Christianity, Islam and Buddhism, among others.¹⁵⁸

Political parties

The Victorian Opposition has called for a delay to voting on the Bill, and state Opposition Leader, the Hon. Michael O'Brien, has said that there are 'legitimate concerns' about some aspects of the Bill.¹⁵⁹ Following resumption of the second reading debate, the Opposition moved a reasoned amendment requesting that further consultation be undertaken with stakeholders and that clarification be provided on specific concerns—including the rights of children and their parents, the rights of individuals to voluntarily seek assistance for gender identity and sexual orientation issues, as well as the rights of faith organisations and healthcare professionals.¹⁶⁰ The amendment was unsuccessful.¹⁶¹

Conversely, the Victorian Greens have welcomed the Bill. In a statement, the party's LGBTIQ+ spokesperson, Sam Hibbins, said: 'We're pleased that the state government has listened to the calls of survivors over the years and introduced strong legislation that will help stamp out conversion practices wherever they occur'.¹⁶²

¹⁵⁴ Jewish Community Council of Victoria & Jewish Care Victoria (2019) *Jewish Care Victoria and JCCV partner to support ban of LGBTQ+ conversion therapy*, media release, 12 December.

¹⁵⁵ *ibid.*

¹⁵⁶ *ibid.*

¹⁵⁷ Jewish Care Victoria (2020) *Jewish Care Victoria welcomes legislative ban on harmful LGBTI+ conversion practices*, media release, 30 November.

¹⁵⁸ Equality Australia (2020) *Multicultural voices in support of the Change or Suppression (Conversion) Practices Prohibition Bill 2020*, media release, 9 December.

¹⁵⁹ R. Willingham (2020) 'Victorian Opposition demands more consultation on gay conversion ban bill', *ABC News*, 8 December.

¹⁶⁰ (date unknown) 'Change or Suppression (Conversion) Practices Prohibition Bill 2020', Victorian Legislation website (see 'Southwick – reasoned amendment').

¹⁶¹ *ibid.*

¹⁶² Victorian Greens (2020) *Victorian ban on 'dangerous' conversion practices long overdue*, media release, 25 November.

Health services providers

The Australian Psychological Society welcomed the Bill, and congratulated the Victorian Government for ‘acting decisively’ on the recommendations made by the Health Complaints Commissioner.¹⁶³ The APS restated its strong opposition to any mental health practice treating homosexuality as a disorder or seeking to change a person’s sexual orientation, and reaffirmed its call for a ban to be implemented Australia-wide.¹⁶⁴

The Australian Association of Social Workers has previously expressed its support for the Victorian Government’s pledge to ban conversion practices, and has called for other states to follow suit.¹⁶⁵ As mentioned earlier, the Australian Medical Association has previously stated that it ‘unequivocally condemns’ conversion practices.¹⁶⁶

Research and academia

The Law Institute of Victoria (LIV) has called for the legislation to be passed. LIV President, Sam Pandya, said that ‘[p]rohibiting these practices, and introducing penalties, is important in ensuring LGBT Victorians are safe within our community’.¹⁶⁷ LIV welcomed the proposed functions and powers of the Victorian Equal Opportunity and Human Rights Commission, and urged the Victorian Government to ensure that the Commission would be resourced appropriately. LIV also expressed its support for the anti-discrimination protections offered through amendment of the Equal Opportunity Act, including added protections for intersex Victorians.¹⁶⁸

Dr Timothy W. Jones, a senior lecturer in history at La Trobe University and one of the authors of the *Preventing Harm, Promoting Justice* report, has also welcomed the Bill. Dr Jones stated that it ‘carefully weighs the protection of religious freedom against the protection of the rights of LGBTQ+ people and is the product of significant consultation’, and that the fears expressed by some religious communities are ultimately ‘unfounded’.¹⁶⁹ Similarly, Elenie Poulos, an ordained minister in the Uniting Church and a doctoral researcher who studies the politics of religious freedom in Australia, stated that the Bill ‘is not an attack on prayer; it’s an attack on a harmful, religiously-based practice’.¹⁷⁰

Dr Holly Lawford-Smith, an Associate Professor in political philosophy at the University of Melbourne, has expressed support for the Bill’s attempts to ban conversion practices seeking to change a person’s sexual orientation, yet argues that including gender identity in the Bill is unwarranted.¹⁷¹ Alongside Kath Deves, the co-founder and spokesperson of Save Women’s Sport Australasia, Dr Lawford-Smith gives the example of ‘watchful waiting’, a current approach to gender dysphoria which could be

¹⁶³ (2020) ‘APS welcomes Victoria’s ban on gay conversion practices’, *Mirage News*, 26 November.

¹⁶⁴ *ibid.* See also: Australian Psychological Society (2019) *APS calls for Australia-wide ban on gay conversion therapy*, *op. cit.*

¹⁶⁵ Australian Association of Social Workers (2019) *Australian Social Workers Call For States To Ban ‘Gay Conversion Therapy’*, media release, 8 February.

¹⁶⁶ Australian Medical Association (2020) ‘AMA President Dr Tony Bartone on SKY News - Conversion therapy - 4 Sep 2018’, *op. cit.*

¹⁶⁷ Law Institute of Victoria (2020) *Legislation to ban conversion therapy welcomed by LIV*, media release, 9 December.

¹⁶⁸ *ibid.*

¹⁶⁹ T. Jones (2020) ‘Churches’ fears for conversion bill are unfounded’, *The Age*, 15 December.

¹⁷⁰ Cited in F. Tomazin (2020) *op. cit.*

¹⁷¹ H. Lawford-Smith (2020) ‘Real problem with Victoria’s proposed new conversion therapy laws’, *Herald Sun*, 8 December.

considered a conversion practice and subject to criminal sanctions under the proposed reforms.¹⁷² Lawford-Smith and Deves conclude that ‘anyone who believes that a liberal society should reserve the right to question new ideologies and protect children from a lifetime of medical dependence should oppose this legislation’.¹⁷³

Barney Zwartz, a senior fellow at the Centre for Public Christianity, accepts that ‘the intentions behind the legislation are good’, but is concerned about the Bill’s ‘massive overreach’, fearing that it may lead to broad and unintended consequences for freedom of religion, belief and speech.¹⁷⁴ Dr Kevin Donnelly, a senior research fellow at the Australian Catholic University, has called the Bill ‘the most draconian of any introduced across Australia’, arguing that it denies freedom of conscience and freedom of religion;¹⁷⁵ while Associate Professor Neil Foster, a legal academic specialising in religion, has said that the Bill to ban conversion practices is ‘as bad as they say it is’ and that it ‘makes the presentation of some aspects of Biblical teaching unlawful if the aim of that teaching is to encourage someone to follow that teaching in their own life’.¹⁷⁶

Elsewhere, Nick Cater, the executive director of the Menzies Research Centre (MRC), has labelled the Bill ‘an attack on freedom of religion and parental rights by activists who regard the very existence of categories of sex and sexuality to be oppressive’.¹⁷⁷ The MRC has recently released the results of a survey of 500 adult Victorians, which found that six out of ten people supported the right for a person to change their gender. One in four people were supportive when asked if ‘saying a prayer for a person struggling with gender identity should be a criminal offence’.¹⁷⁸ Mr Cater added that, although Australians are ‘broadly accepting of individual choices’ when it comes to gender or matters of faith, ‘the proposal to make it illegal to pray for someone is a step way too far for most people’.¹⁷⁹

Mark Sneddon, the executive director of the Melbourne-based Institute for Civil Society has asserted that the Bill would create ‘the broadest and harshest ban in the world’.¹⁸⁰ Similarly, Peter Kurti, a director at the Centre for Independent Studies, argues that what sets the Victorian Bill apart from other laws is that it expands the meaning of conversion practices to include prayer—a decision that he labels ‘an extraordinary act of authoritarian over-reach’.¹⁸¹

Additionally, scholars from RMIT University have argued that, while state-based reforms to ban conversion practices represent progress, it is actually a national approach that is needed ‘to adequately protect LGBTIQ Australians from the devastating impact of conversion therapy’.¹⁸²

¹⁷² K. Deves & H. Lawford-Smith (2020) ‘What is Victoria’s ban on ‘conversion therapy’ actually trying to achieve?’, *Crikey*, 22 December.

¹⁷³ *ibid.*

¹⁷⁴ B. Zwartz (2020) ‘Conversion bill: churches fear state overreach on religion’, *The Age*, 14 December.

¹⁷⁵ K. Donnelly (2020) ‘Gender law has no balance’, *Herald Sun*, 8 December.

¹⁷⁶ N. Foster (2021) ‘Victoria’s Conversion Practices Bill is as bad as they say it is’, *Freedom for Faith*, 18 January.

¹⁷⁷ N. Cater (2021) ‘Daniel Andrews courts the militant politics of gender revolution’, *The Australian*, 26 January.

¹⁷⁸ K. Rooney (2021) ‘New concern over Victoria’s gay conversion laws’, *Sunday Herald Sun*, 17 January.

¹⁷⁹ Cited in *ibid.*

¹⁸⁰ M. Sneddon (2021) ‘Victoria’s ‘conversion therapy’ bill is too broad and too harsh’, *Mercatornet*, 25 January.

¹⁸¹ P. Kurti (2021) ‘Victoria’s anti-belief law will face many obstacles’, *Canberra Times*, 17 January.

¹⁸² L. Sandy, A. Powell & R. Hiscock (2020) *op. cit.*

Jurisdictional comparison

Below is a brief summary of relevant legislation in selected Australian jurisdictions.

Jurisdiction	Legislation	Notes
QLD	<i>Health Legislation Amendment Act 2020</i>	<p>Queensland was the first Australian jurisdiction to legislate a ban on conversion practices.¹⁸³</p> <p>The Health Legislation Amendment Bill 2019 was introduced into the Queensland Parliament in November 2019.¹⁸⁴ At the time of the Bill's introduction, then-Minister for Health, Dr Steven Miles, stated that he 'strongly oppose[d] any suggestion that being LGBTIQ is a disorder that requires medical treatment'.¹⁸⁵ As such, Dr Miles stated that conversion practices were 'not a legitimate health therapy' and that they represented 'an appalling practice that has no place in modern society, let alone Queensland's health system'.¹⁸⁶ The Bill passed the Legislative Assembly and was assented to on 20 August 2020.¹⁸⁷</p> <p>The <i>Health Legislation Amendment Act 2020</i> inserts a new section into the state's <i>Public Health Act 2005</i> to define conversion practices. Unlike the Victorian Bill, this legislation includes the term 'conversion therapy', which is described as 'a practice that attempts to change or suppress a person's sexual orientation or gender identity'.¹⁸⁸ The Act also introduces a prohibition on conversion therapy and creates a criminal offence to that end.</p> <p>In contrast to the legislation introduced in the ACT (see below) and the proposed law in Victoria, the criminal offence in Queensland's legislation applies only to health services providers.¹⁸⁹ In practice, this means that</p>

¹⁸³ (2020) 'Queensland has become the first Australian state to ban gay conversion therapy', *SBS News*, 13 August.

¹⁸⁴ Queensland Government (2020) 'Health Legislation Amendment Bill 2019', Queensland Legislation website.

¹⁸⁵ Cited in (2019) 'Queensland to outlaw 'appalling' gay conversion therapy', *SBS News*, 28 November.

¹⁸⁶ *ibid.*

¹⁸⁷ Queensland Government (2021) 'Health Legislation Amendment Act 2020', Queensland Legislation website.

¹⁸⁸ *Health Legislation Amendment Act 2020* (Qld), s 28—proposed Chapter 5B, s 213F.

¹⁸⁹ *ibid.*, s 213H(1).

Jurisdiction	Legislation	Notes
		<p>informal approaches—for example, unregulated or secular counselling services, pastoral care or counselling, and mentoring programs—are not captured by the legislation.¹⁹⁰</p> <p>The maximum penalty for a health service provider who performs conversion therapy on another person is up to 12 months' imprisonment, or a fine of up to \$13,345; if the practice is performed on a vulnerable person (meaning a child or a person who has impaired capacity), the penalty is higher—up to 18 months' imprisonment or a fine of up to \$20,017.¹⁹¹ It is a misdemeanour offence, triable before a magistrate.¹⁹²</p> <p>The provisions came into effect on the day the Act was assented to and are currently in operation.</p>
ACT	<i>Sexuality and Gender Identity Conversion Practices Act 2020</i>	<p>The Australian Capital Territory became the second jurisdiction to ban conversion practices.</p> <p>The Sexuality and Gender Identity Conversion Practices Bill 2020 was introduced in the ACT Assembly on 13 August 2020. Upon the Bill's introduction, the Minister for Justice, Shane Rattenbury, stated that the ACT Government wanted to 'send a clear message' that conversion practices would not be tolerated, and that they were 'abhorrent, dangerous and outdated'.¹⁹³</p> <p>Before being passed, the Bill was amended by the ACT Government due to concerns raised by several groups—including the ACT Law Society, the Association of Christian Schools and the Opposition—that its definition of a conversion practice was 'too broad and vague' and could lead to the criminalisation of teachers and parents.¹⁹⁴ The Government amendment affords a person 'the right to freedom of thought, conscience and religion' under</p>

¹⁹⁰ B. Symons (2020) 'Gay conversion practices to be outlawed by the Victorian Government', *ABC News*, 8 November.

¹⁹¹ *Health Legislation Amendment Act 2020* (Qld), s 28—proposed Chapter 5B, s 213H(1)–(3). The current value of a penalty unit in Queensland is \$133.45; see: Queensland Government (2020) 'Value of a penalty unit', Department of Local Government, Racing and Multicultural Affairs website.

¹⁹² Tasmania Law Reform Institute (2020) *Sexual Orientation and Gender Identity Conversion Practices*, Issues Paper No 31, Hobart, University of Tasmania, p. 30.

¹⁹³ S. Rattenbury, Minister for Justice (2020) *Protecting Canberrans from harmful sexuality and gender identity conversion practices*, media release, 18 August.

¹⁹⁴ P. Doherty & T. Roy (2020) 'LGBTQ conversion therapy banned in Canberra as Sexuality and Gender Identity Conversion Practices Bill passes', *ABC News*, 27 August.

Jurisdiction	Legislation	Notes
		<p>section 14 of the <i>Human Rights Act 2004</i> (ACT) and clarifies that it is ‘not intended that a mere expression of a religious tenet or belief would constitute a sexuality or gender identity conversion practice’.¹⁹⁵</p> <p>The Bill passed the Legislative Assembly later that month and comes into operation on 4 March 2021.¹⁹⁶</p> <p>The <i>Sexuality and Gender Identity Conversion Practices Act 2020</i> affirms that all people have characteristics of sexuality and gender identity, and that no combination of those characteristics ‘constitutes a disorder, disease, illness, deficiency, disability or shortcoming’.¹⁹⁷ The Act also aims to recognise and prevent the harm caused by conversion practices.¹⁹⁸</p> <p>Under the Act, a sexuality or gender identity conversion practice is defined as ‘a treatment or other practice the purpose, or purported purpose, of which is to change a person’s sexuality or gender identity’.¹⁹⁹</p> <p>It is an offence to perform a conversion practice on a protected person (a child or a person with impaired decision-making ability), whether or not that person or their parent/guardian consents to that practice.²⁰⁰ The maximum penalty is up to 12 months’ imprisonment, a fine of up to \$24,000, or both.²⁰¹ Similar to the proposed reforms in Victoria, it is also an offence to remove a protected person from the ACT for the purposes of a conversion practice (and attracts the same maximum penalty as performing a conversion practice).²⁰²</p> <p>In contrast to the Queensland legislation, the criminal offences in the ACT legislation are not limited to health services providers.²⁰³ The Act also empowers the territory’s Human Rights Commission to deal with complaints</p>

¹⁹⁵ *ibid.* See also: [Sexuality and Gender Identity Conversion Practices Act 2020](#) (ACT), s 7.

¹⁹⁶ Australian Capital Territory Government (2021) ‘[Sexuality and Gender Identity Conversion Practices Act 2020](#)’, ACT Legislation Register website.

¹⁹⁷ [Sexuality and Gender Identity Conversion Practices Act 2020](#) (ACT), s 6.

¹⁹⁸ *ibid.*

¹⁹⁹ *ibid.*, s 7.

²⁰⁰ *ibid.*, ss 3, 8.

²⁰¹ *ibid.*, s 8. The current value of a penalty unit in the ACT is \$160; see: [Legislation Act 2001](#) (ACT), s 133.

²⁰² *ibid.*, s 9.

²⁰³ *ibid.*, s 8.

Jurisdiction	Legislation	Notes
		<p>relating to conversion practices and to refer complaints to the ACT Civil & Administrative Tribunal, which in turn can make orders it considers appropriate.²⁰⁴</p> <p>The Minister for Justice clarified that the Act does not intend to infringe upon a person's religion, nor to impose criminal sanctions on medical professionals who provide 'legitimate services which relate to the free development and/or affirmation of one's sexuality or gender identity'.²⁰⁵</p>
CTH	N/A	<p>The Australian Government does not currently have legislation in place to ban conversion practices.</p> <p>In the lead-up to the 2019 federal election, the Australian Labor Party pledged to introduce a nation-wide ban on conversion practices, which it termed 'dangerous and discredited'.²⁰⁶ When Prime Minister Scott Morrison was asked at that time about the Labor Opposition's policy, he stated, 'I don't support gay conversion therapy, don't recommend it, never have but it's ultimately a matter for the states'.²⁰⁷</p> <p>Shortly afterwards, and in response to an election survey conducted by Equality Australia, the Morrison Government clarified its position in relation to conversion practices:</p> <p style="padding-left: 40px;">The Morrison Government remains committed to addressing the mental health of all Australians, including the LGBTI community, and this also relates to opposition to gay conversion therapy. The Government will work with the states, which have legal responsibility in this area, to ensure such practices are not supported or occurring.²⁰⁸</p> <p>The Australian Greens support a ban on conversion practices.²⁰⁹</p>

²⁰⁴ *ibid.*, sch 1.

²⁰⁵ S. Rattenbury, Minister for Justice (2020) *op. cit.*

²⁰⁶ Cited in F. Tomazin (2019) 'Dangerous and discredited': Labor pledges to ban gay conversion therapy', *Sydney Morning Herald*, 22 April.

²⁰⁷ Cited in P. Karp (2019) 'Coalition takes tougher line on gay conversion therapy after Labor promises ban', *The Guardian*, 24 April.

²⁰⁸ A. Hirst, Federal Director, Liberal Party of Australia (2019) *Morrison Government response to Equality Australia*, Barton, Liberal Party of Australia, p. 3.

²⁰⁹ P. Karp (2019) *op. cit.*

Jurisdiction	Legislation	Notes
NSW	N/A	<p>New South Wales does not currently have legislation in place to ban conversion practices.</p> <p>In 2018, the Member for Sydney, Alex Greenwich, put a number of questions to the NSW Minister for Health, Brad Hazzard, enquiring as to what action the Government had taken, or was planning to take, in relation to conversion practices.²¹⁰ In response, the Minister for Health stated that the NSW Ministry of Health supports the APS Position Statement on the use of psychological practices that attempt to change a person’s sexual orientation and that the Government ‘strongly opposes any form of mental health practice that treats homosexuality as a disorder’.²¹¹</p> <p>Mr Hazzard has stated previously that the NSW Government is ‘on the same page’ as the Andrews Government in terms of the desire to ‘protect the rights and also the mental health of all members of the community’.²¹² However, in February 2020, the Health Minister stated that, while he agreed conversion practices should be abolished, he believed it was more appropriate for the issue to be addressed at a national level—arguing that conversion practices affect ‘communities right across Australia’.²¹³</p>
SA	N/A	<p>South Australia does not currently have legislation in place to ban conversion practices.</p> <p>In July 2020, the state’s Shadow Minister for Human Services, Nat Cook, indicated that she was drafting legislation to outlaw conversion practices.²¹⁴ Under the proposed legislation, those trying to suppress or change a person’s sexual orientation or gender identity could face up to eight years’ imprisonment, with the higher penalties reserved for those who performed a conversion practice on a child or vulnerable adult.²¹⁵</p> <p>Initially, Ms. Cook indicated that the Health Complaints Commissioner and the SA Police would be tasked with enforcing the ban through changes to the Health and Community Services Complaints Act and the Criminal Law</p>

²¹⁰ New South Wales, Legislative Assembly (2018) *Question 8684: Reparative Therapy*, 27 July, p. 7969.

²¹¹ *ibid.*

²¹² Cited in J. Noyes (2019) ‘NSW government ‘on the same page’ as Victoria on gay conversion therapy’, *Sydney Morning Herald*, 24 February.

²¹³ Cited in F. Jane (2020) ‘Prime Minister & NSW Health Minister at odds over conversion therapy’, *Star Observer*, 9 September.

²¹⁴ S. Richards & A. Skujins (2020) ‘SA move to outlaw conversion therapy’, *InDaily*, 16 July.

²¹⁵ *ibid.*

Jurisdiction	Legislation	Notes
		<p>Consolidation Act, but has since clarified that this was not the only possible avenue for implementing a ban.²¹⁶ Ms Cook indicated that she was observing how legislation was being implemented in other jurisdictions, and that experiences of survivors were expected to play a central role in drafting the Bill.²¹⁷</p> <p>The State's Attorney-General, Vickie Chapman, indicated that she had been considering how a ban could operate as a criminal offence, while the Greens offered in-principle support for a Bill.²¹⁸</p>
TAS	N/A	<p>Tasmania does not currently have legislation in place to ban conversion practices.</p> <p>In November 2020, the Tasmania Law Reform Institute announced that it was seeking feedback on potential reforms to state law relating to sexual orientation and gender identity (SOGI) conversion practices.²¹⁹</p> <p>The Institute released an Issues Paper for public consultation, to serve as the basis for a discussion in Tasmania about whether and how the law should be reformed in response to contemporary evidence about the harm caused by SOGI conversion practices, and in light of recent changes to the law in other Australian jurisdictions.²²⁰</p> <p>The Issues Paper contended that conversion practices were likely to be occurring in Tasmania, and that the existing laws in the state appeared to be 'incomplete and limited' in their ability to apply to them.²²¹ The questions put to the community included: what legal definitions could be possible; whether law reform was necessary (and what that might look like); as well as whether other measures may be needed to respond to conversion practices.²²²</p>

²¹⁶ M. Woolfe (2020) 'South Australian ban on conversion therapy to be shaped by survivors', *Star Observer*, 19 August.

²¹⁷ *ibid.*

²¹⁸ S. Richards & A. Skujins (2020) *op. cit.*

²¹⁹ University of Tasmania (2020) *Conversion Practices: Public Consultation*, media release, 27 November.

²²⁰ *ibid.*

²²¹ Tasmania Law Reform Institute (2020) *Sexual Orientation and Gender Identity Conversion Practices*, *op. cit.*, p. v.

²²² *ibid.*

Jurisdiction	Legislation	Notes
		Submissions to the public consultation closed on 28 January 2021. Responses will be used to inform a Final Report and recommendations, which will be provided to the Tasmanian government. ²²³
WA	N/A	<p>Western Australia does not currently have specific legislation in place to ban conversion practices.</p> <p>In 2018, the WA Minister for Health, Roger Cook, responded to a letter from Amnesty International activists indicating his strong opposition to conversion practices. Mr Cook committed to reviewing the state's legislation to determine whether reform was needed.²²⁴</p> <p>In September 2020, Greens MLC, Alison Xamon, put questions on conversion practices to the parliamentary secretary representing the Minister for Mental Health. These included whether any work had been done by the WA Government to determine the extent of conversion practices in the state, and if the government would commit to banning conversion practices more broadly.²²⁵</p> <p>In its response, the WA Government indicated that it was opposed to conversion practices, but did not commit to legislating a ban outright. Instead, it acknowledged that numerous medical associations, including the AMA, were against psychological practices attempting to change a person's sexual orientation, and that practitioners engaging in that type of conduct could be breaching their professional codes.²²⁶ The Government also voiced its support for the national code of conduct for unregulated healthcare workers that was being drafted at that time, and argued that, once implemented, the code would 'protect the public by setting minimum standards of conduct and practice for public and private healthcare workers'.²²⁷</p> <p>Additionally, the Government acknowledged that feedback received during Victoria's inquiry into conversion practices had shown the benefit in providing counselling services for survivors, together with legislation to prohibit conversion practices. It indicated that separate legislation similar to Victoria's, which at that time had</p>

²²³ Tasmania Law Reform Institute (2021) 'Conversion Practices: Law Reform Options for Tasmania', University of Tasmania website.

²²⁴ Amnesty International Australia (2018) 'Queensland and Western Australia one step closer to outlawing LGBT+ 'conversion therapy'', AIA website.

²²⁵ Western Australia, Legislative Council (2020) *Question Without Notice No. 893: Conversion Practices*, 10 September.

²²⁶ *ibid.*

²²⁷ *ibid.*

Jurisdiction	Legislation	Notes
		not yet been introduced, 'could be considered in the future if the national code of conduct was not effective in preventing gay conversion therapy'. ²²⁸ Ms Xamon subsequently criticised the government's response, for what she saw as its 'failure' to commit to banning conversion practices, including in religious and informal settings. ²²⁹
NT	N/A	The Northern Territory does not currently have legislation in place to ban conversion practices. There appear to have been no announcements by the NT Government on its intentions concerning conversion practices to date.

Conversion practices have been banned in a number of countries around the world, including Brazil, Malta and Germany, as well as in parts of Spain and the United States.²³⁰ Canada is discussing a national ban, while a ban has been pledged by leaders in the United Kingdom and in New Zealand.²³¹ The United Nations has also called for an end to conversion practices around the world, stating that the practice may amount to torture.²³²

²²⁸ *ibid.*

²²⁹ M. Xamon (2020) *Greens appalled at WA Labor Government failure to commit to banning LGBTIQ conversion practices*, media release, 11 September.

²³⁰ L. Sandy, A. Powell & R. Hiscock (2020) *op. cit.*

²³¹ *ibid.*; (2020) 'Jacinda Ardern pledges gay conversion therapy ban if re-elected', *SBS News*, 5 October.

²³² T. Fitzsimons (2020) 'U.N. calls for global end to conversion therapy, says it 'may amount to torture'', *NBC News*, 14 June.

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