



Tasmanian Council of Social Service Inc.

Sentencing Amendment (Publication of Criminal Activity) Bill 2026

July 2026



INTEGRITY
COMPASSION
INFLUENCE

About TasCOSS

TasCOSS's vision is for one Tasmania, free of poverty and inequality where everyone has the same opportunity. Our mission is two-fold: to act as the peak body for the community services industry in Tasmania; and to challenge and change the systems, attitudes and behaviours that create poverty, inequality and exclusion.

Our membership includes individuals and organisations active in the provision of community services to Tasmanians on low incomes or living in vulnerable circumstances. TasCOSS represents the interests of our members and their service users to government, regulators, the media and the public. Through our advocacy and policy development, we draw attention to the causes of poverty and disadvantage, and promote the adoption of effective solutions to address these issues.

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Introduction

TasCOSS welcomes this opportunity to provide feedback on the draft *Sentencing Amendment (Publication of Criminal Activity) Bill 2026* ‘(the Draft Bill).’

TasCOSS recognises the genuine harm that can arise when offending behaviour is recorded or shared online to boast about, celebrate or glorify criminal conduct. The electronic publication of criminal activity may cause additional harm beyond the offending itself, such as compounding trauma experienced by victims, contributing to humiliation and intimidation, and undermining community confidence.

The explanatory material accompanying the Draft Bill notes that courts already have the ability to consider this conduct during sentencing, and that the Draft Bill seeks to establish a specific statutory aggravating factor to recognise this additional harm.

However, where the proposed aggravating factor is intended to apply to children and young people, the evidence on child development, trauma, rehabilitation and the objectives of the youth justice system must be considered.

Courts should retain discretion to consider all aggravating and mitigating circumstances in individual cases. TasCOSS supports retaining judicial discretion so that courts can appropriately balance aggravating and mitigating factors in each case.

Response to Consultation on Draft Bill

Children and Young People Require a Distinct Approach

TasCOSS's longstanding position is that children and young people (adults up to 24 years old) should be diverted from the criminal justice system wherever possible, and that justice responses should prioritise rehabilitation, therapeutic intervention and addressing the underlying causes of offending rather than increasing punitive responses.

Evidence consistently shows that contact with the criminal justice system can itself increase the likelihood of future offending, particularly for children and young people experiencing trauma, poverty, disability, homelessness or involvement with child protection.

Children and young people are developmentally different from adults. They are more likely to act impulsively, to be influenced by peers and social media, and to have a reduced appreciation of the long-term consequences of their behaviour. For many young people, the decision to film or share offending behaviour reflects immaturity, peer approval, and risk taking or poor judgement, rather than calculated attempts to maximise harm.

These developmental realities reinforce the importance of preserving judicial discretion so that courts can distinguish between genuinely aggravating conduct and behaviour arising from developmental immaturity.

Experiences of Vulnerability and Disadvantage

TasCOSS has consistently highlighted that children involved in youth justice are disproportionately affected by a range of lived experiences, including childhood trauma, abuse and neglect, involvement with child protection, out-of-home care; poverty, housing insecurity, disability, mental ill health, substance use, and educational disadvantage.

These circumstances do not excuse offending. However, they are highly relevant to understanding offending behaviour and identifying interventions most likely to reduce future harm. Accordingly, the Government should avoid legislative amendments that may contribute to more punitive sentencing outcomes for children and young people.

The consultation notes that the amendment would only apply to children sentenced under the *Youth Justice Act* for prescribed offences. Although this limits its application, TasCOSS is concerned the Draft Bill will disproportionately impact young people, people with disability,

people with cognitive impairment, people experiencing significant mental ill-health, and people experiencing other forms of vulnerability or disadvantage.

Some offenders may have reduced capacity to appreciate the long-term consequences of online behaviour or may engage impulsively through social media.

TasCOSS has consistently argued that increasing punitive responses alone is unlikely to improve community safety and may instead contribute to greater criminal justice involvement for vulnerable young people. Our submissions on youth justice emphasise that investment should focus on prevention, diversion and addressing the drivers of offending rather than expanding punitive responses.

Rehabilitation and Prevention

TasCOSS's position is that justice policies should prioritise rehabilitation, early intervention and prevention over increasingly punitive responses. We have consistently supported:

- Diversion rather than prosecution wherever appropriate;
- Therapeutic responses;
- Restorative approaches;
- Aboriginal-led diversion and support;
- Community-based rehabilitation;
- Intensive case management;
- Throughcare; and
- Family and community support.

While sentencing plays an important role in recognising harm and promoting accountability, increasing punitive responses alone has limited impact on reducing offending, while early intervention and rehabilitation achieve better long-term outcomes.

Consistent with TasCOSS's broader advocacy, Government should continue investing in initiatives that strengthen community wellbeing, improve digital capability and support young people before harmful behaviours become entrenched. This includes continued investment in digital inclusion, digital literacy and community education programs that help people navigate online environments safely and responsibly.

These preventative approaches align with TasCOSS's longstanding emphasis on addressing the underlying drivers of disadvantage and promoting long-term wellbeing.

Conclusion and Recommendations

TasCOSS acknowledges the legitimate objective of recognising the additional harm caused when offending is deliberately published or glorified online and understands the policy intent of the proposed amendment. However, legislation affecting children and young people should be guided by evidence about child development and what best promotes community safety over the long-term.

For children and young people, the evidence consistently supports rehabilitation, diversion and addressing the underlying causes of offending ahead of increasingly punitive responses.

The proposed amendment should therefore be abandoned so that judicial discretion is preserved.

TasCOSS encourages continued investment in preventative measures that reduce offending, support safer online behaviour and improve wellbeing across the Tasmanian community.

TasCOSS recommends that the Government not proceed with the Draft Bill and instead:

- 1. Preserve judicial discretion to consider the full circumstances in each case, including developmental maturity, trauma, disability and rehabilitation prospects when sentencing children and young offenders.**
- 2. Continue expanding diversionary and therapeutic responses for children and young people, rather than relying on increasingly punitive sentencing measures.**
- 3. Invest in prevention through family support, child wellbeing, digital literacy, early intervention and community-based youth services that reduce harmful online behaviour and improve community wellbeing.**