

FACT SHEET

Sentencing Amendment (Publication of Criminal Activity) Bill 2026

This Bill amends the *Sentencing Act 1997* (the Sentencing Act). The amendments give effect to the Government's commitment in the '2030 Strong Plan for Tasmania's Future' to introduce laws that make it an aggravating factor in sentencing when an offender boasts or glorifies their offending by sharing posts on social media, including TikTok or Snapchat.

Publication of offending conduct on social media to a potentially large audience to boast about or glorify the offence or offender introduces an additional layer of harm that may not have occurred without the medium of social media to facilitate it. Posting and boasting online about offending can re-traumatise victims and cause further harm and distress, especially where it leads to public ridicule, humiliation or shaming of the victim.

While the court already has the discretionary ability to consider posting and boasting as an aggravating factor in sentencing an offender, the Bill will require the court to take the publication of criminal activity into account in sentencing. Legislating a specific aggravating factor is intended to send a clear signal against this behaviour.

Addressing publication of criminal activity through the means of an aggravating factor at sentencing limits the impact of the Bill on children and young people. As young people under 18 years of age are generally sentenced under the provisions of the *Youth Justice Act 1997*, the statutory aggravating factor will only apply to a small cohort of young people who commit prescribed offences under that Act and are tried as adults and sentenced under the provisions of the Sentencing Act.

The provisions inserted by the Bill

The draft Bill inserts a new section 11BB into the Sentencing Act to provide for an aggravating factor that a court is to take into account at sentencing. The aggravating factor is to be applied where an offender has electronically published (or caused the electronic publication of) statements, images or videos in respect of the offence or a victim of the offence. The publication will aggravate the offence if a reasonable person would consider that it was likely to humiliate, intimidate or victimise a victim of the offence or that it was published for purposes that promote the offender or the offence or encourage copycat offending. This reflects the harm that publication of criminal activity can cause to victims of an offence as well as the general destabilising effects that it can have on a community.

As with all aggravating factors, it will be considered by the courts alongside any other aggravating or mitigating factors in determining an appropriate sentence. The Bill explicitly provides that the court is not prevented from considering other factors, such as those that exist at common law. This recognises that the court may consider aspects of the offender's conduct and their publication of material to be relevant matters to sentencing in ways not listed by section 11BB.

The provisions of the new section 11BB will apply to offences committed after the day on which the new section commences.

The Bill also inserts a review provision (new section 104AF) into the Sentencing Act to require that a review of the new aggravating factor provision is carried out after the provision has been in force for 5 years.