

DRAFT SECOND READING SPEECH**HON GUY BARNETT MP****Sentencing Amendment (Publication of Criminal Activity) Bill 2026****check Hansard for delivery**

Honourable Speaker, I move that the Bill now be read a second time.

The Sentencing Amendment (Publication of Criminal Activity) Bill 2026 inserts a new statutory aggravation factor into the *Sentencing Act 1997*. The amendment will strengthen the criminal justice system's response to a nationally increasing and concerning trend of behaviour where offenders publish content to boast about or glorify, or seek notoriety from, their criminal conduct through social media and other electronic platforms. This behaviour is commonly known as posting and boasting.

Our Government committed to this reform as part of the '2030 Strong Plan for Tasmania's Future'. The community rightly expects that criminal offending will be condemned by the courts. The community also legitimately expects that offenders who deliberately publicise and glorify their conduct online will be held accountable for the additional harm that this behaviour can cause.

Social media has transformed the way people communicate and share information. While these platforms can provide benefits, they can also be misused. Increasingly, criminal conduct is being recorded, photographed or otherwise documented and then shared online, sometimes to entertain others, attract attention, gain status among similarly-minded peers or celebrate the offending itself.

As a result of this behaviour, a number of jurisdictions across Australia have legislated in recent years to specifically capture publication of criminal activity in their laws. Due to our smaller population, we have not experienced a high occurrence of this behaviour in Tasmania, however, there have still been a number of instances where 'posting and boasting' has been documented. We are also aware that national trends do have an impact on our State and this Bill sends a strong message to would-be offenders who seek notoriety for themselves.

When offending conduct is published online in a way that attempts to boast about it, the harm caused by the offence can extend far beyond the immediate criminal act. Victims may be forced to relive traumatic experiences when images, videos or commentary are circulated to a potentially vast audience. The publication of this material can expose victims to ridicule, humiliation and public scrutiny and may significantly compound the effects of the original offending.

In addition, the publishing of this conduct can encourage copycat behaviour with others seeing it desirable to commit the offending depicted. Posting content showing criminal behaviour favourably can also lead to the normalisation of crime in the community.

The Government considers that conduct of this kind warrants particular denunciation. It demonstrates a disregard not only for the law, but also for the dignity and wellbeing of victims. Where an offender seeks to elevate or celebrate their criminal conduct through online publication, their culpability increases..

While courts do already have discretion to take these matters into account, it is not currently a specific statutory factor requiring consideration. This Bill delivers our commitment for a stronger condemnation of this type of behaviour, both as a signal to the community and to those who would be tempted to engage in this behaviour,.

This Bill inserts two new sections into the Sentencing Act.

The new section 11BB will require a court, when sentencing an offender, to take into account as an aggravating factor whether the offender electronically published, or caused the electronic publication of, statements, images or videos relating to the offence or a victim of the offence.

The provision is designed to capture circumstances where an offender uses electronic means to celebrate, promote or draw attention to their offending behaviour. This includes publication on social media platforms, video-sharing services, messaging applications or other online forums.

Where the offender has made such a publication, the court will apply the test of whether a reasonable person would consider that the material or its dissemination is likely to humiliate, intimidate or victimise a victim of the offence, or whether the publication was for a purpose of increasing the reputation or notoriety of the offender, boasting about the commission of the offence, glorifying the commission of the offence, or encouraging another person to commit the same or a similar offence.

The wording of this provision ensures that the threshold for proving and applying this aggravating factor is appropriate.

Importantly, the Bill does not alter the fundamental principles of sentencing or restrict judicial discretion. Subsection (3) of the new section 11B makes clear that the new statutory aggravating factor does not limit the ability of courts to take into account other aggravating or mitigating circumstances recognised at common law. This ensures that courts may continue to consider the full context of an offender's conduct where other aspects of their offending or the subsequent publication of that offending are relevant to sentencing.

Finally, the Bill inserts a review provision, consistent with that inserted when the Sentencing Act was last amended to insert new aggravating factors in December

2025. The provision requires that a review of the new aggravating factor takes place after it has been in force for five years. The five-year period assists in ensuring there is sufficient data to inform the review and allow an accurate and meaningful assessment of how the new provisions are operating.

I would like to thank all those who took the time to make submissions on this Bill during the public consultation process. I note that this feedback led to some amendments and helped ensure that the version of the Bill that has been introduced to Parliament contains clear application and appropriate evidentiary thresholds.

We are committed to ensuring that Tasmania's sentencing law remains responsive to emerging forms of offending and to behaviours that exacerbate the impact of crime on victims and the community. This Bill represents a measured and appropriate response to a contemporary issue and reinforces the important role of sentencing in denouncing criminal conduct.

Honourable Speaker, I commend the Bill to the House.