

## FACT SHEET

### *Justice and Related Legislation Miscellaneous Amendments Bill 2022*

The purpose of this Bill is to ensure legislation remains up-to-date, to correct minor errors or deficiencies that have become apparent after legislation has been operational for some time, and to address issues that have arisen in existing Acts because of the passing of other amending legislation. The Bill amends seven Justice-related Acts and the *Animal Welfare Act 1993* (the Animal Welfare Act).

The Justice and Related Legislation Miscellaneous Amendments Bill amends:

- The Animal Welfare Act by extending the operation of section 43 so that an order can be made disqualifying a person from having custody of animals if they are convicted of the offence of bestiality.
- The *Births, Deaths and Marriages Registration Act 1999* by:
  - Amending the long title of the Act to ensure it accurately reflects the contents of the *Births, Deaths and Marriages Registration Act 1999* (the Births, Deaths and Marriages Act). The Tasmania Law Reform Institute *Legal Recognition of Sex and Gender Final Report* of 22 June 2020 recommended the long title be updated to reflect changes being made to the Births, Deaths and Marriages Act. That is, given sexual reassignment surgery is no longer a precondition to registering a change of gender, the long title should not refer to the rights of persons who 'have undergone sexual reassignment surgery'. Instead, the long title will 'recognise legal recognition for trans and gender diverse Tasmanian's and those with intersex variation of sex characteristics'.
  - Giving Magistrates the power to approve a proposed change of name for a child if satisfied that the child is unable to understand the meaning and implications of the proposed name change, and that the proposed name change is in the best interests of the child. The amendment will operate when the current default test of consideration of a child's will and preference cannot be determined, such as for very young children.
- The *Coroners Act 1995* (the Coroners Act) to require the Chief Clerk of the Coronial Division to, as soon as practicable after a Coroner commences an investigation into a death, provide information prescribed in the Regulations concerning the operation of the Coroners Act to the following people:
  - the senior next of kin of the deceased person; and
  - any other person who the coroner considers to have a sufficient interest in the death.
- The amendment ensures that people are provided with relevant information early in proceedings, and that the information is provided to all persons who have sufficient interest in the investigation. Regulations will be made following consultation and are intended to ensure plain English understanding of legal rights and processes relating to senior next of kin and other matters.
- The *Criminal Code Act 1924* (the Criminal Code) by:

- including a definition of 'bestiality' in section 1, being 'sexual activity of any kind between a human being and an animal'; and
  - amending the crime of bestiality in section 122 to expressly exclude acts done for genuine veterinary, agricultural or scientific research purposes, provided the acts were reasonable for that purpose.
- The amendment responds to a decision of the Supreme Court of Tasmania which held the common law definition of bestiality applied to the crime in section 122 of the Criminal Code. That definition is narrow, and applies only to penile penetration by, or of, an animal. The amendment brings the law into line with community expectations, ensuring the offence covers all sexual activity between a human and an animal.
- The *Dangerous Criminals and High Risk Offenders Act 2021* (the Dangerous Criminals and High Risk Offenders Act) to require the Parole Board to provide certain information to the Office of the Director of Public Prosecutions to enable the latter to comply with its obligations under the Dangerous Criminals and High Risk Offenders Act. The amendment is necessary as certain information may fall within the definition of 'confidential information' under section 8(1) of the *Corrections Act 1997*.
- The *Monetary Penalties Enforcement Act 2005* to allow an application for variation of payment conditions to be made in a manner approved by the Director, rather than in 'the approved form'. This amendment provides the Director with flexibility to allow applications in a variety of ways, such as via telephone.
- The *Sex Industry Offences Act 2005* to correct the definition of 'sexual intercourse' by referring to section 2B of the Criminal Code, rather than section 1.
- The *Traffic Act 1925* in allowing a complaint in relation to a charge of negligent driving causing death, or negligent driving causing grievous bodily harm, to be made at any time within 12 months after the date of the offence. The serious nature of these offences can give rise to complex legal and evidentiary issues that require time to be appropriately investigated and considered. This is particularly important where complex crash investigations must occur.
- This amendment operates as an exception to section 26 of the *Justices Act 1959* which requires complaints to be filed within six months of the date from which the matter of complaint arose.