

FACT SHEET

Mental Health Amendment Bill 2022

The Mental Health Amendment Bill amends the *Mental Health Act 2013* and makes a number of minor amendments to the *Corrections Act 1997*, *Criminal Code Act 1924*, *Criminal Justice (Mental Impairment) Act 1999*, *Dangerous Criminals and High Risk Offenders Act 2021*, *Disability Services Act 2011*, *End-of-life Choices (Voluntary Assisted Dying) Act 2021*, *Justices Act 1959*, *Magistrates Court (Criminal and General Division) Act 2019*, *Sentencing Act 1997*, and the *Youth Justice Act 1997*.

These consequential amendments relate to the removal of references to the Chief Civil and Chief Forensic Psychiatrist and replacement with one statutory position of Chief Psychiatrist.

Importantly, the Mental Health Amendment Bill makes the following amendments in direct response to the Mental Health Act Review Implementation Review Outcomes report, endorsed by the Tasmanian Government in June 2020:

- Establishing a new role of Chief Psychiatrist to replace the current statutory roles of Chief Civil and Chief Forensic Psychiatrist.
- Clarifying terminology by harmonising unnecessary distinctions relating to use of the terms 'examine', 'examination', 'monitor', 'evaluate' and replacing with 'assess' or 'assessment' as relevant.
- Ensuring the language in the Act remains contemporary by replacing 'Protective Custody' terminology with 'detain for the purposes of assessment'.
- Strengthening and ensuring contemporaneity of people's rights, including:
 - prescribing rights to sexual safety and rehabilitation;
 - revising differences relating to the rights of involuntary patients and forensic patients including specific rights relating to children;
 - the addition of the expression, failure or refusal to express gender identity as an exclusion in the definition of mental illness; and
 - improvements and simplification of the seclusion and restraint provisions that determines the monitoring and oversight arrangements in relation to the treatment and care of an involuntary patient.
- Improve the operability of safeguards and oversight provisions, including clarifying:
 - provisions relating to reviews by the Tribunal under the Act;
 - the role and purpose of treatment plans;
 - provisions relating to the making of and dealing with complaints to an Official Visitor.
- Strengthening of provisions relating to children including:

- the inclusion of a broader definition of parent to protect the rights of children to access timely mental health services; and
- clarification on how and when the withdrawal of consent for children and young people may occur when assessing and treating their mental health conditions.
- Streamlining of unnecessary bureaucratic processes including:
 - removal of the requirement for the application of leave to be made in writing;
 - amendments to allow intra-state patient transfers between approved hospitals;
 - removal of the requirement to transfer a patient located in a Secure Mental Health Unit (SMHU) to an approved hospital in the first instance if they are assessed as needing to remain in the SMHU; and
 - removal of the requirement for an Assessment Order application.