

Your Ref:
Our Ref: 900

7 February 2022

Ginna Webster
Secretary
Department of Justice

By email to: legislation.development@justice.tas.gov.au

Dear Secretary

Criminal Code Amendment Bill 2022

Thank you for the opportunity to comment on the Criminal Code Amendment Bill 2022 (the Bill).

Role of the Commissioner for Children and Young People

The Commissioner for Children and Young People is an independent statutory office established under Tasmania's *Commissioner for Children and Young People Act 2016*. My functions and powers, and the principles to which I must have regard in carrying out these functions and exercising these powers, are set out in that Act.

Consistent with my statutory functions, my comments focus on matters that are particularly relevant to promoting and protecting the rights, wellbeing and best interests of children and young people in Tasmania.¹

Comment

I take particular interest in this important area of law reform; whereby additional legislative provisions are made that have the potential to affect the rights and wellbeing of children and young people.

I am pleased to see the addition of the 'stealthling' provision in section 2A. The issue of consent is at the forefront of my concerns for children and young people, including how the Tasmanian Government and community can support and better promote a greater understanding and awareness of consent more generally.

¹ Pursuant to section 3 of the CCYP Act, 'child' means a person who has not attained the age of 18 years; and 'young person' means a person, who has not attained the age of 18 years, as determined by the Commissioner in accordance with section 8(4).



To this end, I support the inclusion of the ‘stealthing’ provision, with the intention you have expressed in your Office’s letter to me of 13 December 2021, which is: “[to] provide clarity with further express recognition in the law, which may assist with education, discouraging would-be offenders and encouraging complaints and prosecutions for sexual offences.” This importantly highlights the need for further education around the issue of consent.

Furthermore, I am supportive of the new offence of “strangulation, & c.” being created and the ancillary amendments to Chapter XXXIX of the *Criminal Code*. I note the new offence would apply whether family violence is present or not. This is an important step in acknowledging the presence of this serious form of violence both in the context of family violence and more generally, thereby ensuring that the legislative protections are extended to persons in all situations, including children and young people.

Thank you for the opportunity to comment on the Bill.

Yours sincerely

Leanne McLean
Commissioner for Children and Young People

cc The Hon Elise Archer MP, Attorney-General
The Hon Sarah Courtney MP, Minister for Children and Youth
The Hon Jacqui Petrusma MP, Minister for Prevention of Family Violence