



Tasmanian Council of Social Service Inc.

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# Police Offences Amendment Bill 2024

*October 2024*



**INTEGRITY  
COMPASSION  
INFLUENCE**



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COMPASSION  
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## About TasCOSS

TasCOSS' vision is for one Tasmania, free of poverty and inequality where everyone has the same opportunity. Our mission is two-fold: to act as the peak body for the community services industry in Tasmania; and to challenge and change the systems, attitudes and behaviours that create poverty, inequality and exclusion.

Our membership includes individuals and organisations active in the provision of community services to Tasmanians on low incomes or living in vulnerable circumstances. TasCOSS represents the interests of our members and their service users to government, regulators, the media and the public. Through our advocacy and policy development, we draw attention to the causes of poverty and disadvantage, and promote the adoption of effective solutions to address these issues.

Please direct any enquiries about this submission to:

**Adrienne Picone**



# Introduction

TasCOSS welcomes the opportunity to provide feedback to the Department of Police, Fire and Emergency Management ('DPFEM') in relation to the Police Offences Amendment Bill 2024 ('the Bill'). The Bill proposes several changes to the *Police Offences Act 1935 (Tas)* ('the Act').

The stated intention of the Bill is to align with the Tasmanian Government's commitment to 'making Tasmanian communities and roads safe.' However, we are not certain that the changes proposed in the Bill will result in any tangible changes to safety.

The following is an overview of our key concerns with the Bill.

## Key Issues

### ***Expansion of the definition of 'public place'***

The Bill proposes an amendment to expand the current definition of 'public place' to include public transport, by adding the following to the definition found in section 3 of the Act:

*Any vehicle that is being used in the operation of a passenger transport service within the meaning of the Passenger Transport Services Act 2011.*

From the Consultation Information Sheet provided by DPFEM, it seems the intended purpose is to give police officers clearer powers on public transport expanding the definition will "remove unnecessary confusion as to a police officers' ability to interdict with or remove persons committing offences whilst on or in public transport," thus ensuring "public confidence is maintained and enhanced on public transport."<sup>1</sup>

It is possible the proposed changes are intended to reassure transit officers and public transport staff that there are measures in place to promote public safety in the operation of their duties. Recent media articles have highlighted concerns raised by public transport drivers in relation to their safety (as well as the safety of passengers),<sup>2</sup> and a recent report found that "[h]igh levels of anti-social behaviour by commuters, recurring driver turnover, congestion and opaque contractual arrangements are undermining the quality, reliability and safety of Hobart's bus network."<sup>3</sup> Concerns about safety have also been raised by community organisations in recent reports. For example, a recent project undertaken by the Youth Network of Tasmania identified public safety concerns on public transport as a key issue for young Tasmanians;<sup>4</sup> a survey relating to LGBTQIA+ experiences in Tasmania found that 43% of respondents

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<sup>1</sup> Department of Police, Fire and Emergency Management (2024), '[Consultation Information Sheet: Police Offences Amendment Bill 2024](#)'

<sup>2</sup> Rojahn, M (2023), '[Metro Tasmania drivers report abuse and low morale, as spike in crashes blamed on inexperienced staff](#),' ABC News, 27 January.

<sup>3</sup> Douglass, M (2024), 'A Better Deal: Fixing Tasmania's broken public transport system,' *The McKell Institute*, p. 7.

<sup>4</sup> Youth Network of Tasmania and Tasmanian Youth Forum (2021), 'Transport: A report on young people's ideas and solutions for transport in Tasmania,' p. 6.

always or sometimes hide their identity on public transport for fear of abuse;<sup>5</sup> and concerns around safety using or waiting for transport were also identified in a report from Anglicare Tasmania relating to the experiences of Tasmanians with disability.<sup>6</sup>

It is unclear how expanding the definition of public space will improve public safety. Police in Tasmania already have broad powers of arrest and would already have the power to arrest a person on public transport who they reasonably suspect of committing or being about to commit a crime.<sup>7</sup> They also already have powers of arrest without warrant in relation to a number of summary offences,<sup>8</sup> including possessing a dangerous article,<sup>9</sup> assault<sup>10</sup> or damaging property belonging to a public authority.<sup>11</sup> It is therefore unclear why changing the definition of public place is necessary.

We also note recent inquiries and academic research have raised significant concerns about the impact of public order offences on groups experiencing disadvantage or over-policing. For example, the need for a comprehensive review of summary offences to minimise the impact on people experiencing disadvantage was a key recommendation of the recent Inquiry into Victoria's Criminal Justice System,<sup>12</sup> and Victoria has also recently abolished the summary offence of public drunkenness in recognition of the disproportionate impact of this offence on communities experiencing marginalisation, particularly Aboriginal people.<sup>13</sup>

TasCOSS supports the right of all public transport drivers and users to access safe services. However, in the absence of further information justifying the change of definition and how it will promote public safety, we oppose the further expansion of definitions relating to public space in Tasmania. We believe there are alternative and more effective ways of promoting the safety of transport workers and users, and strongly recommend the Government consider the following measures proposed by evidence-based research and Tasmanian community organisations.

These proposed changes include (but are not limited to):

- increased safety training (focused on general safety) for public transport staff, developed for and delivered to all levels of the workforce, as well as measures to promote the safety needs of particular groups (such as women, trans and gender diverse passengers);
- bus and bus stop upgrades to increase accessibility and safety (such as lighting); and

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<sup>5</sup> Dwyer, A, et al. (2021), 'LGBTQIA+ Tasmanians: Telling us the Story — Final Report,' p. 7.

<sup>6</sup> Stafford, L (2023), 'Trips Not Made: Addressing transport disadvantage experienced by disabled people and young people in Tasmanian's outer urban and regional communities,' Social Action and Research Centre, Anglicare Tasmania, p. 9.

<sup>7</sup> *Criminal Code Act 1924 (Tas)* s27 (a).

<sup>8</sup> *Police Offences Act 1935 (Tas)* s55.

<sup>9</sup> *Police Offences Act 1935 (Tas)* s55 (1) (c).

<sup>10</sup> *Police Offences Act 1935 (Tas)* s55 (2D).

<sup>11</sup> *Police Offences Act 1935 (Tas)* (3) (e).

<sup>12</sup> Parliament of Victoria (2022), 'Inquiry into Victoria's Criminal Justice System,' Legislative Council, Legal and Social Issues Committee, vol. 1, pp. 478-80.

<sup>13</sup> *Summary Offences Amendment (Decriminalisation of Public Drunkenness) Act 2021* (Vic). For example, please see also Human Rights Law Centre (2020), [Tanya Day Inquest — Summary of Findings](#), 9 April.

- public safety campaigns designed to raise awareness of responsibilities of public transport operators in relation to the safety of their passengers, as well as the importance of maintaining safety on public transport and how to respond to concerns.

### ***Introduction of a new offence of ‘road rage’***

The Bill introduces a new offence of ‘road rage’:

*(1) A person who, without reasonable excuse, drives or uses a vehicle, or performs a driving-related act, on a public street, in a manner that —*

*(a) the person knows or ought to know, is likely to cause alarm, distress, apprehension, or fear, in another person; and*

*(b) results in —*

*(i) damage to property; or*

*(ii) injury to a person; or*

*(iii) a collision with another vehicle; or*

*(iv) a risk of danger to a person; or*

*(v) alarm, distress, apprehension, or fear, in another person is guilty of the offence of road rage.*

*Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months.*

*(2) For the purposes of subsection (1), a driving-related act includes verbal abuse and threatening or obscene gestures made by a person while that person is driving or using a vehicle.*

Academic research shows aggressive and/or violent driving is a behaviour of concern throughout Australia,<sup>14</sup> although other reports also highlight the perceived threat of road rage may be higher than its actual occurrence,<sup>15</sup> finding that “*despite the ever-increasing amount of traffic on the roads there is no clear evidence that serious road user violence is increasing disproportionately to other violent offending.*”<sup>16</sup>

The underlying factors contributing to aggressive or violent driving are unclear and likely multifaceted, and many articles state the need for more nuanced research and reporting to fully understand the prevalence and drivers of this behaviour.<sup>17</sup>

However, recent inquiries have highlighted some key factors for consideration:

- traffic congestion can make road users frustrated and more liable to engage in risky/aggressive driving behaviour;<sup>18</sup>

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<sup>14</sup> Stephens, A & Fitzharris, M (2019), ‘The frequency and nature of aggressive acts on Australian Roads,’ *Journal of the Australasian College of Road Safety*, vol. 30, no. 3.

<sup>15</sup> For example, please see Roberts, L & Indermaur, D (2005), ‘Boys and Road Rage: Driving-related violence and aggression in Western Australia,’ *The Australian and New Zealand Journal of Criminology*, vol. 38, no. 3, pp. 361-80.

<sup>16</sup> Carroll, A, Davidson, A & Ogloff, JR (2006), ‘An Investigation into Serious Violence Associated with Motor Vehicle Use: Is ‘road rage’ a valid or useful construct?’ *Monash University*.

<sup>17</sup> Smith, R (2006) ‘[Impediments to the measurement of road violence](#),’ *Australian Institute of Criminology*; Parliament of Victoria (2005), ‘Inquiry into Violence Associated with Motor Vehicle Use — Final Report,’ *Drugs and Crime Prevention Committee*, April, pp. xix-xxi.

<sup>18</sup> Parliament of Victoria (2005), ‘Inquiry into Violence Associated with Motor Vehicle Use — Final Report,’ *Drugs and Crime Prevention Committee*, April, pp. 251-58; Parliament of Victoria (2024), ‘Inquiry into the Impact of Road Safety Behaviours on Vulnerable Road Users,’ *Legislative Assembly, Economy and Infrastructure Committee*, May, pp. 43-49.

- absent or poorly designed active transport options (including combination active/public transport options) put pedestrians and cyclists at risk;<sup>19</sup> and
- cyclists and pedestrians are particularly vulnerable to aggressive driving.<sup>20</sup>

However, it is unclear how the introduction of this offence will improve the safety of Tasmanian drivers and road users. Many of the acts included in the definition of the proposed new offence are already unlawful under Tasmanian law. For example, the offence of reckless driving prohibits driving in a way that is reckless to the nature condition and use of the street,<sup>21</sup> the offence of driving without due care and attention includes driving “without reasonable consideration for other persons using the public street,”<sup>22</sup> and a person may be found guilty of the offence of common assault if they intentionally or recklessly cause another person to fear they may be assaulted.<sup>23</sup>

Given the lack of evidence or justification provided in relation to how the proposed new offence will address existing safety concerns, we do not support its introduction into Tasmanian legislation. Recent inquiries relating to road safety in other jurisdictions have made a number of alternative recommendations to address violent or aggressive driving and promote public safety, particularly in relation to groups who may be particularly vulnerable to harm from problem driving, and we recommend the Tasmanian Government considers the findings and recommendations of these inquiries as an alternative.<sup>24</sup>

These recommendations include (but are not limited to) the following:

- expansion of existing road safety education programs (for example, the Sober Driver program for people who have been convicted of two or more drink driving offences) to include information about the dangers of aggressive or violent driving;
- inclusion of education and informational materials relating to aggressive or violent driving as part of testing for a drivers’ license;
- greater investment in strategies to protect pedestrians and cyclists as they are most vulnerable to unsafe/violent/aggressive driving;
- the development of a ‘road user hierarchy’ system to provide guidance in relation to responsibilities of different road users;<sup>25</sup>
- greater investment in active and public transport; and
- provision of information relating to safe driving and road users’ responsibilities at regular intervals (for example, providing information/fact sheets about the risks of aggressive or violent driving upon license renewal).

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<sup>19</sup> Parliament of Victoria (2024), ‘Inquiry into the Impact of Road Safety Behaviours on Vulnerable Road Users,’ Legislative Assembly, Economy and Infrastructure Committee, May, pp. 58-63.

<sup>20</sup> Ibid, pp. 54-58.

<sup>21</sup> *Traffic Act 1925 (Tas)* s32 (1).

<sup>22</sup> *Road Rules 2019 (Tas)* r367 (2).

<sup>23</sup> See the definition of ‘assault’ at *Criminal Code Act 1924 (Tas)* s182.

<sup>24</sup> Parliament of Victoria (2024), ‘Inquiry into the Impact of Road Safety Behaviours on Vulnerable Road Users,’ Legislative Assembly, Economy and Infrastructure Committee, May, pp. xix-xxxi; Parliament of Victoria (2005), ‘Inquiry into Violence Associated with Motor Vehicle Use — Final Report,’ Drugs and Crime Prevention Committee, April, pp. xiv-lxii.

<sup>25</sup> This concept is explored in detail at Parliament of Victoria (2024), ‘Inquiry into the Impact of Road Safety Behaviours on Vulnerable Road Users,’ Legislative Assembly, Economy and Infrastructure Committee, May, pp. 54-58.

### ***Increased penalties***

The Bill proposes changes to the penalties for a number of offences, significantly increasing the proposed penalties for offences such as possess dangerous article, assault, destruction of property, killing or wounding an animal, theft of a motor vehicle, and procuring the hire or use of a motor vehicle by fraud.

In most instances, the Bill proposes significant changes to the penalties. For example, the proposed change to the penalty for common assault is an increase from a fine of 20 penalty units, 12 months imprisonment or both,<sup>26</sup> to a fine of 50 penalty units, 18 months imprisonment or both.<sup>27</sup> Assault is an extremely common charge,<sup>28</sup> so this change would have a significant impact.

The underlying assumption of the proposed changes in the Bill is that increased penalties will reduce offending. However, academic research into sentencing and its impact on criminal behaviour show that this is not always the case. As noted by the Tasmanian Law Reform Institute, *“there is little support for the proposition that harsher sentencing brings about any significant reduction in the crime rate.”*<sup>29</sup> TasCOSS is also concerned about the disproportionate impact of fines on people on low incomes, noting academic research demonstrates the inherent unfairness of imposing financial penalties as punishment as the impact of such penalties is significantly harsher for those on low incomes.<sup>30</sup>

TasCOSS does not support the introduction of clauses increasing penalties and recommends these clauses are withdrawn from the Bill. As an alternative to increased penalties, we recommend the Tasmanian Government focuses on strategies and initiatives to prevent crime, and investing in community-based services to support people with underlying needs contributing to criminal behaviour (such as unaddressed mental health issues, alcohol and other drug use, or homelessness).

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<sup>26</sup> *Police Offences Act 1935 (Tas)* s35 (1A).

<sup>27</sup> *Police Offences Amendment Bill 2024 (Tas)* clause 7A.

<sup>28</sup> According to Tasmania Police data, assault was the most commonly recorded offence against the person in 2023/24. Department of Police, Fire and Emergency Management (2024), [‘2023/24 Crime Statistics Supplement’](#)

<sup>29</sup> Tasmanian Law Reform Institute (2008) ‘Sentencing,’ June, p. 79.

<sup>30</sup> Quilter, J & Hogg, R (2018), ‘The hidden punitiveness of fines,’ *International Journal for Crime, Justice and Social Democracy*, vol. 7, no. 3, pp. 9-40; Hamilton, C (2004), ‘Making Fines Fairer,’ *The Australia Institute*, December.