

COMMUNITY LEGAL CENTRES TASMANIA

14 November 2023

Members of the House of Assembly
Parliament House
Tasmania 7000

To all members of the House of Assembly,

Re: Support for Police Offences Amendment (Begging Repeal) Bill 2023

It has been more than four and a half years since the Tasmanian Government announced that it would repeal the offence of begging.¹ A Government Bill to repeal the offence of begging was passed by the House of Assembly and the Legislative Council but lapsed when the Tasmanian Parliament was prorogued ahead of the State Election in May 2021.

In the 2019 debate of the Bill, the then Minister for Police, Fire and Emergency Management, Hon Mark Shelton MP acknowledged that:²

begging often stems from homelessness, chronic poverty and disadvantage. In these situations, it is usually a last resort to meet immediate needs, and the criminal law is not the appropriate response.

As well, the then Human Services Minister, Hon Roger Jaensch MP, noted:³

Over recent years we have seen more evidence of people in our streets sleeping rough and seeking help and support from their fellow Tasmanians. I do not like the term 'begging'. That is not what they do; they are simply asking for help.

Criminalising begging is criminalising poverty. By abolishing the criminalisation of begging, we pave the way for a more compassionate societal approach, safeguarding the rights of individuals to seek assistance without fear of legal repercussion.

The *Police Offences Amendment (Begging Repeal) Bill 2023* ('the Bill') to be debated later this week will provide members of the House of Assembly with an opportunity to recognise that people begging need help and that poverty cannot be addressed through a criminal justice response.

¹ Michael Ferguson, Minister for Police, Fire and Emergency Management, 'Removing the offence of begging', Media Release 27 June 2019.

² Mark Shelton, Minister for Police, Fire and Emergency Management, *Hansard*, Second Reading Speech, House of Assembly, 12 November 2019.

³ Roger Jaensch, Minister for Human Services, *Hansard*, House of Assembly, 13 November 2019.

- Police Offences Act 1935 (Tas)

Currently, section 8 of the *Police Offences Act 1935 (Tas)* ('the Act') makes it an offence to beg, relevantly providing:

8. Begging, imposition, &c.

(1) A person shall not –

(a) in a public place beg or expose wounds or deformities, or place himself or herself or otherwise act so as to induce, or attempt to induce, the giving of money or other financial advantage, or instigate or incite another person to do any of those things;

...

The penalty for begging is a fine up to \$975.00 or imprisonment for a term not exceeding 6 months.⁴

The case for abolition

Criminal sanctions for begging including fines and imprisonment fails to address the underlying cause of the behaviour, and in many cases simply exacerbates pressures such as financial stress as a result of responses such as the imposition of punitive fines. Research from Justice Connect and similar organisations highlights the grim reality faced by those compelled to beg.⁵ Their findings, encapsulating the plight of our society's most disenfranchised, paint a stark portrait:⁶

- 77 per cent were experiencing homelessness;
- 87 per cent had a mental illness;
- 80 per cent had been unemployed for 12 months or more;
- 33 per cent had experienced family violence;
- 37 per cent reported childhood trauma or abuse.

More recently, a review by Queensland Police found that Aboriginal and Torres Strait Islander peoples are "disproportionately represented", with 64 per cent of persons charged with begging in 2020-21 identifying as indigenous.⁷

Finally, a 2019 study of 101 persons who were in receipt of food from charities living in Perth, Western Australia, found that while charitable services were the main source of food in the previous week, a significant proportion also begged for money for food (36 per cent) or begged for food (32 per cent). Interestingly, only 4 in 10 of persons (38 per cent) reported being homeless, highlighting that begging is most often borne of necessity rather than homelessness.⁸

⁴ Section 8(1AA) of the *Police Offences Act 1935 (Tas)* provides for a penalty not exceeding five penalty units or to imprisonment not exceeding a term of six months. Currently, the value of a 'penalty unit' in the *Penalty Units and Other Penalties Act 1987 (Tas)* is \$195.00.

⁵ Justice Connect, *Asking for Change - calling for a more effective response to begging in Victoria* (August 2018). Also see Philip Lynch, *Understanding and responding to Begging* (2005) 29(2) *Melbourne University Law Review* 518.

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⁷ Queensland Police Service briefing to the Community Support and Services Committee – *Inquiry into the decriminalisation of certain public offences and health and welfare responses* (July 2022) at 2.

⁸ Christina Pollard, Sue Booth, Jonine Jancey, Bruce Mackintosh, Claire Pulker, Janine Wright, Andrea Begley, Sabrah Imtiaz, Claire Silic, Aqif Mukhtar, Martin Caraher, Joel Berg and Deborah Kerr, 'Long-Term Food Insecurity, Hunger and Risky Food Acquisition Practices: A Cross-Sectional Study of Food Charity

Expressed in another way, the research reinforces the conclusion that begging is usually an action of last resort, meaning that people beg out of necessity rather than resorting to more serious criminal offences such as stealing, drug dealing or prostitution.⁹

- **'move on' powers**

An argument often raised for the criminalisation of begging is the need for public safety, namely that some persons that beg engage in standover tactics or threatening speech or behaviour. However, the research finds that the incidence of aggressive begging is rare.¹⁰ It should also be noted that there are other offences currently provided in the Act that could address violent or abusive conduct,¹¹ and that provide police with the power to request that persons 'move on'. Section 15B of the Act provides that persons can be moved on if the police believe on reasonable grounds that a person:

(a) has committed or is likely to commit an offence; or

(b) is obstructing or is likely to obstruct the movement of pedestrians or vehicles; or

(c) is endangering or likely to endanger the safety of any other person; or

(d) has committed or is likely to commit a breach of the peace.

Repealing the offence of begging will ensure that the Tasmanian parliament meets a commitment it first made in 2019 as well as bring Tasmania into line with Western Australia, New South Wales and the Australian Capital Territory where begging is not an offence.¹²

It is also worth noting that other Australian jurisdictions are moving in this direction with a 2022 parliamentary review of public intoxication, begging and public urination offences in Queensland recommending that all offences be decriminalised subject to appropriate community-based health and social welfare responses being in place,¹³ whilst in Victoria a 2022 review of the criminal justice system recommended a review of all offences linked to homelessness, including begging.¹⁴ Victoria has also recently abolished the offence of public intoxication, in recognition of the disproportionate impact this offence has had on Aboriginal

Recipients in an Australian Capital City' (2019) 16(15) *International Journal of Environmental Research and Public Health* at 2749.

⁹ Michael Horn and Michelle Cooke, *A Question of Begging: A Study of the Extent and Nature of Begging in the City of Melbourne* (2001) 9 at 24.

¹⁰ *Ibid.* at 15.

¹¹ Examples include sections 12, 13 and 35 of the *Police Offences Act 1935 (Tas)* which are concerned with prohibited language and behaviour, public annoyance and common assault.

¹² In its submission to the 'Inquiry into the decriminalisation of certain public offences and health and welfare responses' the Queensland Police Service provided a summary of the law in all Australian jurisdictions. As found at Queensland Police Service briefing to the Community Support and Services Committee – *Inquiry into the decriminalisation of certain public offences and health and welfare responses* (July 2022), Annexure 3.

¹³ Queensland Parliament, *Towards a healthier, safer, more just and compassionate Queensland: decriminalising the offences affecting those most vulnerable* (Community Support and Services Committee: October 2022) at iii.

¹⁴ Parliament of Victoria, *Inquiry into Victoria's criminal justice system* (Legislative Council, Legal and Social Issues Committee: March 2022) Recommendation 60.

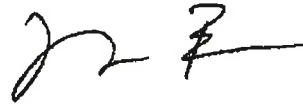
people and following the recommendations from the coronial inquest into the death of Ms Tanya Day.¹⁵

In summary, with the majority of Australian jurisdictions having already passed laws that begging should not be an offence or having recommended decriminalisation there is a clear national trend towards embracing policies that confront socio-economic challenges with evidence-based solutions and compassion.

We urge you to support the Bill and repeal the offence of begging.



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¹⁵ Coroners Court of Victoria, *Tanya Day - Findings into death with Inquest*. The Coroner recommended that the offence of public drunkenness be decriminalised. As found at <https://www.coronerscourt.vic.gov.au/inquests-findings/findings> (accessed 10 November 2023).