

Legislative Council
Hansard
Thursday 13 August 2026

The President, **Mr Farrell**, took the Chair at 11 a.m., acknowledged the Traditional People and read Prayers.

POLICE OFFENCES AMENDMENT BILL 2025 (No. 50)

Second Reading

[3.21 p.m.]

Ms WEBB (Nelson) - Well, thank you, Mr President, I rise to speak on the Police Offences Amendment act 2025. With just a few remarks. It's a mix of a bill, in that there's parts of the bill that are unremarkable and uncontentious and sensible changes and reforms, and that all of us or most of us are pleased to see. There's other parts that perhaps have some questions around them but seem to be headed in the right direction. Then there's some aspects of the bill that seem to remain a little problematic in terms of the approach taken and whether it's hit the mark.

There is no question that that each of the issues that are being addressed by the bill are valid issues to be addressing, certainly, the ones I will speak about to some extent. I have some concerns about their treatment in the bill and it's not because I, in any way, resile from the fact that there are issues to be addressed there. For example, on road rage, certainly we are all very familiar with experiencing some form of road rage either directed to us or directed to other people in whose car we're travelling, or observing occur on the road around us, potentially perpetrated by us at times. Who knows? Certainly, I will admit to mild forms: some choice words at times, perhaps the odd gesture. I'm making light of it, but I don't mean to because it actually can have serious consequences. There can be serious intimidation occurring, there can be absolutely people feeling in danger. We all know what it's like when we've just made an oopsie by perhaps pulling out at the wrong moment or going 'oops, shouldn't have done that,' and then someone really lets us know we shouldn't have done that, and you feel quite dreadful, but it probably doesn't warrant the response you got anyway.

That's to say we don't need to quibble about there being an issue to address. The idea is, as point of discussion, what is the effective, appropriate and proportionate way, to address that issue? Effective is the main one. Coming into this place to represent your community, and want to do a good job in that, want to make sure that views and concerns held by your community are brought to here, considered well, met with acknowledgement and good solutions, is a shared sentiment, all around this Chamber. The thing I'm really focused on is that sometimes in acknowledging the genuineness of a problem to be solved and acknowledging the genuineness of a community's desire to see solutions for that, can then travel into proposed policy solutions and legislative solutions that, actually, while seemingly purporting to address and provide a solution, don't, and on all evidence fail to do that. That's problematic because then when we go back to our community and say, guess what, I represented you; I heard your concerns, I've acted on it; I've passed this piece of legislation and helped it get through and actually, it's legislation that won't meaningfully address those concerns or may be problematic in the way that it does. That's an unfortunate thing ultimately. With my approach I'm very focused on

evidence base and what evidence tells us will work to genuinely address issues and deliver a solution.

In that space with this bill, I do have some concerns, and these are going to be echoes of things raised in more detail by others in their contributions and I acknowledge the contributions made by each member who's spoken here today. I think a range of good questions have been put forward. I'm interested to hear the answers provided and won't necessarily repeat those questions in my contribution. Some of the things I will raise aren't unique, but they're the ones that I would like to focus on.

Increased penalties are one in the bill. It's really clear there is no evidence to tell us that increased penalties will act as an effective greater deterrent to offences occurring. It's as simple as that. And we can note that referred to in a number of submissions made on the exposure draft of this bill back when it was out for consultation. Of particular note, from the Tasmanian Council of Social Service submission where they talk about these increased penalties provided for in the bill and they note in their submission - I will quote from it, page 7:

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 shows that that 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.

TasCOSS is also concerned about the disproportionate impact of fines on people on low incomes, noting academic research demonstrating the inherent unfairness of imposing financial penalties as punishment, as the impact of such penalties is significantly harsher for those on low incomes.

And it goes on to say:

TasCOSS does not support the introduction of clauses increasing penalties and recommends these clauses are withdrawn from the bill.

As an alternative -

And I like that this is the case in this submission, Mr President. They go on to propose an alternative. It says:

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.

This is the case, Mr President, that there has simply been for a very extended period now, particularly the last 12 years under this government, absolute under-investment and lack of focus on those preventative efforts in the precursors to offences and crimes being committed. We've seen an under investment there.

We've also seen greater division driven in our community. We've seen a greater cost of living stress being experienced by our community. We've seen a bigger cleaving between those who have and those who don't have in our community. Our two Tasmania scenario is worse over these 12 years under this government. All of that, far from preventing higher incidences of crime is actually driving higher incidences of crime and antisocial behaviour and all those sorts of things we see that are genuinely unpleasant and awful experiences for people in our communities.

I want to put on the record that it might make us feel good to increase penalties and think that we're making a harsher consequence for crime and that is the right thing to do, but no evidence tells us that it's the right thing to do. It will not achieve the outcome that's desired by all of us. That's one aspect I wanted to comment on.

The other in terms of some specific aspects of the bill, I will touch on the matter of the new offensive road rage because there are some smoke and mirrors here that are performative in this bill. Again, an absolutely genuine issue to address, absolutely genuine community concern and harm being caused that needs to be addressed and acknowledged, but I'm concerned we have gone about this in a way that's less well considered than it might have been.

We've had other members, I think it was member for Hobart and her contribution that mentioned some things that I was going to touch on the fact that we're dealing with this differently to other jurisdictions. Where one narrative is we might be bringing ourselves into alignment because we're addressing it and other jurisdictions have legislatively addressed it. We're doing it in a different way to those other jurisdictions, and in a way that's less effective and more potentially problematic.

I do know that in some of the other jurisdictions potentially, I think it's the ACT and NSW, where they have- Oh no, Queensland and NSW have explicitly included road rage as an aggravating factor in sentencing options rather than stand alone offence in this way. There's also different sorts of descriptive language that is more sort of specific around menacing driving and things like that in other jurisdictions.

That hit the mark more effectively than what we've landed on here. I will speak more about the specific language and elements of the clause shortly. Western Australia also doesn't have a separate offence of road rage as such. Rather it's seen as it's an aggravating circumstance in terms of other offences. It's not clear to me what consideration was given of actually looking at those approaches and applying them here.

I'm concerned about it for sure. To speak about it specifically in terms of what we're looking to insert with this bill into the *Police Offences Act*, the 37 FA road rage clause there, there are elements of it that the legal experts who have made submissions on the exposure draft of the bill have highlighted as being particularly problematic.

Both the Law Society and the and Tasmanian Legal Aid specifically are concerned about the language that's in 37 FA (1) (a) where it's done in a manner that the person knows or ought to know is likely to cause alarm, distress, apprehension or fear in another person, given that those are potentially difficult things because there are very different triggers and very different levels of resilience and levels of sensitivity around those sorts of things amongst the community.

What I might anticipate to cause those things could be quite different from what in reality does and then that brings us to some difficulties in trying to faithfully apply this. Some of those legal experts who made submissions have suggested that this proposed provision is far too broad in the language it uses.

Concerns have been raised about language in 37 FA (1)(b)(iv), for instance, where it one of the things it may result in under (b) is for a risk of danger to a person, where a risk of danger to a person is a very, very broad thing. There's a small risk in getting into a car in the first place. There's a small risk in many instances. You could jump up and down, say boo on the side of the road could be deemed to be a risk minor potentially, but with this language, a risk of danger is a very broad way to interpret it. They've suggested that simplified language there might be prudent, taking out the words 'a risk of'.

The other thing that's been raised, in some of these submissions, which really merits attention is, and I'm looking now at a submission made by the Tasmania Legal Aid, and they suggest that if this provision is to remain, they say this:

It is strongly recommended that further consideration be given to rewording and or amending the section to ensure there is a distinction between behaviour which poses a threat to other road users and is already the subject of criminal sanctions, and behaviour which is merely offensive.

And in that they're looking at some of the things that would be captured potentially, over the page in (2)(a) of that provision is part of the definition of a driving-related act, meaning an act that 'consists of threatening, abusive, obscene, offensive, profane or insulting words, gestures or behaviour.' Much as all of those things can be regarded as distasteful, unfortunate, unnecessary and certainly offensive, to effectively criminalise them, in some sense, becomes problematic, I think. Much as I might not like somebody being profane or insulting or things like that, it's a muddy grey area between somebody's right to be expressive in ways that we may find insulting and profane, whatever it might be - but to then bring a sanction in through our legal system for that is dicey. That's what some of these submissions are suggesting and I am inclined to agree. I think it's problematic. It begins to look like curbing behaviour that, as much as we may not like it, is part of a normal spectrum of behaviour.

What I imagine people might say is, 'Well, that's not the intention of this, this is to capture certain sorts of things.' But, the fact of the matter is, if it's written and drawn up in legislation in a way that's too broad - beyond what you might intend it to capture and the way you might intend it to be interpreted - it potentially will capture other things. I think that's why the concerns are being raised in these submissions. I'm looking at a submission here from the Law Society and they expressed it similarly to Tasmanian Legal Aid. The Law Society said,

A distinction must be maintained between behaviour which poses a threat to other road users and is already the subject of criminal sanctions, and behaviour which is offensive. Whilst the latter behaviour is not to be encouraged, it should certainly not be criminalised. The provision as drafted, and because of its breadth, creates a danger of the criminal law being weaponised and unnecessarily diverting police resources.

I think any of those sorts of concerns being raised should give us pause for thought when we are introducing a new offence in this way. I would have thought that the intent and the

intended outcomes of a new offence should be able to be delivered without the legal profession and legal experts raising these sorts of concerns. Yet, we're charging ahead with something that still has those concerns hanging over it. That gives me pause for thought.

I'm mindful that I don't want to take up a great deal of time with my contribution because, as I said, I endorse the more detailed contributions made by some others, and I don't feel the need to repeat much of it other than the bits that are of particular interest or concern to me. It will be interesting to see, and I guess this is where the rubber hits the road - and hopefully it's something that we'll be able to pay attention to here in this place - if we pass this piece of legislation largely as it is, further down the track we will look to see what evidence can be provided of the difference, if any, that it's made. That's where the proof will be in the pudding. We know what evidence tells us is likely to occur as a result of a range of these measures and that's nothing. Except people being further criminalised for things that are potentially problematic. People being fined more heavily in some areas in ways that might ultimately be much more harmful, and, horrifically and ironically, might become criminogenic in and of themselves because of the way that fines impact the person, their life, and their family, et cetera.

Criminal justice is a complex area. Addressing criminal behaviour is a complex area. It's rarely something simplistic that can be done that actually delivers a straightforward outcome. We raise these penalties and straightforwardly less of this bad thing happens - it doesn't work that way, much as we would love it to so. We will hopefully be able to track the impact or otherwise of this legislation as it goes through. I have sent around to members, I've drawn up just two very basic amendments for us to potentially consider during committee stage, if the bill goes through to committee stage. They by no means fix all the things that I think are probably unfortunate about this piece of legislation, but they pick up on a couple of matters raised in some submissions without intruding on the intent of the bill too intensively. Generally, when I'm looking to amend something - sometimes I really do want to change something in the bill and get it out; with these amendments that I'm looking to bring in the committee stage, it's more about making some tweaks to dial some of the problematic aspects back a bit. I shared those earlier and hopefully members might give them some thought and, if it comes to that, we can discuss them during the committee stage.

On that, there's lots of good elements of this bill, some really good, straightforward changes and updates and whatnot. There are some other bits that I feel a little bit lukewarm about, but some of these things still cause me some concern and I think it's unfortunate because I think it's sort of partly misleading to the public to be suggesting that what we might do here today in passing this is some form of effective solution.