

# ELECTROSHOCK & RESTRAINT OF CHILDREN IS LEGAL IN VICTORIA

## The *Victorian Mental Health Act* is under review and now is the time to change this

### THE VICTORIAN MENTAL HEALTH ACT ALLOWS PSYCHIATRY TO COMMIT THE ABOVE TORTUROUS PRACTICES ON VULNERABLE CHILDREN AND ADULTS.

Under Victoria's *Prevention of Cruelty to Animals Act*, someone committing an act of cruelty on any animal that wounds, mutilates, abuses, worries, torments, or terrifies the animal, can be fined up to \$45,435 or imprisoned for up to 12 months. Yet in stark contrast, abuse of psychiatric patients continues without any criminal penalty for the perpetrator under the *Victorian Mental Health Act*.

### THE PUBLIC WILL NOT SEE OR BE ABLE TO PROVIDE INPUT ON THE DRAFT LAW BEFORE IT GOES TO THE VICTORIAN PARLIAMENT TO BE PASSED INTO LAW.

Now is the first and only proposed time for the public to provide feedback. **The public must be able to provide feedback on such an important law after it is drafted as it removes parental and patient rights.**

**ELECTROSHOCK OF CHILDREN (ECT):** ECT is the application of hundreds of volts of electricity to the head to create a seizure. It can cause brain damage, permanent memory loss, heart problems, stroke and even death. The World Health Organisation has stated, "There are no indications for the use of ECT on minors, and hence this should be prohibited through legislation." Despite this, the current *Victorian Mental Health Act* allows children under 18, who psychiatry considers have the "capacity to give informed consent," to be able to consent to electroshock. Parental approval is not needed at any stage including when it goes before the Mental Health Tribunal for final approval. ECT can also be given to involuntarily detained children, again no parental consent is needed. Thirteen Victorian children aged 13-17 years old were electroshocked between 2014/15 and 2019/20 and 12,073 electroshocks were given in 2019/20. **Recommendation: Electroshock must be banned for all ages with criminal fines and prison terms in violation of this ban.** [Victorian Mental Health Act 2014, (VMHA) s90, s92(2), s94(1)(a)(b), s94(2)(a)(b)(i)(ii), s94(3)(e), s68(1)(a)(b)(c)(d), s68(2)(c)]

**RESTRAINT AND SECLUSION OF CHILDREN:** Restraint is torture and involves the use of physical force, mechanical devices (belts or straps) or psychiatric drugs to subdue (chemical restraint). There is at least one death a year in Victoria in circumstances involving restraint, forced sedation and seclusion. In 2019/20, there were 170 episodes of bodily restraint (mechanical and



physical) on children aged 0-12 and a further 632 restraint episodes on children aged 13-17. Plus 234 episodes of seclusion in children aged 0-17. Instead of banning restraint and seclusion immediately, it is proposed that they are "phased out" within 10 years in Victoria. **Recommendation: Restraint & Seclusion must be banned immediately, not just "phased out over 10 years."** Criminal fines and prison terms for violation of the ban are also needed. [VMHA, s110 to s116]

**SEXUAL CONTACT:** An Australian analysis of nearly 8,000 complaints to regulators published in 2019, found: "Mental health practitioners [psychiatrists and psychologists] had a complaint rate that was more than twice that of physical health practitioners. Their risk of complaints was especially high in relation to reports they wrote, records, confidentiality, interpersonal behaviour and sexual boundary breaches." **Recommendation: Reporting to police of sexual contact by mental health staff on a patient must be made mandatory in the Victorian Mental Health Act with criminal penalties for failure to report.**

**CHILDREN CAN BE INVOLUNTARILY DETAINED AND TREATED WITHOUT PARENTAL CONSENT:** A child or adult can be locked up in a psychiatric facility, forcibly treated, including with drugs, electroshock, restraint and seclusion without the consent of their parents or the patient. The Australian Government has issued 69 psychiatric drug warnings, including to warn of the risk of heart problems, suicidal behaviour and possible death. Children and adults can also be forced to take psychiatric drugs at home. While parents and adults can request a Mental Health Review Tribunal Hearing to be released, there is no guarantee the child or adult will be allowed to go home. 6,226 involuntary commitment/treatment orders were made and only 531 orders were cancelled in 2019/20. **Recommendation: Only a judge or magistrate should have the right to detain someone and only with full legal representation for the**

**person facing deprivation of liberty, paid for by the State.**  
[VMHA, Part 4, Div 4, s52, s53; Div 6, s60]

**PSYCHOSURGERY:** Banned in NSW and the NT, psychosurgery can involve inserting electrodes into the brain sending an electrical current through it, as in the case of deep brain stimulation (DBS). DBS can cause memory loss, irreversible brain damage, bleeding in the brain and post-operative death. It is legal for use on all ages in Victoria. Unlike every other state in Australia, Victoria has no criminal fines or prison terms for performing psychosurgery outside the law. **Recommendation: Psychosurgery must be banned for all ages with criminal penalties for violation of the ban.** [VMHA, s68 (2), s70 (1)(2), s100 (1)(2) & s102 (1)(2)(a)]

**NO ACCOUNTABILITY:** In the last 10 years mental health spending increased by 88% in Victoria. Where are the results from this increased spending? “Unexpected, unnatural or violent” deaths in the Victorian psychiatric industry increased by 23% between 2010/11 and 2018/19. Complaints to the Victorian Mental Health Complaints Commissioner have increased a staggering 122% since 2014/15 (from 999 in 2014/15 to 2,221 in

2019/20). If psychiatric treatments were working there would be evidence of this in the reduction of children and adults requiring assistance. **Recommendation: Existing funding must be re-directed to programs and treatments that are not harmful and proven to work.**

**ALTERNATIVES:** There is no doubt that some children and adults who are troubled, sometimes severely, require special care. But they should be given holistic, humane care that improves their condition. Institutions should be safe havens where children and adults voluntarily seek help for themselves or their child without fear of indefinite incarceration or being subjected to harmful and terrifying treatment. They need a quiet and safe environment, good nutrition, rest, exercise and help with life's problems. Extensive medical evidence proves that underlying and undiagnosed physical illnesses can manifest as “psychiatric symptoms” and therefore should be addressed with the correct medical treatment, not psychiatric techniques. With proper medical treatment and real help people can lead healthier, happier lives.

The *Mental Health Act* is being re-named, the *Mental Health and Wellbeing Act*. The sole purpose of this law is to make it legal for psychiatry to detain and forcibly “treat” children and adults. There is no “wellbeing” in forced psychiatric treatments that are human rights abuses.

For references to the above log onto [cchr.victoria.org.au](http://cchr.victoria.org.au) or [cchr.org.au](http://cchr.org.au)

## TAKE ACTION

**WRITE, PHONE OR EMAIL THE BELOW ASKING FOR CHANGES TO BE MADE TO THE MENTAL HEALTH ACT.**

1. As a priority, request they ensure the public can see the Draft Bill before it goes into Parliament and be able to comment on it.
2. Request they do all they can to ban restraint, seclusion, electroshock and psychosurgery and ensure that only a judge or magistrate is able to involuntarily detain anyone.
3. Ask them to ensure that criminal penalties are put into the new law for ill treatment and neglect of patients.

**The Premier:** The Hon. Daniel Andrews  
517A Princes Highway, Noble Park, VIC 3174  
Phone: (03) 9548 5644  
Email: [daniel.andrews@parliament.vic.gov.au](mailto:daniel.andrews@parliament.vic.gov.au)

**Leader of the Opposition:** The Hon. Michael O'Brien  
313-315 Waverley Road, Malvern East, VIC 3145  
Phone: (03) 9576 1850  
Email: [michael.obrien@parliament.vic.gov.au](mailto:michael.obrien@parliament.vic.gov.au)

**Minister for Health:** The Hon. Martin Foley  
46 Rouse Street, Port Melbourne, VIC 3207  
Phone: (03) 9646 7173 | Email: [minister.health@dhhs.vic.gov.au](mailto:minister.health@dhhs.vic.gov.au)  
or [martin.foley@parliament.vic.gov.au](mailto:martin.foley@parliament.vic.gov.au)

**Shadow Minister for Health:** Ms Georgie Crozier  
Suite 1, 780 Riversdale Road, Camberwell, VIC 3124  
Phone: (03) 7005 8699  
Email: [georgie.crozier@parliament.vic.gov.au](mailto:georgie.crozier@parliament.vic.gov.au)

**Minister for Mental Health:** The Hon. James Merlino,  
1635 Burwood Hwy, Belgrave, VIC 3160 | Phone: (03) 9754 5401  
Email: [james.merlino@parliament.vic.gov.au](mailto:james.merlino@parliament.vic.gov.au)

**Shadow Minister for Mental Health:** Ms Emma Kealy,  
PO Box 41, Horsham, VIC 3402 | Phone: (03) 5382 0097  
Email: [emma.kealy@parliament.vic.gov.au](mailto:emma.kealy@parliament.vic.gov.au)

Please also contact your local Member of Parliament. Their contact details can be found here: <https://www.parliament.vic.gov.au>

The *Mental Health and Wellbeing Act: Update and Engagement Paper* can be viewed at: <https://engage.vic.gov.au/mhwa>  
The current *Mental Health Act* can be viewed at: <https://www.legislation.vic.gov.au/in-force/acts/mental-health-act-2014/022>



**Tell others so they too can take action.**

**Contact the Citizens Commission on Human Rights**

**Email CCHR Vic:** [info@cchr.victoria.org.au](mailto:info@cchr.victoria.org.au)

**Email CCHR Aust:** [national@cchr.org.au](mailto:national@cchr.org.au)

**Phone CCHR Vic:** 1300 085 995

**Warning:** No one should stop taking any psychiatric drug without the advice and assistance of a competent medical doctor.

CCHR was established by the Church of Scientology and Professor of Psychiatry, the late Dr Thomas Szasz in 1969 to investigate and expose psychiatric violations of human rights.