

2022-2023-2024-2025

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

# Criminal Code Amendment (Hate Crimes) Bill 2024

(Ms Spender)

(1) Schedule 1, item 1, page 3 (line 7), after “**genocide,**”, insert “**promoting hatred,**”.  
**[promoting hatred]**

(2) Schedule 1, page 3 (after line 12), after item 2, insert:

## **2A Section 80.1A of the *Criminal Code***

Insert:

*sex characteristics*, of a person, means the person’s physical features and development related to the person’s sex, and includes:

- (a) genitalia, gonads and other sexual and reproductive parts of the person’s anatomy;  
and
- (b) the person’s chromosomes, genes and hormones that are related to the person’s sex;  
and
- (c) the person’s secondary physical features emerging as a result of puberty.

**[sex characteristics]**

(3) Schedule 1, item 4, page 3 (line 17), omit “intersex status”, substitute “sex characteristics”.  
**[sex characteristics]**

(4) Schedule 1, item 7, page 3 (line 25), omit “intersex status”, substitute “sex characteristics”.  
**[sex characteristics]**

(5) Schedule 1, item 12, page 4 (line 15), omit “intersex status”, substitute “sex characteristics”.  
**[sex characteristics]**

(6) Schedule 1, item 15, page 4 (line 23), omit “intersex status”, substitute “sex characteristics”.  
**[sex characteristics]**

(7) Schedule 1, item 19, page 5 (line 14), omit “intersex status”, substitute “sex characteristics”.  
**[sex characteristics]**

(8) Schedule 1, item 19, page 5 (line 26), omit “intersex status”, substitute “sex characteristics”.  
**[sex characteristics]**

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- (9) Schedule 1, item 19, page 6 (line 30), omit “intersex status”, substitute “sex characteristics”.  
**[sex characteristics]**
- (10) Schedule 1, item 19, page 7 (line 14), omit “intersex status”, substitute “sex characteristics”.  
**[sex characteristics]**
- (11) Schedule 1, page 8 (after line 10), after item 19, insert:

**19A After Subdivision C of Division 80 of the *Criminal Code***

Insert:

**Subdivision CAA—Promoting hatred**

**80.2DA Promoting hatred**

*Offence*

- (1) A person commits an offence if:
- (a) the person does an act; and
  - (b) the person does the act publicly; and
  - (c) the person does the act with the intention of promoting hatred towards, harassing, threatening, intimidating or abusing, another person (the *targeted person*) or group (the *targeted group*); and
  - (d) the targeted person or the targeted group is distinguished by race, religion, sex, sexual orientation, gender identity, sex characteristics, disability, nationality, national or ethnic origin or political opinion, or personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above attributes; and
  - (e) the act promotes, or is reasonably likely to promote, such hatred, or to harass, threaten, intimidate, ridicule or abuse that targeted person or some or all of the members of the targeted group.

Penalty: 250 penalty units or imprisonment for 2 years, or both.

- (2) For the purposes of paragraph (1)(d), it is immaterial whether the targeted person actually is so distinguished by the attribute or attributes mentioned in that paragraph or actually is a member of the targeted group.
- (3) For the purposes of paragraph (1)(d), the person may have in mind a combination of attributes mentioned in that paragraph.
- (4) The fault element for paragraph (1)(d) is recklessness.
- Note: For recklessness, see section 5.4.
- (5) Strict liability applies to paragraph (1)(e).

*Interim orders*

- (6) A court may make an interim order on application by the prosecutor or on its own initiative if the court is satisfied that:
- (a) both of the following apply:
    - (i) there is sufficient evidence that the person committed the offence;

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- (ii) the making of the interim order is reasonably necessary to prevent the person from continuing to commit the offence or committing further offences; or
  - (b) the making of the interim order is reasonably necessary to preserve or secure any matter or thing that may be or become evidence in any proceedings relating to the charge.

*Definitions*

(7) In this section:

**hatred** includes detestation, enmity, ill-will, revulsion, serious contempt and malevolence.

**promoting** includes:

- (a) publicising, advocating or glorifying; and
- (b) eliciting or stirring up (whether effectively or ineffectively) a feeling or feelings in another person, or in or among other persons.

**publicly** includes:

- (a) speaking, writing, displaying notices, playing of recorded material, broadcasting and communicating through social media and other electronic methods, to the public or a section of the public (whether or not the public have access to the communication as of right or by invitation, whether express or implied and whether or not a charge is made); and
- (b) any conduct, including actions and gestures and the wearing or display of clothing, signs, flags, emblems and insignia, observable by the public; and
- (c) the distribution or dissemination of any matter to the public or a section of the public; and
- (d) acts done in a public place; or
- (e) acts done in the sight or hearing of people who are in a public place.

Note: For **public place**, see the definition in the Dictionary.

(8) For the purposes of the definition of **publicly** in subsection (8), an act may be done **publicly** even if the act occurs on private land or in a place that is not ordinarily accessed by the public.

**[promoting hatred]**

(12) Schedule 1, item 20, page 8 (lines 13 and 14), omit “intersex status”, substitute “sex characteristics”.

**[sex characteristics]**

(13) Schedule 1, item 21, page 8 (lines 16 and 17), omit “and 80.2BB”, substitute “, 80.2BB and 80.2DA”.

**[promoting hatred]**

(14) Schedule 1, page 8 (after line 21), at the end of the Schedule, add:

**23 After paragraph 80.4(2)(c) of the Criminal Code**

Insert:

- (da) subsection 80.2DA(1); or

**[promoting hatred]**