

Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026

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QUEENSLAND PARLIAMENT

Justice, Integrity and Community Safety Committee

Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026

A. Executive Summary

1. Townsville Community Law supports the objective of combatting antisemitism and recognises the responsibility of Government to protect members of the Queensland community from hate-based conduct.
2. We submit that if the Committee recommends that the Fighting Antisemitism and Keeping Guns Out of the Hands of Terrorists and Criminals Amendment Bill 2026 (the Bill) should be passed, it should also recommend that the Bill is amended to:
 - 2.1. Ensure appropriate Parliamentary oversight of prescribed prohibited expressions and symbols rather than relying solely on regulation-making powers.
 - 2.2. Clarify the interaction between the new offences and existing vilification provisions in the *Criminal Code* and the *Anti-Discrimination Act 1991*.
 - 2.3. Reconsider the proportionality of clauses 52C, 52D and 52DA:
 - the threshold test of conduct that may cause a person to feel “menaced, harassed or offended”;
 - the threshold test of prohibited expressions and symbols of “so nearly resembles”;
 - the reverse onus of proof provision.
 - 2.4. Provide for independent statutory review of the legislation after one year and again in the fifth year of operation.
 - 2.5. Progress ‘unpause’ protections for age and impairment vilification to ensure equal treatment and protection before the law.
3. This submission only addresses the Criminal Code amendments.

B. The Bill

4. Townsville Community Law has provided advice to individuals and groups in respect of a range of hate laws over time and has conducted litigation in this area of law.¹

¹ See for example our involvement in the historical case of *GLBTI v Wilks & Anor* [2007] QADT 27.

5. We consider that the Bill must be seen within the existing schema of hate laws, and in doing so, the Bill's provisions will create some complexity for investigating and prosecuting authorities, the legal profession and the Courts.
6. Queensland's existing schema of hate laws includes the *Anti-Discrimination Act 1991* (the ADA) and the *Criminal Code* (the Code) and to a lesser extent, the *Human Rights Act 2019* (the HRA). Like most jurisdictions, Queensland's laws have undergone assessment and change over the last decade as public discourse has shifted.
7. The recent *Respect at Work and Other Matters Amendment Act 2024* (the ADA amendments) included civil² and criminal³ sanctions for vilification and hate speech. These amendments are currently 'paused'.
8. Relevantly, the ADA and the Code currently include provisions making vilification on the grounds of race and religion unlawful. These provisions provide civil remedies and criminal sanctions against antisemitism, albeit within a broader approach.⁴
9. The Bill incorporates specific provisions that offer an expanded criminal justice system response and does not create any additional civil complaint mechanisms for persons affected by antisemitic speech.
10. The Bill's measures add a new offence of prohibited expression to the Code and make amendments to the existing offence of prohibited symbol. The amendments include various forms of prohibited expression including recitation, publication, distribution and display (including symbols and images).
11. The Bill's new and amended offences operate on the basis that expressions and symbols might reasonably be expected to cause a member of the public to feel *menaced, harassed or offended*.
12. As noted earlier, if the Bill passes it will expand our system of responses to hate acts as follows:
 - 12.1. *Civil complaint mechanism*: ADA s.124A (Vilification on grounds of race, religion, sexuality, sex characteristics or gender identity);
 - 12.2. *Criminal Prohibited symbols and expressions*: Code s.52C and the operative provisions s.52D (display, distribution or publication of prohibited symbols) and s.52DA (recital, display, distribution or publication of prohibited expressions) (2 years);
 - 12.3. *Criminal (Serious)*: Code s.52A (Offence of serious racial, religious, sexuality, sex characteristics or gender identity vilification) (3 years); and
 - 12.4. *Criminal (Aggravation)*: Code s.52B (Circumstances of aggravation for particular offences).⁵

² Respect at Work and Other Matters Amendment Act 2024, Part 4, ss.124A-124D

³ Respect at Work and Other Matters Amendment Act 2024, Part 4, ss.55-59A

⁴ There are various definitions of antisemitism, including the AFP, "Antisemitism is the demonstration of hostility, prejudice or discrimination against Jewish people or Judaism as a religious, ethnic or racial group."

⁵ Aggravation includes ss.69, 75, 207, 335, 339, 359, 359E, 469

13. As noted earlier, as the system stands, those vilified based on age and impairment have no protection from hate acts.⁶ In this regard, we repeat our submission to the Parliament's Elder Abuse Inquiry that the ADA provisions for age and impairment vilification should be 'unpaused'.
14. We concede that the Elder Abuse Inquiry Report did not adopt the recommendation of unpausing the ADA provisions; however, we contend it complements and facilitates Recommendation 7, which seeks to foster a cultural shift towards greater respect for older members of the Queensland community.⁷ It would also provide greater response to the intersectional nature of hates crimes.⁸

C. A Strong Response?

15. The Government has stated that the Bill includes 'tough laws'.⁹
16. The Bill seeks to catch specific prescribed prohibited expressions, defined as including those that *so nearly resembles* an expression that they are likely to be confused with or mistaken for that expression. The Bill also similarly updates the current prohibition model response used for symbols.
17. If the Bill passes, the prohibition model for expressions and symbols will operate alongside the existing incitement-based model of vilification, though only in respect of antisemitism.
18. If passed, Queensland will have three tiers of response:
 - 18.1. *Public acts of vilification* i.e. that fall under the ADA (s.124A) and the Code (s.52A);
 - 18.2. *Public acts of vilification and prohibited expression or symbols* i.e. that potentially fall under the ADA (s.124A) and more than one Code offence (s.52A, s.52C, and s.52DA); and
 - 18.3. *Public acts* for which there is no civil or criminal response i.e. age and impairment.
19. We are concerned that despite the Bill's legitimate public purpose, the creation of a multi-tiered response with different approaches, tests, exceptions, onuses and functions may create significant complexity for law enforcement, prosecutorial authorities, the legal profession and the Courts. It may also have the unintended consequence of entrenching unequal treatment before the law for some individuals and groups.
20. While we have not had time to carefully consider the interplay of the various provisions, on our reading of the Bill, antisemitism will be potentially actionable under all existing and new provisions.

⁶ The paused amendments mean s.124A does not protect age, impairment, sex, sex characteristics or sexual orientation, and s.52 of the Code does not include age or impairment but does include race, religion, sexuality, sex characteristics and gender identity.

⁷ Parliament of Queensland, Education, Arts and Communities Committee, Inquiry into Elder Abuse in Queensland, Report No.11.

⁸ See for example: eSafety Commissioner (2025) Fighting the tide: Encounters with online hate among targeted groups, Canberra: Australian Government.

⁹ Joint Statement: Premier and Minister for Veterans; Attorney-General and Minister for Justice and Minister for Integrity, Reforms to fight antisemitism and hate and protect faith communities, 8 February 2026.

21. In the circumstances, it may be that the lower threshold (i.e. cl.52DA) would be the most likely action pursued by an investigative or prosecutorial authority. Does Government begin to approach to all forms of vilification in the same manner by developing a prohibitions model of prohibited expressions and symbols that cause members of other groups to feel “menaced, harassed or offended”?
22. Further, as noted in this submission, there will be commentators who contend that the Bill’s combined tests for prohibited expressions are too easily satisfied given the penalty of two years imprisonment.
23. Equally, there will be commentators who contend that the Government’s response to antisemitism should not carry a lesser penalty than that imposed by s.52A serious vilification.
24. Lest we be misunderstood, we are not contending that cl.52DA should have a higher penalty. Our concerns are that Government ensures the laws protecting individuals and groups from hate acts have a clear and consistent approach. In our view, significant complexity is likely to arise in the event that legal action is taken under more than one provision.

Reliance on Regulations

25. Many submitters will no doubt be concerned at the use of regulations to add new prohibited expressions or symbols. Regulation making power is a compromise by its very nature. It affords efficiency in the process by allowing more dynamic change to legislative schemes but in doing so avoids the fundamental accountability process of Parliamentary debate and weakens the Rule of Law.
26. In the event the Bill passes, the human rights compatibility of any prohibited symbols or expressions must be carefully considered and should include meaningful consultation with the affected/protected groups of people, and with other relevant public entities such as the Queensland Human Rights Commission.

The Statutory Tests

27. Townsville Community Law raises concerns about two tests within the Bill.
28. Firstly, we note that the test of ‘*menaced, harassed or offended*¹⁰’ is a significant departure from Queensland’s other hate act responses.
29. The existing civil and criminal provisions respond to public acts that “incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons...”, and in the criminal form, responds where those same public acts “threaten physical harm or incite others to threaten physical harm...”.
30. Secondly, the Bill’s ‘*so nearly resembles*’ test risks capturing expressions beyond the core mischief the Bill is aimed at, and, in turn, risks creating uncertainty about what conduct is actually prohibited.
31. While it may be admirable to attempt precise targeting of conduct, the *so nearly resembles* test threatens to create very complex questions for law enforcement, prosecutorial authorities, the legal profession and the Courts.

¹⁰ See cl.52D(a)(i) (Symbols) and cl.52DA(1) (expressions).

32. The reality is that proportionality requires being satisfied that the existing law cannot do the work of the Bill's proposed offences. If the Bill's tests create more investigative, prosecutorial, legal and judicial complexity, then logically they may not be an appropriate and adapted response.

The Penalty

33. We anticipate that there will be submitters who contend that a period two (2) years imprisonment is disproportionate given the test is that the expression "might reasonably be expected to cause a member of the public to feel menaced, harassed or offended".
34. The Committee should scrutinise whether the penalty is necessary and proportionate and consider whether differential treatment of antisemitism is justified or whether other legislative amendments might lead to stronger and consistent laws across all groups affected by hate acts.

Reverse Onus

35. We note that the Bill contains a reverse onus provision. Such provisions engage the presumption of innocence protected by the HRA and require compelling justification.¹¹ Such a provision is not found within the other, possibly more serious form of vilification found at s.52A.
36. Accordingly, the Committee should scrutinise whether the reverse onus is necessary and proportionate.

Proportionality

37. Townsville Community Law has not had adequate time to consider whether the provision is necessary and proportionate.
38. If time allowed, detailed comparisons could be made with other forms of unlawful harassment routinely experienced by members of the public which have not attracted similar legislative measures. One obvious example is unlawful sexual harassment, which is similarly defined as conduct that has the effect of "offending, humiliating or intimidating".
39. Additionally, similar arguments can also be made about currently unprotected areas of age and impairment; how should they be protected, given it is in the public interest and a guaranteed human right to provide recognition and equality before the law.¹²
40. To be clear, Townsville Community Law is not advocating against the Bill's intent, rather, seeking to place its provisions in the context of our existing laws, and to facilitate thoughtful consideration of the proportionality of the Bill's response. In doing so, it is pertinent to highlight existing limitations of our laws that seek to regulate public hate acts.
41. The Compatibility Statement notes that the requirement for including prohibited expressions is that the Minister is "satisfied the expression is regularly used to incite discrimination, hostility or violence towards a relevant group", and which requires consideration of the following:

¹¹ HRA, s.32.

¹² HRA, s.15.

- that the Minister be satisfied that an expression represents an ideology of extreme prejudice against a relevant group;
- that the Minister be satisfied the expression is regularly used to incite harm to that group; and
- the offence requires the prosecution to prove the expression was used in a way that might reasonably be expected to cause a member of the public to feel 'menaced, harassed or offended'.¹³

42. There appears to be a disconnect between the nature of the expression/symbol and extent of harm needed to schedule an expression or symbol and the extent of harm needed to bring charges.

43. We note that the Compatibility Statement notes that the Bill responds differently to the ADA because:

...the prescription of particular phrases leaves no doubt that the use of those expressions is unacceptable, and through this clarity would have a greater deterrent effect on the use of those expressions in public and facilitate the successful prosecution of those who do.¹⁴

44. Again, we are not seeking to detract from the Government's stated intent, however as noted, there are concerns with the Bill's various tests, and there are other groups whose rights and interests require protection and promotion. We urge a consistent approach to hates acts, including within civil and criminal processes.

45. We note the work of this Parliament in Report No.22 which identified the very limited prosecutions under the then s. 131A of the ADA.¹⁵

46. We agree that it is critically important that hate crimes are identified, investigated and prosecuted, lest the deterrent value identified by the Compatibility Statement is lost or never actually manifests. Accordingly, Queensland's approach to hate acts must be clear, precise and consistent.

47. Furthermore, consideration must be given the constitutionality of the Bill to ensure that it does not unduly restrict the implied freedom of political communication. We are concerned that the ambiguity associated with second test may be inconsistent with the High Court's general approach.

Statutory Review

48. The Bill should be subject to independent review after an appropriate period, perhaps one year and following that in the fifth year.

49. This will allow Government and the community to determine whether it is an appropriate and proportionate response to antisemitism. The review should include the extent and outcomes of any investigative or prosecutorial activity or judicial consideration.

¹³ Statement of Compatibility pp.2-3.

¹⁴ Ibid, p.3.

¹⁵ Parliament of Queensland, Legal Affairs and Safety Committee, Inquiry into Vilification and Hate Crimes, Report No.22, January 2022.

D. Concluding Remarks

50. We support and endorse the submission of the Queensland Law Society.
51. We note the Law Council of Australia's submission to the Parliamentary Joint Committee on Intelligence and Security's (the Committee) Review of the Exposure Draft Legislation: Combatting Antisemitism, Hate and Extremism Bill 2026 (Cth) (the draft Bill).¹⁶
52. The LCA notes that many of the measures will intersect with matters to be considered by the Royal Commission on Antisemitism and Social Cohesion. The Queensland Government should also be keeping a careful watching brief on the Commission and be prepared to adjust its own statutory response once the Commission reports.
53. Uniformity and best practice should be adopted in lawmaking that seek to protect individuals and groups within the context of a national, and in fact global issue, such as is the case with combatting antisemitism.
54. The nature of the Bill's response (and hate crimes more generally) is drawn from the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of all Forms of Racial Discrimination.¹⁷
55. International human rights law requires Governments to engage in various measures to promote, respect, protect and fulfil the rights guaranteed. The HRA draws on these principles and carries the same objects.¹⁸
56. Any response by Governments should actively seek to achieve two aims: increase community safety and promote social cohesion. At this stage the Bill's impact does not seem likely to achieve the second aim.
57. If the Bill is passed it should be accompanied by a suite of evidence-based, proactive programs, including community education, supports, counter-radicalisation programs, improved reporting and pathways and data, and coordinated responses across jurisdictions—to prevent hate-based conduct and extremism and promote social cohesion and community safety in the long term.¹⁹

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TOWNSVILLE COMMUNITY LAW

17 February 2026

¹⁶ Law Council of Australia, Submission to the Parliamentary Joint Committee on Intelligence and Security's (the Committee) Review of the Exposure Draft Legislation: Combatting Antisemitism, Hate and Extremism Bill 2026 (Cth), 15 January 2026.

¹⁷ See art.20 and 26 of ICCPR and art.4 of ICERD.

¹⁸ See ss.3-4 as to the objects.

¹⁹ Ibid, p.3.