

Criminal Code (Serious Vilification and Hate Crimes) Amendment Bill 2023

Submission No: 14
Submitted by: Full Stop Australia
Publication: Making the submission and your name public
Attachments: See attachment
Submitter Comments:

2 May 2023

Committee Secretary
Legal Affairs and Safety Committee
Parliament House
George Street
Brisbane Qld 4000

By Email: LASC@parliament.qld.gov.au

Dear Sir/Madam

Re: Criminal Code (Serious Vilification and Hate Crimes) Amendment Bill 2023

Thank you for giving Full Stop Australia the opportunity to make a submission on the above Bill. Our submission is limited to commenting on the provisions in the Bill that are relevant to our organisation's expertise – being sexual, domestic and family violence. We have not commented on other aspects of the Bill – for example, the introduction of an offence for the display of hate symbols.

About Full Stop Australia (FSA)

FSA is an accredited, nationally focused, not-for-profit organisation which has been working in the field of sexual, domestic, and family violence since 1971. We perform the following functions:

- Provide expert and confidential telephone, online and face-to-face counselling to people of all genders who have experienced sexual, domestic, or family violence, and specialist help for their supporters and those experiencing vicarious trauma;
- Conduct best practice training and professional services to support frontline workers, government, the corporate and not-for-profit sector; and
- Advocate with governments, the media, and the community to prevent and put a full stop to sexual, domestic and family violence.

FSA, as a national service, draws upon the experiences of our trauma-specialist counsellors to support people impacted by sexual, domestic and family violence across jurisdictions, as well as our clients and other survivor advocates who are part of our [National Survivor Advocate Program](#), to advocate for victim focussed laws and consistent approaches to family, domestic and sexual violence nationally.

FSA supports the introduction of proposed s 52B to the Criminal Code

FSA supports the introduction of proposed s 52B. FSA considers that it is appropriate to specify that hate motivation is an aggravating factor for certain criminal conduct. Given FSA's organisational focus, we especially welcome the additional protection this change will provide to people targeted

www.fullstop.org.au

P 02 8585 0333 F 02 9555 5911
PO Box 555 Drummoyne NSW 2047

ABN 58 023 656 939

We acknowledge the traditional owners of country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to them and their cultures, and to elders both past and present.

based on their sexuality, sex characteristics or gender identity. We particularly note our support for this aggravation provision applying to the offences of threatening violence, threats, stalking, intimidation, harassment or abuse, common assault and assault occasioning bodily harm.

FSA supports the proposed amendments to s 131A of the Anti-Discrimination Act (ADA) and its relocation to the Criminal Code

FSA supports the proposed changes to s 131A of the ADA, being:

- Removal of the requirement that the consent of the Attorney-General or Director of Public Prosecutions be obtained before proceedings can be commenced;
- Increase of the maximum penalty for serious vilification from six months' to three years' imprisonment; and
- Relocation of the provision from the ADA to the Criminal Code.

FSA supports the removal of the requirement to obtain consent to commence proceedings, as this removes an administrative bottleneck for the prosecution of serious vilification offences, which will hopefully allow such offences to be dealt with more expeditiously. FSA is of the view that the requirement for consent is unnecessary, as the operation of the provision is clear on its face, and the prohibition on vilification does not involve countervailing policy considerations.

FSA also supports the relocation of s 131A to the Criminal Code, and the increased maximum penalty. These changes send an important message about the reprehensibility of serious vilification on protected grounds, and will hopefully increase police awareness and use of the offence provision.

The definition of "sexuality" adopted from the ADA is outdated and not inclusive, and this definition should be reviewed

The Explanatory Speech for the Bill notes that "definitions of gender identity, race and sexuality will be tied to their respective definitions in the ADA to ensure ongoing consistency."

FSA wishes to note that the definition for "sexuality" in the ADA is outdated and not inclusive, which leaves gaps in protection for vulnerable people. In particular, this definition only captures heterosexuality, homosexuality and bisexuality – leaving out attraction to and by persons who are gender-fluid or non-binary. FSA would support a broader and more inclusive definition of this term, which encompasses non-binary and gender-fluid people.

In this regard, FSA supports the recent amendments to the ADA made by the Births Deaths and Marriages Registration Bill 2022 (which has been introduced but not yet passed), which amends the definition of "gender identity" to make it more modern and inclusive.

If you have any questions in relation to the issues raised in this letter, please do not hesitate to contact our Head of Advocacy, Emily Dale, at [REDACTED].

Yours faithfully,



Tara Hunter
Acting Chief Executive Officer
Full Stop Australia