




Speech By  
**Sandy Bolton**

**MEMBER FOR NOOSA**

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Record of Proceedings, 11 October 2023

## **CRIMINAL CODE (SERIOUS VILIFICATION AND HATE CRIMES) AND OTHER LEGISLATION AMENDMENT BILL**


 **Ms BOLTON** (Noosa—Ind) (3.17 pm): On 31 January 2022 the Legal Affairs and Safety Committee tabled report 22 titled *Inquiry into serious vilification and hate crimes*. This was in response to a request from the Legislative Assembly for our committee to inquire into the nature and extent of hate crimes and serious vilification in Queensland and whether there was evidence of increasing instances of this, as well as the effectiveness of section 131A of the Anti-Discrimination Act 1991 and other existing Queensland laws responding to hate crimes.

The final report made 17 recommendations covering legislative amendments and other actions for the government to undertake. This bill, the Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill 2023, implements four of the report's recommendations, as well as increasing the existing penalty for the offence under section 131A. First, it addresses what 'protected attributes' will be the basis for the anti-vilification law that is currently in the Anti-Discrimination Act and that will be relocated to section 52A of the Criminal Code. Our committee recommended that government should ensure anti-vilification provisions in both civil and criminal laws cover the attributes of race, religion, gender and/or sex, sexual orientation, gender identity and/or gender expression, sex characteristics and/or intersex status, disability and medical status including HIV AIDS status.

*An incident having occurred in the chamber—*

**Mr DEPUTY SPEAKER** (Mr Martin): Members, we will suspend the proceedings of the House and resume upon the ringing of the bells.

Sitting suspended from 3.20 pm to 3.28 pm.

 **Ms BOLTON:** This recommendation was supported in principle by the government, noting that there is a Queensland Human Rights Commission review underway which may also impact on this. Many stakeholders made submissions supporting overall the amendments as well as making specific recommendations. The Queensland Law Society submitted that age should be a protected attribute; the Caxton Legal Centre argued for sex, disability and age; the QHRC argued for impairment; and Scarlet Alliance and other sex worker representative organisations argued for employment status. The department responded by saying that all of these will be considered in the context of the response to the QHRC report *Building belonging*. Nonetheless, while we are waiting for that response, by putting forward this bill the government has reopened the issue.

The LASC report No. 49 on this bill recommended that the government consider some possible additional attributes, particularly age and impairment; however, my statement of reservation emphasises that this bill should go beyond this and implement in full the original report No. 22 recommendations.

The second issue identified is the definition of a 'public act'. This is relevant as vilification is a public act, so how this is defined is important. In the law it is defined as 'communication in public' or 'conduct observable in public'. The QHRC raised whether the definition of 'public act' encompassed closed environments such as schools, workplaces and hospitals, and highlighted cases where closed environments were not considered communication to the public, although these areas could be considered areas of public life. The committee report on the bill recommended that the government consider amending the bill to include closed environments.

Thirdly, the bill introduces a new section of the Criminal Code which provides a framework for banning of prohibited symbols representative of ideologies of extreme prejudice, with the Nazi swastika as an example. This is a beneficial change, although the way it is being undertaken has raised concerns as it proposes that the symbols will be set out in regulation by the minister. This means in effect that they will have no scrutiny nor debate by parliament. This is acceptable for regulations in relation to minor matters such as time frame, forms or administrative arrangements; however, in this case the regulations go to the heart of the bill—what symbols are banned. As the Queensland Council for Civil Liberties said in their submission, this violates the fundamental principle that the key concepts creating criminal liability should not be made by regulation. The decision to criminalise conduct should be made by the parliament to ensure democratic accountability.

The fourth main amendment in the bill is an increase in the penalty for the offence of serious vilification from six months imprisonment to three years imprisonment. One consequence of this is that the police will now be able to obtain personal details of otherwise anonymous vilification online. This will be of real benefit in combating online hate speech, as will all of these legislative changes that impact Queenslanders, the police and judicial officers as examples. It is important that the government provides sufficient funding for education and training to assist in the rollout of the changes.

I thank our chair, the member for Toohey, and my fellow members of the Legal Affairs and Safety Committee for their efforts. I also thank our extremely hardworking secretariat and all Queenslanders who participated in this inquiry. We heard so many heartbreaking stories of what has been perpetrated on fellow Australians from hatred and fear. In addition, we watch in horror what is currently happening overseas and grieve for all who have lost and may lose loved ones, and we send our deepest sympathies. More than ever, it is so important to develop greater compassion and understanding for our differences, especially during our early formative years. This can be achieved via mandatory components in our curriculum on personal wellbeing, relationships and inclusivity in religious education. Our chamber should also lead the way by including other faiths in our morning rituals.

Inclusion must be more than a word in our policies and legislation. It must be an action we do every day in every way. I believe that our former chair, Duncan Pegg—or 'Peggy', as we knew him, and now up above—would be looking down and agreeing, as he demonstrated inclusion every day. This bill may not address everything that needs to be addressed; however, it is a start.