



Speech By  
**Hon. Shannon Fentiman**


**MEMBER FOR WATERFORD**

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Record of Proceedings, 29 March 2023

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

**Introduction**

 **Hon. SM FENTIMAN** (Waterford—ALP) (Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence) (11.18 am): I present a bill for an act to amend the Anti-Discrimination Act 1991, the Criminal Code, the Police Powers and Responsibilities Act 2000 and the Summary Offences Act 2005 for particular purposes. I table the bill, the explanatory notes and a statement of compatibility with human rights. I nominate the Legal Affairs and Safety Committee to consider the bill.

*Tabled paper:* Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill 2023 [390](#).

*Tabled paper:* Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill 2023, explanatory notes [391](#).

*Tabled paper:* Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill 2023, statement of compatibility with human rights [392](#).

I am proud to introduce the Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill 2023. I want to acknowledge all of the multicultural Queenslanders who are in the gallery today, many of whom have been involved in this process for many years now. These reforms are the direct result of their hard work and extensive advocacy. In particular, I want to acknowledge the Cohesive Communities Coalition and particularly acknowledge Christine Castley and Rita Jabri Markwell as co-chairs of the coalition for their commitment to achieving these reforms. I am also pleased to be introducing this legislation not only during the holy month of Ramadan but also during the Hindu celebration of Chaitra Navratri. I offer my best wishes to everyone who celebrates these holidays.

In the lead-up to the 2020 election, the Palaszczuk government committed to referring the options paper on hate crimes and vilification to a parliamentary committee for review. Following an extensive inquiry, the Legal Affairs and Safety Committee made 17 recommendations, all of which were supported or supported in principle. I am proud of the framework we are delivering arising from those recommendations and thank the committee for its work on this important issue. These laws will increase maximum penalties for hate crimes, make it easier to prosecute vilification and ban the public display of hate symbols. Importantly, in relation to hate symbols, it is intended that the laws will apply to online conduct and the public display of tattoos.

We know that too many members of our diverse communities continue to experience the devastating impacts of hatred and bias. Events over recent months, and indeed recent weeks, have highlighted the importance of having laws that adequately protect our communities. We have seen abhorrent attacks, such as a pig's head being left at the Arundel Mosque on the Gold Coast and Nazi

propaganda distributed in Brisbane suburbs. We have also seen horrifying scenes in Melbourne where neo-Nazis have attended anti-trans rallies to spread fear, hatred and division. I want to be very clear that these views and the hatred they represent have no place in Queensland and no place in our country.

The laws that I am introducing today will not only protect our multicultural community but also our LGBTIQ+ community too. Hatred and bigotry in all its forms must be called out and stamped out at every opportunity. The Palaszczuk government is committed to doing that, to strengthen and protect the rights of every Queenslanders no matter who they are or where they live. I know that for many people sharing their experiences of hatred and vilification can be emotional and often very difficult. I want to thank everyone who shared their stories with the committee, my department or me throughout this process. For example, Elijah Buol OAM told the committee—

I felt helpless of the time because there was no strong law to protect me. It damages my dignity and sense of worthiness in the society that I should feel belong and be part of!

Unfortunately, Elijah's experience is not unique. Whether it is experiences of trans women being misgendered in hospital, Muslim women being threatened with their hijabs being burned or people being called 'terrorists' and told to 'go home', it is clear that our laws need reform. It is vital that our hate crimes and vilification frameworks reflect modern community standards and reflect the wonderful diversity of which we are all so proud.

The legislation I am introducing today will implement four of the committee's recommendations: recommendation 7, to remove the requirement for crown law officer consent to prosecute under section 131A of the Anti-Discrimination Act; recommendation 8, to introduce a statutory aggravation regarding hate and serious vilification; recommendation 9, to relocate the offence of serious vilification to the Criminal Code; and recommendation 16, to prohibit the display of hate symbols. These amendments will make it easier to prosecute vilification and hate crimes while increasing available maximum penalties to better reflect the long-lasting impact these offences can have on victims.

The bill removes the requirement that the consent of the Attorney-General or the Director of Public Prosecutions must be obtained before a proceeding can be commenced under section 131A of the Anti-Discrimination Act while also relocating the provision to the Criminal Code. We are also increasing the maximum penalty for serious vilification from six months imprisonment to three years imprisonment. This better reflects the seriousness of the offence and community expectations. It also allows telecommunications warrants to be issued under federal legislation so police can more easily establish who is responsible for online offending.

In addition, the bill adds a circumstance of aggravation to the offences of going armed as to cause fear; threatening violence; disturbing religious worship; common assault; assault occasioning bodily harm; threats; unlawful stalking, intimidation, harassment or abuse; wilful damage; public nuisance; and trespass. This circumstance of aggravation will increase the maximum penalty where the offender is motivated, wholly or partly, by hatred or serious contempt for someone or a group of people based on their race, religion, sexuality, sex characteristics or gender identity.

The definitions of gender identity, race and sexuality will be tied to their respective definitions in the Anti-Discrimination Act to ensure ongoing consistency. In addition, definitions that are added and amended by the Births, Deaths and Marriages Registration Amendment Bill 2022 will apply. A circumstance of aggravation will mean that alleged offenders would be charged with the aggravation to ensure that appropriate data can be collected on these reprehensible crimes and ensure they are called what they are: hate crimes. In relation to the offence of public nuisance, it could be expected that someone performing a Nazi salute in public may be captured within the circumstance of aggravation. In particular, there could be a strong case that a group of neo-Nazis saluting on the steps of parliament, like we saw in Melbourne just a fortnight ago, would commit the offence. But, of course, every prosecution will depend on the circumstances of the incident.

The bill also makes it an offence to publicly display, distribute or publish a prohibited symbol in a way that could menace, harass or offend someone. The offence will carry a maximum penalty of 70 penalty units or six months imprisonment. Unlike other jurisdictions that have specified prohibited symbols in legislation, our framework will prescribe symbols by regulation. This will mean our laws will cover a broader range of hate symbols and we will be able to respond to new symbols or hate movements that may unfortunately emerge.

The bill requires that before prescribing a symbol, the minister must consult with the CCC, the Queensland Human Rights Commission and the Police Service. The minister must also be satisfied that the symbol is widely known by the public or by members of a 'relevant group' as representing an ideology of extreme prejudice. In this case, a 'relevant group' is a group of people who identify with

each other because of, or based on, their race, religion, sexuality, sex characteristics or gender identity. Of course, the government will also undertake extensive consultation with appropriate community and multicultural groups during the process of prescribing prohibited symbols.

The offence is intended to capture a broad range of circumstances. There is also a non-exhaustive list of excuses to the offence, including if the display or distribution is for a genuine artistic, religious, educational, historical, legal or law enforcement purpose; a public interest purpose; or to oppose the ideology represented by the prohibited symbol. A defendant relying on an excuse must prove their conduct was reasonable in the circumstances. It is intended that an excuse might be available where the public display is made in books, satire, documentaries, museums and during historical re-enactments.

While the bill does not prescribe a prohibited symbol, we have announced our intention to ban symbols related to Nazi and ISIS ideology. When referring to Nazi symbols, it is important to note that the Nazi hooked cross is the correct terminology for the most widely known symbol. The hooked cross closely resembles the swastika, which has peaceful and profound meaning in some religions, including Hinduism, Buddhism and Jainism. I want to especially thank Ms Akashika Mohla from the Hindu Community of Australia for her advocacy on this important distinction. Akashika recently told my office—

The Nazi hakenkreuz has been misappropriated from the sacred swastika, an auspicious symbol which brings good luck and prosperity for Hindu, Jain and Buddhist communities. I support the bill because it will recognise the religious and cultural use of the swastika. That is, the offence will ensure that the swastika can continue to be used for religious and cultural purposes, to acknowledge the swastika's important contribution for Buddhist, Hindu and Jain communities.

To be clear, the 'religious' excuse is intended to ensure that the display of the swastika for genuine religious purposes is not captured by the offence. To support the successful operation of the offence, the bill will also allow a police officer to search a person or vehicle without a warrant where they reasonably suspect the person has committed, or is committing, the new offence. A police officer will therefore have the power to stop, detain and search the person or vehicle and seize any evidence of the commission of the offence.

As I said at the beginning of this speech, these reforms are the direct result of the hard work and advocacy of multicultural community members and stakeholders from across Queensland. In implementing these reforms their input will again be vital. We want to ensure that there is appropriate community education and cultural reform and that these laws achieve the goals they seek to.

In that regard, we will again engage with stakeholders and community members as well as relevant government agencies prior to commencement. We are also committed to continuing to work with stakeholders in relation to the remaining recommendations from the Legal Affairs and Safety Committee's report. This includes recommendations that we committed to considering as part of the Queensland Human Rights Commission's report, *Building belonging*.

These laws will be an important step for Queensland and our diverse communities and will mean we have among the strongest frame works in the country. However, these laws alone will not be enough to stamp out hatred and prejudice. We recognise that law alone cannot deal with social problems such as discrimination and that removing the threat of vilification and hate-based conduct requires changes in societal behaviours and attitudes. However, the law is a powerful instrument for social change. The courts and the criminal justice system play a vital role in sending a clear message to the community that offending motivated by prejudice is unacceptable and will not be tolerated. In the wake of recent events, it is important that everyone commits to doing what they can to call out and eliminate hate. I commend the bill to the House. I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

### **Referral to Legal Affairs and Safety Committee**

**Madam DEPUTY SPEAKER** (Ms Bush): In accordance with standing order 131, the bill is now referred to the Legal Affairs and Safety Committee.