



Criminal Code Amendment (Hate Crimes) Act 2025

No. 1, 2025

An Act to amend the *Criminal Code Act 1995*, and for related purposes

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)

Contents

1	Short title.....	1
2	Commencement	2
3	Schedules	2
Schedule 1—Amendments		3
	<i>Crimes Act 1914</i>	3
	<i>Criminal Code Act 1995</i>	3
Schedule 2—Mandatory minimum sentences and maximum penalties		19
	<i>Crimes Act 1914</i>	19
	<i>Criminal Code Act 1995</i>	20



Criminal Code Amendment (Hate Crimes) Act 2025

No. 1, 2025

An Act to amend the *Criminal Code Act 1995*, and for related purposes

[Assented to 7 February 2025]

The Parliament of Australia enacts:

1 Short title

This Act is the *Criminal Code Amendment (Hate Crimes) Act 2025*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	8 February 2025

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Crimes Act 1914

1A Section 16AAA (after table item 1)

Insert:

1F	offence against subsection 80.2BE(1) or (2) of the <i>Criminal Code</i>	12 months
----	---	-----------

Criminal Code Act 1995

1 Division 80 of the *Criminal Code* (heading)

Repeal the heading, substitute:

**Division 80—Treason, urging or threatening violence,
offences against groups or members of groups,
advocating terrorism or genocide, and prohibited
symbols and Nazi salute**

2 Section 80.1A of the *Criminal Code*

Insert:

carer or assistant has the same meaning as in the *Disability Discrimination Act 1992*.

close associate of a person means:

- (a) in any case—a close family member of the person; or
- (b) if the person is a person with a disability—a carer or assistant in relation to the person.

close family member has the same meaning as in Division 102.

damage does not include minor damage.

disability has the same meaning as in the *Disability Discrimination Act 1992*.

2A Subdivision C of Division 80 of Part 5.1 of the *Criminal Code* (heading)

Omit “Urging violence”, substitute “Urging or threatening violence, offences against groups or members of groups”.

2B Section 80.2A of the *Criminal Code* (heading)

Repeal the heading, substitute:

80.2A Advocating force or violence against groups

2C Paragraph 80.2A(1)(a) of the *Criminal Code*

Repeal the paragraph, substitute:

- (a) the first person advocates the use of force or violence against a group (the *targeted group*); and

3 Paragraph 80.2A(1)(b) of the *Criminal Code*

Omit “intending that”, substitute “reckless as to whether”.

4 Paragraph 80.2A(1)(c) of the *Criminal Code*

After “religion,”, insert “sex, sexual orientation, gender identity, intersex status, disability,”.

5 Subsection 80.2A(1) of the *Criminal Code* (at the end of the note)

Add “For recklessness, see section 5.4.”.

5A Paragraph 80.2A(2)(a) of the *Criminal Code*

Repeal the paragraph, substitute:

- (a) the first person advocates the use of force or violence against a group (the *targeted group*); and

6 Paragraph 80.2A(2)(b) of the *Criminal Code*

Omit “intending that”, substitute “reckless as to whether”.

7 Paragraph 80.2A(2)(c) of the *Criminal Code*

After “religion,”, insert “sex, sexual orientation, gender identity, intersex status, disability,”.

8 Subsection 80.2A(2) of the *Criminal Code* (at the end of the note)

Add “For recklessness, see section 5.4.”.

9 After subsection 80.2A(3) of the *Criminal Code*

Insert:

- (3A) For the purposes of paragraphs (1)(c) and (2)(c), the person may have in mind a combination of attributes mentioned in those paragraphs.

10 Subsection 80.2A(5) of the *Criminal Code* (note)

Repeal the note.

10A At the end of section 80.2A of the *Criminal Code*

Add:

Definitions

- (6) In this section:

advocate means counsel, promote, encourage or urge.

10B Section 80.2B of the *Criminal Code* (heading)

Repeal the heading, substitute:

80.2B Advocating force or violence against members of groups or close associates

10C Paragraph 80.2B(1)(a) of the *Criminal Code*

Repeal the paragraph, substitute:

- (a) the first person advocates the use of force or violence against a person (the *targeted person*); and

11 Paragraph 80.2B(1)(b) of the *Criminal Code*

Omit “intending that”, substitute “reckless as to whether”.

11A Paragraph 80.2B(1)(c) of the *Criminal Code*

Repeal the paragraph, substitute:

- (c) the first person does so because of the first person's belief that the targeted person is:
 - (i) a member of a group (the *targeted group*); or
 - (ii) a close associate of a member of a group (the *targeted group*); and

12 Paragraph 80.2B(1)(d) of the *Criminal Code*

After “religion,”, insert “sex, sexual orientation, gender identity, intersex status, disability,”.

13 Subsection 80.2B(1) of the *Criminal Code* (at the end of the note)

Add “For recklessness, see section 5.4.”.

13A Paragraph 80.2B(2)(a) of the *Criminal Code*

Repeal the paragraph, substitute:

- (a) the first person advocates the use of force or violence against a person (the *targeted person*); and

14 Paragraph 80.2B(2)(b) of the *Criminal Code*

Omit “intending that”, substitute “reckless as to whether”.

14A Paragraph 80.2B(2)(c) of the *Criminal Code*

Repeal the paragraph, substitute:

- (c) the first person does so because of the first person's belief that the targeted person is:
 - (i) a member of a group (the *targeted group*); or
 - (ii) a close associate of a member of a group (the *targeted group*); and

15 Paragraph 80.2B(2)(d) of the *Criminal Code*

After “religion,”, insert “sex, sexual orientation, gender identity, intersex status, disability,”.

16 Subsection 80.2B(2) of the *Criminal Code* (at the end of the note)

Add “For recklessness, see section 5.4.”.

16A Subsection 80.2B(3) of the *Criminal Code*

Repeal the subsection, substitute:

- (3) For the purposes of paragraphs (1)(c) and (2)(c), it is immaterial whether the targeted person:
- (a) actually is a member of the targeted group; or
 - (b) actually is a close associate of a member of the targeted group.

17 After subsection 80.2B(4) of the *Criminal Code*

Insert:

- (4A) For the purposes of paragraphs (1)(d) and (2)(d), the person may have in mind a combination of attributes mentioned in those paragraphs.

18 Subsection 80.2B(6) of the *Criminal Code* (note)

Repeal the note.

18A At the end of section 80.2B of the *Criminal Code*

Add:

Definitions

- (7) In this section:

advocate means counsel, promote, encourage or urge.

19 After section 80.2B of the *Criminal Code*

Insert:

80.2BA Threatening force or violence against groups

Offences

- (1) A person commits an offence if:
- (a) the person threatens to use force or violence against a group (the *targeted group*); and

- (b) the targeted group is distinguished by race, religion, sex, sexual orientation, gender identity, intersex status, disability, nationality, national or ethnic origin or political opinion; and
- (c) a reasonable member of the targeted group would fear that the threat will be carried out; and
- (d) the threat, if carried out, would threaten the peace, order and good government of the Commonwealth.

Note: For intention, see section 5.2.

Penalty: Imprisonment for 7 years.

- (2) A person commits an offence if:
 - (a) the person threatens to use force or violence against a group (the **targeted group**); and
 - (b) the targeted group is distinguished by race, religion, sex, sexual orientation, gender identity, intersex status, disability, nationality, national or ethnic origin or political opinion; and
 - (c) a reasonable member of the targeted group would fear that the threat will be carried out.

Note: For intention, see section 5.2.

Penalty: Imprisonment for 5 years.

- (3) The fault element for paragraphs (1)(b) and (2)(b) is recklessness.

Note: For recklessness, see section 5.4.

- (4) Strict liability applies to paragraphs (1)(c) and (2)(c).
- (5) For the purposes of paragraphs (1)(b) and (2)(b), the person may have in mind a combination of attributes mentioned in those paragraphs.

Alternative verdict

- (6) Subsection (7) applies if, in a prosecution for an offence (the **prosecuted offence**) against subsection (1), the trier of fact:
 - (a) is not satisfied that the defendant is guilty of the offence; but
 - (b) is satisfied beyond reasonable doubt that the defendant is guilty of an offence (the **alternative offence**) against subsection (2).

- (7) The trier of fact may find the defendant not guilty of the prosecuted offence but guilty of the alternative offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

Definitions

- (8) In this section:

fear includes apprehension.

80.2BB Threatening force or violence against members of groups or close associates

Offences

- (1) A person (the ***first person***) commits an offence if:
- (a) the first person threatens to use force or violence against a person (the ***targeted person***); and
 - (b) the first person does so because of the first person's belief that the targeted person is:
 - (i) a member of a group (the ***targeted group***); or
 - (ii) a close associate of a member of a group (the ***targeted group***); and
 - (c) the targeted group is distinguished by race, religion, sex, sexual orientation, gender identity, intersex status, disability, nationality, national or ethnic origin or political opinion; and
 - (d) a reasonable member of the targeted group would fear that the threat will be carried out; and
 - (e) the threat, if carried out, would threaten the peace, order and good government of the Commonwealth.

Note: For intention, see section 5.2.

Penalty: Imprisonment for 7 years.

- (2) A person (the ***first person***) commits an offence if:
- (a) the first person threatens to use force or violence against a person (the ***targeted person***); and
 - (b) the first person does so because of the first person's belief that the targeted person is:

- (i) a member of a group (the **targeted group**); or
- (ii) a close associate of a member of a group (the **targeted group**); and
- (c) the targeted group is distinguished by race, religion, sex, sexual orientation, gender identity, intersex status, disability, nationality, national or ethnic origin or political opinion; and
- (d) a reasonable member of the targeted group would fear that the threat will be carried out.

Note: For intention, see section 5.2.

Penalty: Imprisonment for 5 years.

- (3) For the purposes of paragraphs (1)(b) and (2)(b), it is immaterial whether the targeted person:
 - (a) actually is a member of the targeted group; or
 - (b) actually is a close associate of a member of the targeted group.
- (4) The fault element for paragraphs (1)(c) and (2)(c) is recklessness.
Note: For recklessness, see section 5.4.
- (5) Strict liability applies to paragraphs (1)(d) and (2)(d).
- (6) For the purposes of paragraphs (1)(c) and (2)(c), the person may have in mind a combination of attributes mentioned in those paragraphs.

Alternative verdict

- (7) Subsection (8) applies if, in a prosecution for an offence (the **prosecuted offence**) against subsection (1), the trier of fact:
 - (a) is not satisfied that the defendant is guilty of the offence; but
 - (b) is satisfied beyond reasonable doubt that the defendant is guilty of an offence (the **alternative offence**) against subsection (2).
- (8) The trier of fact may find the defendant not guilty of the prosecuted offence but guilty of the alternative offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

Definitions

(9) In this section:

fear includes apprehension.

80.2BC Advocating damage to or destruction of real property or motor vehicle

Offences

- (1) A person (the *first person*) commits an offence if:
- (a) the first person advocates the causing of damage to, or the destruction of, real property or a motor vehicle; and
 - (b) the first person does so because of the first person's belief that:
 - (i) the real property is a place of worship of a group (the *targeted group*); or
 - (ii) the real property is owned, or occupied, in whole or in part, by one or more members of a group (the *targeted group*); or
 - (iii) the motor vehicle is owned, or occupied, in whole or in part, by one or more members of a group (the *targeted group*); or
 - (iv) the real property is owned, or occupied, in whole or in part, by a close associate of one or more members of a group (the *targeted group*); or
 - (v) the motor vehicle is owned, or occupied, in whole or in part, by a close associate of one or more members of a group (the *targeted group*); and
 - (c) the first person is reckless as to whether the damage or destruction will occur; and
 - (d) the targeted group is distinguished by race, religion, sex, sexual orientation, gender identity, intersex status, disability, nationality, national or ethnic origin or political opinion; and
 - (e) the damage or destruction, if it were to occur, would threaten the peace, order and good government of the Commonwealth.

Note: For intention, see section 5.2. For recklessness, see section 5.4.

Penalty: Imprisonment for 7 years.

- (2) A person (the **first person**) commits an offence if:
- (a) the first person advocates the causing of damage to, or the destruction of, real property or a motor vehicle; and
 - (b) the first person does so because of the first person's belief that:
 - (i) the real property is a place of worship of a group (the **targeted group**); or
 - (ii) the real property is owned, or occupied, in whole or in part, by one or more members of a group (the **targeted group**); or
 - (iii) the motor vehicle is owned, or occupied, in whole or in part, by one or more members of a group (the **targeted group**); or
 - (iv) the real property is owned, or occupied, in whole or in part, by a close associate of one or more members of a group (the **targeted group**); or
 - (v) the motor vehicle is owned, or occupied, in whole or in part, by a close associate of one or more members of a group (the **targeted group**); and
 - (c) the first person is reckless as to whether the damage or destruction will occur; and
 - (d) the targeted group is distinguished by race, religion, sex, sexual orientation, gender identity, intersex status, disability, nationality, national or ethnic origin or political opinion.

Note: For intention, see section 5.2. For recklessness, see section 5.4.

Penalty: Imprisonment for 5 years.

- (3) For the purposes of paragraphs (1)(b) and (2)(b), it is immaterial whether:
- (a) the real property actually is a place of worship of the targeted group; or
 - (b) the real property actually is owned, or occupied, in whole or in part, by one or more members of the targeted group; or
 - (c) the motor vehicle actually is owned, or occupied, in whole or in part, by one or more members of the targeted group; or

- (d) the real property actually is owned, or occupied, in whole or in part, by a close associate of one or more members of the targeted group; or
 - (e) the motor vehicle actually is owned, or occupied, in whole or in part, by a close associate of one or more members of the targeted group.
- (4) The fault element for paragraphs (1)(d) and (2)(d) is recklessness.
- Note: For recklessness, see section 5.4.
- (5) For the purposes of paragraphs (1)(d) and (2)(d), the person may have in mind a combination of attributes mentioned in those paragraphs.

Alternative verdict

- (6) Subsection (7) applies if, in a prosecution for an offence (the **prosecuted offence**) against subsection (1), the trier of fact:
- (a) is not satisfied that the defendant is guilty of the offence; but
 - (b) is satisfied beyond reasonable doubt that the defendant is guilty of an offence (the **alternative offence**) against subsection (2).
- (7) The trier of fact may find the defendant not guilty of the prosecuted offence but guilty of the alternative offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

Definitions

- (8) In this section:
- advocate** means counsel, promote, encourage or urge.

80.2BD Threatening damage to or destruction of real property or motor vehicle

Offences

- (1) A person (the **first person**) commits an offence if:
- (a) the first person threatens to cause damage to, or the destruction of, real property or a motor vehicle; and

- (b) the first person does so because of the first person's belief that:
 - (i) the real property is a place of worship of a group (the **targeted group**); or
 - (ii) the real property is owned, or occupied, in whole or in part, by one or more members of a group (the **targeted group**); or
 - (iii) the motor vehicle is owned, or occupied, in whole or in part, by one or more members of a group (the **targeted group**); or
 - (iv) the real property is owned, or occupied, in whole or in part, by a close associate of one or more members of a group (the **targeted group**); or
 - (v) the motor vehicle is owned, or occupied, in whole or in part, by a close associate of one or more members of a group (the **targeted group**); and
- (c) the targeted group is distinguished by race, religion, sex, sexual orientation, gender identity, intersex status, disability, nationality, national or ethnic origin or political opinion; and
- (d) a reasonable member of the targeted group would fear that the threat will be carried out; and
- (e) the threat, if carried out, would threaten the peace, order and good government of the Commonwealth.

Note: For intention, see section 5.2.

Penalty: Imprisonment for 7 years.

- (2) A person (the **first person**) commits an offence if:
 - (a) the first person threatens to cause damage to, or the destruction of, real property or a motor vehicle; and
 - (b) the first person does so because of the first person's belief that:
 - (i) the real property is a place of worship of a group (the **targeted group**); or
 - (ii) the real property is owned, or occupied, in whole or in part, by one or more members of a group (the **targeted group**); or

-
- (iii) the motor vehicle is owned, or occupied, in whole or in part, by one or more members of a group (the ***targeted group***); or
 - (iv) the real property is owned, or occupied, in whole or in part, by a close associate of one or more members of a group (the ***targeted group***); or
 - (v) the motor vehicle is owned, or occupied, in whole or in part, by a close associate of one or more members of a group (the ***targeted group***); and
- (c) the targeted group is distinguished by race, religion, sex, sexual orientation, gender identity, intersex status, disability, nationality, national or ethnic origin or political opinion; and
 - (d) a reasonable member of the targeted group would fear that the threat will be carried out.

Note: For intention, see section 5.2.

Penalty: Imprisonment for 5 years.

- (3) For the purposes of paragraphs (1)(b) and (2)(b), it is immaterial whether:
 - (a) the real property actually is a place of worship of the targeted group; or
 - (b) the real property actually is owned, or occupied, in whole or in part, by one or more members of the targeted group; or
 - (c) the motor vehicle actually is owned, or occupied, in whole or in part, by one or more members of the targeted group; or
 - (d) the real property actually is owned, or occupied, in whole or in part, by a close associate of one or more members of the targeted group; or
 - (e) the motor vehicle actually is owned, or occupied, in whole or in part, by a close associate of one or more members of the targeted group.
- (4) The fault element for paragraphs (1)(c) and (2)(c) is recklessness.

Note: For recklessness, see section 5.4.
- (5) Strict liability applies to paragraphs (1)(d) and (2)(d).

- (6) For the purposes of paragraphs (1)(c) and (2)(c), the person may have in mind a combination of attributes mentioned in those paragraphs.

Alternative verdict

- (7) Subsection (8) applies if, in a prosecution for an offence (the **prosecuted offence**) against subsection (1), the trier of fact:
- (a) is not satisfied that the defendant is guilty of the offence; but
 - (b) is satisfied beyond reasonable doubt that the defendant is guilty of an offence (the **alternative offence**) against subsection (2).
- (8) The trier of fact may find the defendant not guilty of the prosecuted offence but guilty of the alternative offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

Definitions

- (9) In this section:
- fear** includes apprehension.

80.2BE Advocating force or violence through causing damage to property

Offences

- (1) A person (the **first person**) commits an offence if:
- (a) the first person intentionally advocates for another person, or a group, to use force or violence against a group (the **targeted group**); and
 - (b) the first person does so by causing damage to property; and
 - (c) the first person does so reckless as to whether the force or violence will occur; and
 - (d) the targeted group is distinguished by race, religion or ethnic origin; and
 - (e) the use of force or violence would threaten the peace, order and good government of the Commonwealth.

Penalty: Imprisonment for 7 years.

Note: For intention, see section 5.2. For recklessness, see section 5.4.

- (2) A person (the **first person**) commits an offence if:
- (a) the first person intentionally advocates for another person, or a group, to use force or violence against a group (the **targeted group**); and
 - (b) the first person does so by causing damage to property; and
 - (c) the first person does so reckless as to whether the force or violence will occur; and
 - (d) the targeted group is distinguished by race, religion or ethnic origin.

Penalty: Imprisonment for 5 years.

Note: For intention, see section 5.2. For recklessness, see section 5.4.

- (3) The fault element for paragraphs (1)(d) and (2)(d) is recklessness.

Note: For recklessness, see section 5.4.

- (4) For the purposes of paragraphs (1)(d) and (2)(d), the person may have in mind a combination of attributes mentioned in those paragraphs.

Alternative verdict

- (5) Subsection (6) applies if, in a prosecution for an offence (the **prosecuted offence**) against subsection (1), the trier of fact:
- (a) is not satisfied that the defendant is guilty of the offence; but
 - (b) is satisfied beyond reasonable doubt that the defendant is guilty of an offence (the **alternative offence**) against subsection (2).
- (6) The trier of fact may find the defendant not guilty of the prosecuted offence but guilty of the alternative offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

*Meaning of **damage***

- (7) In this section:
-

damage includes minor damage.

Example: An offensive slogan painted on a building (advocating the use of force or violence against Jews) is damage for the purposes of this section.

20 Paragraphs 80.2H(7)(b), 80.2HA(7)(b) and 80.2K(6)(b) of the *Criminal Code*

After “sex,”, insert “sexual orientation, gender identity, intersex status, disability,”.

21 Subsection 80.3(1) of the *Criminal Code*

After “and C”, insert “(other than sections 80.2A, 80.2B, 80.2BA, 80.2BB, 80.2BC and 80.2BD and 80.2BE)”.

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

Insert:

- (ca) subsection 80.2BA(2); or
- (cb) subsection 80.2BB(2); or
- (cc) subsection 80.2BC(2); or
- (cd) subsection 80.2BD(2); or
- (ce) subsection 80.2BE(2); or

Schedule 2—Mandatory minimum sentences and maximum penalties

Crimes Act 1914

1 Paragraph 15AAA(1)(a)

After “section 16AAA”, insert “(except items 1A to 1E of that table)”.

2 Section 16AAA (before table item 1)

Insert:

1A	offence against subsection 80.2H(1) of the <i>Criminal Code</i>	12 months
1B	offence against subsection 80.2HA(1) of the <i>Criminal Code</i>	12 months
1C	offence against a provision of Division 101 or 102 of the <i>Criminal Code</i> (other than an offence against subsection 102.8(1) or (2) of the <i>Criminal Code</i>)	6 years
1D	offence against subsection 102.8(1) or (2) of the <i>Criminal Code</i>	12 months
1E	offence against a provision of Division 103 of the <i>Criminal Code</i>	3 years

3 Paragraph 16AAC(2)(b)

Repeal the paragraph, substitute:

- (b) the court is taking into account, under paragraph 16A(2)(h), the person having cooperated with law enforcement agencies in the investigation of:
- (i) in relation to any of items 1A to 1E of the table in section 16AAA—the offence or an offence against subsection 80.2H(1) or 80.2HA(1) or Part 5.3 or 5.5 of the *Criminal Code*; or
 - (ii) in relation to any of items 1 to 15 of the table in section 16AAA or any of the items in the table in

subsection 16AAB(2)—the offence or a Commonwealth child sex offence.

4 Paragraph 16AAC(3)(b)

Repeal the paragraph, substitute:

- (b) if the court is taking into account, under paragraph 16A(2)(h), the person having cooperated with law enforcement agencies in the investigation of:
 - (i) in relation to any of items 1A to 1E of the table in section 16AAA—the offence or an offence against subsection 80.2H(1) or 80.2HA(1) or Part 5.3 or 5.5 of the *Criminal Code*; or
 - (ii) in relation to any of items 1 to 15 of the table in section 16AAA or any of the items in the table in subsection 16AAB(2)—the offence or a Commonwealth child sex offence;

by an amount that is up to 25% of the period specified in column 2 of the applicable item in the relevant table;

Criminal Code Act 1995

5 Subsection 80.2H(1) of the *Criminal Code* (penalty)

Repeal the penalty, substitute:

Penalty: Imprisonment for 5 years.

6 Subsection 80.2HA(1) of the *Criminal Code* (penalty)

Repeal the penalty, substitute:

Penalty: Imprisonment for 5 years.

7 Application provision

The amendments made by this Schedule apply in relation to a conviction that occurs on or after the commencement of this item if the conduct constituting the offence occurs wholly on or after that commencement.

8 Review of amendments

- (1) The Parliamentary Joint Committee on Intelligence and Security must review the operation and effectiveness of the amendments made by this Schedule.
- (2) The Committee must:
 - (a) begin the review before the end of the period of 2 years beginning on the day on which this Schedule commences; and
 - (b) report the Committee's comments and recommendations to each House of the Parliament as soon as practicable after completing the review.

*[Minister's second reading speech made in—
House of Representatives on 12 September 2024
Senate on 6 February 2025]*

(105/24)
