

Legislative Council—No 89

As introduced and read a first time, 2 December 2020

South Australia

Statutes Amendment (Hate Crimes) Bill 2020

A BILL FOR

An Act to amend the *Criminal Law Consolidation Act 1935* and the *Sentencing Act 2017*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Statutes Amendment (Hate Crimes) Act 2020*.

5 2—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Criminal Law Consolidation Act 1935*

3—Amendment of section 5AA—Aggravated offences

- 10 (1) Section 5AA(1)—after paragraph (e) insert:

- (ea) the offender committed the offence—

- (i) as a result of, or for reasons related to, the offender's hatred for, or prejudice against, a particular group or groups of people (including, without limiting this paragraph, people of a particular race, religion, sex, sexual orientation, gender identity or age, or people having an intersex variation or a particular disability); and
- (ii) knowing, or believing, that the victim was a member of that group or groups,

- 20 (whether or not there were also other reasons for the commission of the offence);

(2) Section 5AA—after subsection (2) insert:

(2aa) For the purposes of subsection (1)(ea)(i)—

- (a) the question of whether a person hates, or is prejudiced against, a particular group of people is to be determined according to the standards of ordinary people; and
- (b) the reasons (if any) for a person's hatred or prejudice a particular group of people are to be disregarded.

Part 3—Amendment of *Sentencing Act 2017*

4—Amendment of section 11—Individual sentencing factors

Section 11(1)—after paragraph (c) insert:

- (ca) whether the offence was wholly or partly motivated by hatred for, or prejudice against, a group of people to which the defendant believed the victim belonged (including, without limiting this paragraph, people of a particular race, religion, sex, sexual orientation, gender identity or age, or people having an intersex variation or a particular disability);

Schedule 1—Transitional provisions

1—Transitional provision—*Criminal Law Consolidation Act 1935*

Section 5AA(1)(ea) and (2aa) of the *Criminal Law Consolidation Act 1935* (as enacted by this Act) will be taken not to apply in relation to an offence committed before the commencement of this clause.

2—Transitional provision—*Sentencing Act 2017*

Section 11(1)(ca) of the *Sentencing Act 2017* (as enacted by this Act) will be taken not to apply in relation to sentencing for an offence that occurred before the commencement of this clause.