



An Bille um Cheartas Coiriúil (Coireacht Fuatha), 2020
Criminal Justice (Hate Crime) Bill 2020

Mar a tionscnaíodh

As initiated



**AN BILLE UM CHEARTAS COIRIÚIL (COIREACHT FUATHA), 2020
CRIMINAL JUSTICE (HATE CRIME) BILL 2020**

Mar a tionscnaíodh

As initiated

CONTENTS

Section

1. Interpretation
2. Offence aggravated by hate crime
3. Sentencing for a relevant offence aggravated by hate crime
4. Penalty
5. Power of court to include supervision of an offender as part of a sentence
6. Short title, collective citation and commencement

SCHEDULE

RELEVANT OFFENCES FOR THE PURPOSES OF THIS ACT

ACTS REFERRED TO

Criminal Damage Act 1991 (No. 31)
Criminal Justice (Public Order) Act 1994 (No. 2)
Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50)
Criminal Justice Act 2011 (No. 22)
Criminal Law (Rape) (Amendment) Act 1990 (No. 32)
Criminal Law (Sexual Offences) Act 1993 (No. 20)
Criminal Law (Sexual Offences) Act 2006 (No. 15)
Equal Status Acts 2000 to 2018
Gender Recognition Act 2015 (No. 25)
Non-Fatal Offences Against the Person Act 1997 (No. 26)



**AN BILLE UM CHEARTAS COIRIÚIL (COIREACHT FUATHA), 2020
CRIMINAL JUSTICE (HATE CRIME) BILL 2020**

Bill

entitled

An Act to make provision for hate crime; the imposition of a heavier penalty on an offender whose commission of a relevant offence (a list of which is contained in the schedule to this Act) is accompanied by hate crime against an individual based on said individual's asylum or refugee status, race, colour, religion, nationality, ethnicity, disability, sexual orientation, transgender identity, sex characteristics, age or perceived age and to provide for related matters. 5 10

Be it enacted by the Oireachtas as follows:

Interpretation

1. In this Act—

“disability” has the same meaning assigned to it by the Equal Status Acts 2000 to 2018 and includes physical, psychological, mental, intellectual developmental or sensory impairment as well as chronic illness of any kind; 15

“disability hate crime” includes hate crime against an individual with a disability due to a prejudice held by an offender against a particular disability;

“hate crime” includes any offence that is perceived by a victim or any other person, to be wholly or partially motivated by prejudice against a relevant individual based on said individual's asylum or refugee status, nationality, religion, colour, race, disability, ethnicity (including members of the Traveller and Roma communities), gender identity and expression, sexual orientation, transgender identity, sex characteristics or actual or perceived age; 20

“homophobia” includes negative and uninformed feelings towards homosexuality or individuals who are identified as, or perceived as being lesbian, gay, bisexual or transgender; 25

“offence” means relevant offence;

“prejudice” includes a preconceived belief about an individual which belief is not based on reason or actual experience; 30

“racism” includes prejudice against, or antagonism towards an individual on the basis of his or her race or ethnicity and includes prejudice against, or antagonism towards a relevant individual;

“relevant individual” includes individuals who are identified on the basis of their asylum or refugee status, nationality, religion, (including no religion), colour, race, disability, ethnicity (including members of the Traveller and Roma communities), gender identity and expression, sexual orientation, transgender identity, sex characteristics or age or perceived age; 5

“relevant offence” means an offence as contained in the *Schedule* to this Act

“Roma” includes Roma, Sinti, Kale, Gypsies, Romanichels, Boyash, Ashkali, Egyptians, Yenish, Dom and Lom;

“sexual orientation” includes sexual orientation towards persons of the same sex or of the opposite sex or both; 10

“transgender identity” includes transvestite, transsexual, intersexual or having changed gender under the Gender Recognition Act 2015;

“xenophobia” includes an aversion or hostility to, disdain for, or fear of people from different cultures.

Offence aggravated by hate crime 15

2. (1) An offence is aggravated by hate crime against a relevant individual if—
- (a) at the time of committing the offence, or immediately before or after doing so, a person displays racism, homophobia, xenophobia, anti-religious prejudice or disability hate crime towards a relevant individual, or
 - (b) the offence is motivated (wholly or partly) by racist, homophobic, xenophobic, anti-religious prejudice or disability hate crime towards a relevant individual. 20
- (2) This section applies in circumstances where at the trial of a person on indictment, the prosecution states in evidence, that an offence is aggravated by hate crime against a relevant individual.

Sentencing for a relevant offence aggravated by hate crime 25

3. (1) Where it is proven or demonstrated to the satisfaction of the court, that a motivating factor for the commission of a relevant offence (as set out in the *Schedule* to this Act) was aggravated by hate crime against a relevant individual, the court shall, on conviction—
- (a) state that the offence was aggravated by hate crime against a relevant individual, 30
 - (b) record that said conviction was aggravated by hate crime against a relevant individual, and
 - (c) take said aggravation into account when determining sentence.
- (2) In determining sentence, for a relevant offence, nothing in this Act shall preclude a court from taking into consideration such other aggravating factors as may be relevant to the commission of a relevant offence, had this Act not been enacted. 35

Penalty

4. Every person guilty of committing a relevant offence, aggravated by hate crime pursuant

to *section 3(1)* shall be liable, on conviction on indictment, to the maximum penalty that can be imposed for the commission of said offence, unless the sentence would be unjust in all the circumstances, and for this purpose the court may have to regard to any matter it considers appropriate including—

- (a) whether the person pleaded guilty to the offence and if so, 5
 - (i) the stage at which he or she indicated an intention to plead guilty, and
 - (ii) the circumstances in which said indication was given,
- and
- (b) whether or not the person materially assisted in the investigation of the offence.

Power of court to include supervision of an offender as part of a sentence 10

5. In determining sentence, for a relevant offence, aggravated by hate crime pursuant to *section 3(1)*, a court may impose a sentence that includes supervision (including post-release supervision of an offender) by the Probation and Welfare Service and such sentence may include the offender undergoing a period of counselling to address his or her prejudicial beliefs against a relevant individual. 15

Short title, collective citation and commencement

6. (1) This Act may be cited as the Criminal Justice (Hate Crime) Act 2020.
- (2) This Act shall come into operation on such day as may be fixed by order of the Minister for Justice.

SCHEDULE

RELEVANT OFFENCES FOR THE PURPOSES OF THIS ACT

1. An offence under sections 2 and 3 of the Criminal Damage Act 1991.
2. An offence under section 21 of the Criminal Justice Act 2011.
3. An offence under sections 6, 7, 17, 18 and 19 of the Criminal Justice (Public Order) Act 1994. 5
4. Sections 4, 6, 7, 8, 12, 13 and 14 of the Criminal Justice (Theft and Fraud Offences) Act 2001.
5. Sections 2, 3 and 4 of the Criminal Law (Rape) (Amendment) Act 1990.
6. Sections 3, 4, 5, 6 and 7 of the Criminal Law (Sexual Offences) Act 1993. 10
7. Sections 2 and 3 of the Criminal Law (Sexual Offences) Act 2006.
8. Sections 2 to 6, sections 9 to 13 and section 15 of the Non-Fatal Offences Against the Person Act 1997.

An Bille um Cheartas Coiriúil (Coireacht
Fuatha), 2020

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do dhéanamh socrú maidir le coireacht fuatha; maidir le pionós níos déine a fhorchur ar chiontóir a bhfuil ag gabháil le cion iomchuí arna dhéanamh aige nó aici (is cion a luaitear sa liosta cionta atá sa Sceideal a ghabhann leis an Acht seo) coireacht fuatha i gcoinne pearsa aonair atá bunaithe ar stádas tearmainn nó dídeanaí, cine, dath, creideamh, náisiúntacht, eitneacht, míchumas, gnéaschlaonadh, féiniúlacht trasinscne nó tréithe gnéis nó aois nó aois mheasta na pearsan aonair sin agus do dhéanamh socrú i dtaobh nithe gaolmhara.

Na Seanadóirí Fiona M. Ní Lochlainn, Lisa Nic
Ambróis agus Robbie Gallagher a thug isteach,

6 Samhain, 2020

Criminal Justice (Hate Crime) Bill 2020

BILL

(as initiated)

entitled

An Act to make provision for hate crime; the imposition of a heavier penalty on an offender whose commission of a relevant offence (a list of which is contained in the Schedule to this Act) is accompanied by hate crime against an individual based on said individual's asylum or refugee status, race, colour, religion, nationality, ethnicity, disability, sexual orientation, transgender identity, sex characteristics, age or perceived age and to provide for related matters.

Introduced by Senators Fiona O'Loughlin, Lisa
Chambers and Robbie Gallagher,

6th November, 2020

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ó

FOILSEACHÁIN RIALTAIS,

52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2.

(Tel: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)

nó trí aon díoltóir leabhar.

DUBLIN

PUBLISHED BY THE STATIONERY OFFICE

To be purchased from

GOVERNMENT PUBLICATIONS,

52 ST. STEPHEN'S GREEN, DUBLIN 2.

(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)

or through any bookseller.

€1.27

ISBN 978-1-4468-6809-6



9 781446 868096