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Legislative Summary

BILL C-9: AN ACT TO AMEND THE CRIMINAL CODE (HATE PROPAGANDA, HATE CRIME AND ACCESS TO RELIGIOUS OR CULTURAL PLACES)

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Legislative Summary of Bill C-9
(Preliminary version)

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LEGISLATIVE SUMMARY OF BILL C-9: AN ACT TO AMEND THE CRIMINAL CODE (HATE PROPAGANDA, HATE CRIME AND ACCESS TO RELIGIOUS OR CULTURAL PLACES)

1 BACKGROUND

1.1 OVERVIEW OF BILL C-9

Bill C-9, An Act to amend the Criminal Code (hate propaganda, hate crime and access to religious or cultural places) (short title: Combatting Hate Act), was introduced in the House of Commons on 19 September 2025 by the Honourable Sean Fraser, Minister of Justice and Attorney General of Canada and Minister responsible for the Atlantic Canada Opportunities Agency.¹

Bill C-9 creates new criminal offences to address hate crimes, and removes the requirement that the Attorney General consent to the prosecution of hate propaganda offences. Specifically, Bill C-9 creates a new offence that applies when another offence is motivated by hatred, a new prohibition on promoting hatred through the display of certain terrorism and hate symbols, and new offences relating to intimidation, obstruction or interference with access to places of worship and certain other places.

1.2 HATE PROMOTION AND HATE CRIMES IN CANADA

Many groups and communities in Canada have been targeted and harmed by hate speech and hate crimes, often based on personal characteristics such as race or ethnicity, religion, or sexual orientation.²

Since 2005, Statistics Canada has collected and shared police-reported hate crime statistics. The number of hate crimes reported to police has increased nearly every year since, and has more than doubled in the four most recent years of available data (2020–2023).³ According to a paper from the Department of Justice, these increases can be explained by higher actual numbers of hate crime incidents, increased public awareness and reporting, or a combination of these factors.⁴

The most recent data indicate a sharp increase in reported hate crimes between 2022 and 2023, largely driven by increases in targeting based on religion or sexual orientation. Most of the hate crimes targeting a religion were directed at Jewish and Muslim populations (900 incidents and 211 incidents, respectively).⁵

In its news release for Bill C-9, the Department of Justice also highlighted that reported hate crimes targeting race or ethnicity were most often directed at Black people.⁶

Because hate crimes target a person's identity, they can send a deeply harmful message to both the individual and their community. Research shows that victims are likely to experience various forms of psychological trauma. Harms can extend beyond the direct victims of crime and affect impacted communities broadly.⁷

1.3 CANADIAN LEGAL CONTEXT

1.3.1 Hate Propaganda Offences

The *Criminal Code* (the Code) has long included offences relating to hate speech, including prohibiting hate propaganda and allowing for increased penalties for crimes motivated by hate.⁸

Hate promotion offences and related provisions are set out at sections 318 to 320.1 of the Code. Some key components are as follows:

- Section 318(4) defines an “identifiable group” as any section of the public distinguished by colour, race, religion, national or ethnic origin, age, sex, sexual orientation, gender identity or expression, or mental or physical disability.
- Section 318 makes it an offence to advocate or promote genocide, which is defined as killing members of an identifiable group or deliberately inflicting on an identifiable group conditions of life calculated to bring about the group's physical destruction. Section 318(3) requires the consent of the relevant attorney general before proceedings can be instituted.
- Section 319(1) makes it an offence to communicate in a public place any statement that incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace (such as a riot, an act of violence or other disorderly conduct).
- Section 319(2) makes it an offence to communicate statements that willfully promote hatred against an identifiable group, unless this communication is in private conversation. As with offences under section 318, prosecution under section 319(2) cannot be instituted without the consent of the attorney general.
- Any person charged under section 319(2) of the Code may put forward one of the defences set out in section 319(3), which include that:
 - The communicated statements are true.
 - An opinion or argument was expressed in good faith and either concerns a religious subject or is based on a belief in a religious text.

- The statements are relevant to a subject of public interest, and there are reasonable grounds to believe they are true.
- The statements are meant to point out matters that produce feelings of hatred toward an identifiable group and are made in good faith for the purpose of their removal.
- Sections 320 and 320.1 include provisions that allow a court to order the seizure and confiscation of hate propaganda, including when it is stored and made available using computers and similar technology.

Although there is little jurisprudence that deals with Canada's anti-hate laws, the relevant court decisions include important judicial interpretations of section 2(b) of the *Canadian Charter of Rights and Freedoms* (the Charter), which guarantees the right to freedom of expression. This right may be limited by laws and upheld by courts when it can be demonstrated that the restrictions are justifiable in a free and democratic society.

In a 1991 case, *R. v. Keegstra*,⁹ the majority of the Supreme Court of Canada recognized that the offence in section 319(2) of the Code infringed the right to freedom of expression, but it upheld the law as being a reasonable limit under section 1 of the Charter (i.e., reasonable in a free and democratic society). For one, the Court noted the substantial harm caused by hate speech and how hate speech does not contribute to the “fostering of a vibrant democracy where the participation of all individuals is accepted and encouraged.”¹⁰ The Court determined that the law was “proportional” in its purpose and effects, because the various safeguards – including definitional limits – serve to minimally impair the right.

The Court also discussed what constitutes “hatred” for the purposes of these laws. It described how hatred “connotes emotion of an intense and extreme nature that is clearly associated with vilification and detestation.”¹¹

In *Saskatchewan (Human Rights Commission) v. Whatcott*, the Supreme Court upheld the constitutionality of the prohibition against hatred in section 14(1)(b) of *The Saskatchewan Human Rights Code* at the time, as a reasonable limit on free expression, at least in part.¹² It prohibited “any representation” (i.e., messages or other publications) that “exposes or tends to expose to hatred, ridicules, belittles or otherwise affronts the dignity of any person or class of persons on the basis of a prohibited ground.”¹³ In its reasons, the Court reviewed its previous decisions, again underscoring the harms of hate speech which include its “tendency to silence the voice of its target group” in a way that is detrimental to the values underlying freedom of speech. It explained that only speech of an “ardent and extreme” nature should be considered to meet the definition of hatred. In particular, subjecting vulnerable groups to detestation or vilification was found to be the type of expression

that constitutes hate speech and was the appropriate focus of *The Saskatchewan Human Rights Code*. However, the Court found that the phrasing in section 14(1)(b) on speech that is belittling or that affronts the dignity of a person was not sufficiently egregious to justifiably limit freedom of expression; the Court found that it was unconstitutional, and consequently, it was struck from the legislation.

Some stakeholders have expressed concern about the requirement that the Attorney General consent to proceedings for hate propaganda offences, as well as concerns about the lack of a specific offence for the use of hate symbols. These concerns were reflected in a 2024 report of the House of Commons Standing Committee on Justice and Human Rights entitled *Heightened Antisemitism in Canada and How to Confront It*, which included the following recommendations:

- That the Government of Canada consider removing the requirement to obtain the consent of the provincial Attorney General in order to prosecute certain hate crimes[; and]
- ...
- That the Government of Canada take steps to ban the display of symbols of terrorist organizations that are listed under the *Criminal Code*.¹⁴

1.3.2 Hate as a Factor in Sentencing

Section 718.2(a)(i) of the Code provides that if any offence is “motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or gender identity or expression, or on any other similar factor,” that motivation should be considered an aggravating circumstance for sentencing.

Nevertheless, some stakeholders have expressed concern about the lack of standalone hate crime provisions in the Code for serious offences. These concerns were reflected in a 2023 report of the Standing Senate Committee on Human Rights entitled *Combating Hate: Islamophobia and its impact on Muslims in Canada*, which recommended: “That the Department of Justice undertake public consultations – with a particular focus on affected communities – and introduce amendments to create specific *Criminal Code* offences for hate-motivated crimes.”¹⁵

This recommendation was reiterated (alongside all the Senate committee’s other recommendations) in a 2024 report of the House of Commons Standing Committee on Justice and Human Rights entitled *Islamophobia on the Rise: Taking Action, Confronting Hate and Protecting Civil Liberties Together*.¹⁶

A variety of existing criminal offences may apply in situations involving individuals being obstructed or intimidated near a place of worship, depending on the facts of the case. These include the following provisions of the Code:

- section 176(2) (disturbing religious worship or certain meetings);
- section 430(4.1) (mischief relating to religious property);
- section 264 (criminal harassment);
- section 264.1 (uttering threats); and
- section 423 (intimidation).

Currently, these and all other offences may be subject to a higher sentence if they are committed based on hatred toward an identifiable group.

2 DESCRIPTION AND ANALYSIS

Bill C-9 contains 12 clauses. Key clauses are discussed below.

2.1 REMOVAL OF REQUIREMENT FOR ATTORNEY GENERAL CONSENT (CLAUSES 3 AND 4)

Bill C-9 removes the requirement that the Attorney General give consent for the prosecution of hate propaganda offences by repealing sections 318(3) and 319(6) of the Code.

2.2 TERRORISM AND HATE SYMBOLS (CLAUSE 4)

Bill C-9 amends section 319 of the Code to create a new offence of promoting hatred by displaying certain terrorism and hate symbols, including Nazi symbols, and any symbol that is principally used by or associated with a listed terrorist entity. A listed terrorist entity means one that has been designated as such by the Governor in Council.¹⁷

The offence is punishable on summary conviction, or as an indictable offence with a term of imprisonment of up to two years. The amended section retains the existing forfeiture consequence whereby, upon conviction, “anything by means of or in relation to which the offence was committed” may be ordered to be forfeited for disposal.

New section 319(3.2) sets out two defences to this offence. These protect the display of such symbols for legitimate purposes that are not contrary to the public interest, such as journalism, religion, education, art, or good faith efforts to reduce hatred toward an identifiable group in Canada.

New section 319(6) clarifies that “the communication of a statement does not incite or promote hatred, for the purposes of this section, solely because it discredits, humiliates, hurts or offends.”

New section 319(7) defines hatred as “the emotion that involves detestation or vilification and that is stronger than disdain or dislike.” This is consistent with the Supreme Court of Canada’s definition and clarification in the *Whatcott* decision, which discussed the harms that the Code can legitimately seek to eliminate.¹⁸

2.3 NEW HATE CRIME OFFENCE (CLAUSES 5, 7, 10 AND 11)

Clause 5 of Bill C-9 enacts new section 320.1001 of the Code, which sets out a specific hate crime offence that applies when any offence under the Code or another Act of Parliament (referred to as the “included offence”) is motivated by hatred based on the following grounds: race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or gender identity or expression. In effect, it raises the maximum sentence for any offence if that offence is motivated by hate. The maximum sentence under the new hate crime offence is raised to either five years, 10 years, 14 years, or life imprisonment, depending on what the maximum sentence would have been for the included offence.

As Bill C-9 does not amend section 718.2(a)(i) of the Code, an offence motivated by hate would also remain an aggravating circumstance for sentencing.

Unlike section 718.2(a)(i), new section 320.1001 is limited to crimes motivated by hate, and does not include the seemingly lower threshold of “bias” or “prejudice.”¹⁹ Similarly, as new section 320.1001 does not include the expression used in section 718.2(a)(i) of “any other similar factor.”²⁰ This suggests that it provides an exhaustive list of grounds. Although case law on the scope of section 718.2(a)(i) is limited, there have been some cases in which sentencing judges have found that hatred toward political beliefs, against police officers, and against homeless people could be considered aggravating factors in sentencing based on this provision.²¹ These types of hatred do not appear to fall within the scope of new section 320.1001.

Clause 7 of Bill C-9 repeals sections 430(4.1) and 430(4.101) of the Code, which relate to hate-based mischief to religious property and educational institutions. It would appear that new section 320.1001 would encompass this behaviour based on the fact that the offence of mischief relating to religious property (section 430(4.1)) would be considered an “included offence.”

Clause 10 of Bill C-9 adds new section 662 to the Code to clarify that if an accused is charged under new section 320.1001 and there is insufficient evidence to convict them on that basis, they may still be convicted of the included offence.

Clause 11 of Bill C-9 adds new section 726.21 to the Code to clarify that conviction under new section 320.1001 of the hate crime offence means that the included offence has also been proven.

2.4 INTIMIDATION, OBSTRUCTION AND INTERFERENCE WITH PLACES OF WORSHIP, ETC. (CLAUSES 6, 8 AND 9)

Clause 6 of Bill C-9 creates new prohibitions on obstructing or interfering with access to places of worship and certain other places. This clause mirrors section 423.2 of the *Criminal Code*, which was enacted in 2021 to protect access to health care services.

Specifically, new section 423.3(1) of the *Criminal Code* makes it an offence to engage in any conduct with the intent to provoke a state of fear in a person in order to impede their access to cemeteries or to buildings and structures (or parts thereof) that are used:

- for religious worship; or
- by an identifiable group:
 - for administrative, social, cultural or sports activities, or events,
 - as an educational institution, including a daycare centre, or
 - as a residence for seniors.

Additionally, new section 423.3(2) makes it an offence to, without lawful authority, intentionally obstruct or interfere with another person’s lawful access to such a place.

Clause 8 makes new section 423.3(1) a “secondary designated offence” under section 487.04 of the Code. This allows a provincial court judge to order a warrant for the purpose of forensic DNA analysis under certain conditions, including being satisfied that it is in the best interests of the administration of justice to do so.

Clause 9 adds new section 423.3(1) to those offences listed in section 515(4.1) of the Code. When a justice makes an order for judicial interim release of a person accused of these listed offences, it must presumptively include a condition prohibiting the accused from possessing a firearm or certain other weapons. It also adds new section 423.3(1) to those offences set out in section 515(4.2) for which additional conditions must be considered by the justice when granting an order for judicial interim release, such as those that require the accused to abstain from communicating with a victim, from entering a geographic area, or to wear an electronic monitoring device.

2.5 COMING INTO FORCE

Clause 12 provides that Bill C-9 will come into force on the 30th day after it receives Royal Assent.

NOTES

1. [Bill C-9, An Act to amend the Criminal Code \(hate propaganda, hate crime and access to religious or cultural places\)](#), 45th Parliament, 1st Session.
2. Statistics Canada, "[Police-reported hate crime in Canada, 2023 – Table 1: Police-reported hate crimes, by detailed motivation, Canada, 2019 to 2023](#)," *The Daily*, 25 March 2025.
3. Statistics Canada, "[Police-reported hate crime in Canada, 2023](#)," *The Daily*, 25 March 2025.
4. Anna Ndegwa and Susan McDonald, "[Hate Crimes in Canada](#)," in Gillian Scobie et al., eds., *Victims of Crime Research Digest 2023*, No. 16, Department of Justice Canada, 2023.
5. Statistics Canada, "[Police-reported hate crime in Canada, 2023 – Table 1: Police-reported hate crimes, by detailed motivation, Canada, 2019 to 2023](#)," *The Daily*, 25 March 2025.
6. Department of Justice Canada, "[Canada introduces legislation to combat hate crimes, intimidation, and obstruction](#)," News release, 19 September 2025.
7. Anna Ndegwa and Susan McDonald, "[Hate Crimes in Canada](#)," in Gillian Scobie et al., eds., *Victims of Crime Research Digest 2023*, No. 16, Department of Justice Canada, 2023.
8. See Julian Walker, [Hate Speech and Freedom of Expression: Legal Boundaries in Canada](#), Publication no. 2018-25-E, Library of Parliament, 29 June 2018. Note that since this paper was published, section 319(2.1) was added in 2022 to criminalize the wilful promotion of antisemitism by condoning, denying, or downplaying the Holocaust, except in private conversation. It also adds a definition of the "Holocaust" to section 319(7), which is "the planned and deliberate state-sponsored persecution and annihilation of European Jewry by the Nazis and their collaborators from 1933 to 1945." For more, see [Legislative Summary of Bill C-19: An Act to implement certain provisions of the budget tabled in Parliament on 7 April 2022 and other measures](#), Publication no. 44-1-C19-E, Library of Parliament, 30 May 2022.
9. [R. v. Keegstra](#), [1990] 3 S.C.R. 697.
10. Ibid.
11. Ibid.
12. [Saskatchewan \(Human Rights Commission\) v. Whatcott](#), 2013 SCC 11.
13. Ibid., para. 3.

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14. House of Commons, Standing Committee on Justice and Human Rights (JUST), [*Heightened Antisemitism in Canada and How to Confront It*](#), Twenty-seventh report, December 2024.
15. Senate, Standing Committee on Human Rights, [*Combatting Hate: Islamophobia and its impact on Muslims in Canada*](#), Sixth report, November 2023.
16. JUST, [*Islamophobia on the Rise: Taking Action, Confronting Hate and Protecting Civil Liberties Together*](#), Twenty-sixth report, December 2024.
17. Public Safety Canada, [*Currently listed entities*](#).
18. [*Saskatchewan \(Human Rights Commission\) v. Whatcott*](#), 2013 SCC 11, para. 41.
19. Expressed as “des préjugés” in the French version of the *Criminal Code*.
20. In the French version of the *Criminal Code*, this is expressed by preceding the list of grounds with the phrase “des facteurs tel que.”
21. Kundera Provost-Yombo, Cynthia Loudon and Susan McDonald, [*Hate as an Aggravating Factor at Sentencing: A Review of the Case Law from 2007–2020*](#), Department of Justice Canada, 2020.