



An Bille um Cheartas Coiriúil (Forthromú de dheasca Claontachta), 2016
Criminal Justice (Aggravation by Prejudice) Bill 2016

Mar a tionscnaíodh

As initiated



**AN BILLE UM CHEARTAS COIRIÚIL (FORTHROMÚ DE DHEASCA
CLAONTACHTA), 2016
CRIMINAL JUSTICE (AGGRAVATION BY PREJUDICE) BILL 2016**

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ACTS REFERRED TO

Disability Act 2005 (No. 14)

Gender Recognition Act 2015 (No. 25)



AN BILLE UM CHEARTAS COIRIÚIL (FORTHROMÚ DE DHEASCA
CLAONTACHTA), 2016
CRIMINAL JUSTICE (AGGRAVATION BY PREJUDICE) BILL 2016

Bill

entitled

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An Act to make provision for aggravation by prejudice of offences in circumstances where an offence, at the time of commission, is accompanied by prejudice relating to the race, colour or ethnic origin, a disability, sexual orientation or transgender identity of a person and to provide for related matters.

Be it enacted by the Oireachtas as follows:

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Interpretation

1. In this Act—

“disability” has the same meaning assigned to it by section 2 of the Disability Act 2005 and includes physical or mental impairment of any kind;

“presumed” in *sections 2, 3 and 4* means presumed by the offender;

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

“transgender identity” includes transvestism, transsexualism, intersexuality or having changed gender under the Gender Recognition Act 2015.

Prejudice relating to race, colour or ethnic origin

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2. (1) An offence is “aggravated by prejudice relating to race” if—

(a) at the time of committing the offence or immediately before or after so committing, a person evinces towards a victim of said offence, malice or ill-will relating to the race or presumed race, colour or ethnic origin of such victim, or

(b) the offence is motivated (wholly or partly) by malice or ill-will towards persons who are of a particular race, colour or ethnic origin.

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(2) This section applies in circumstances where—

(a) it is stated in either an indictment or a complaint (or both), that an offence is aggravated by prejudice relating to race, colour or ethnic origin, and

(b) it is proved that the offence is so aggravated.

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- (3) Where *subsection (2)* applies, a court shall, on conviction—
 - (a) state that the offence is aggravated by prejudice relating to race, colour or ethnic origin,
 - (b) record the conviction in a manner that demonstrates that the offence is so aggravated, 5
 - (c) take said aggravation into account when determining sentence, and
 - (d) where the sentence in respect of the offence is different from that which the court would have imposed if said offence was not aggravated, state the extent of and the reasons for that difference.

Prejudice relating to a disability 10

- 3. (1) An offence is “aggravated by prejudice relating to a disability” if—
 - (a) at the time of committing the offence or immediately before or after so committing, a person evinces towards a victim of said offence, malice or ill-will relating to the disability or presumed disability of such victim, or
 - (b) the offence is motivated (wholly or partly) by malice or ill-will towards persons who have a disability. 15
- (2) This section applies in circumstances where—
 - (a) it is stated in either an indictment or a complaint (or both), that an offence is aggravated by prejudice relating to a disability, and
 - (b) it is proved that the offence is so aggravated. 20
- (3) Where *subsection (2)* applies, a court shall, on conviction—
 - (a) state that the offence is aggravated by prejudice relating to a disability,
 - (b) record the conviction in a manner that demonstrates that the offence is so aggravated,
 - (c) take said aggravation into account when determining sentence, and 25
 - (d) where the sentence in respect of the offence is different from that which the court would have imposed if said offence was not aggravated, state the extent of and the reasons for that difference.

Prejudice relating to sexual orientation or transgender identification

- 4. (1) An offence is “aggravated by prejudice relating to sexual orientation or transgender identity” if— 30
 - (a) at the time of committing the offence or immediately before or after so committing, a person evinces towards a victim of said offence, malice or ill-will relating to—
 - (i) the sexual orientation or presumed sexual orientation of such victim, or 35
 - (ii) the transgender identity or presumed transgender identity of such victim,

- or
- (b) the offence is motivated (wholly or partly) by malice or ill-will towards persons who have—
 - (i) a particular sexual orientation, or
 - (ii) a particular transgender identity. 5
- (2) This section applies in circumstances where—
 - (a) it is stated in either an indictment or a complaint (or both), that an offence is aggravated by prejudice relating to sexual orientation or transgender identity, and
 - (b) it is proved that the offence is so aggravated.
- (3) Where *subsection (2)* applies, a court shall, on conviction— 10
 - (a) state that the offence is aggravated by prejudice relating to sexual orientation or transgender identity,
 - (b) record the conviction in a manner that demonstrates that the offence is so aggravated,
 - (c) take said aggravation into account when determining sentence, and 15
 - (d) where the sentence in respect of the offence is different from that which the court would have imposed if said offence was not aggravated, state the extent of and the reasons for that difference.

Short title and commencement

- 5. (1) This Act may be cited as the Criminal Offences (Aggravation by Prejudice) Act 2016. 20
- (2) This Act shall come into operation on such day as may be fixed by order of the Minister for Justice and Equality.

An Bille um Cheartas Coiriúil (Forthromú de dheasca Claontachta), 2016

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do dhéanamh socrú maidir le cionta a fhortromú de dheasca claontachta in imthosca ina bhfuil ag gabháil le cion, tráth a dhéanta, claontacht a bhaineann le cine, dath nó bunadh eitneach, míchumas, gnéaschlaonadh nó féiniúlacht trasinscne duine agus do dhéanamh socrú i dtaobh nithe gaolmhara.

*Na Teachtaí Margaret Murphy O'Mahony agus
Fiona Ní Lochlainn a thug isteach,*

21 Iúil, 2016

Criminal Justice (Aggravation by Prejudice)
Bill 2016

BILL

(as initiated)

entitled

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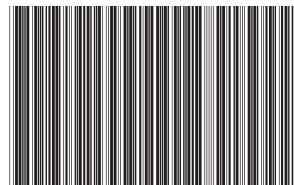
*Introduced by Deputies Margaret Murphy
O'Mahony and Fiona O'Loughlin,*

21st July, 2016

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