

Media Release

Jaclyn Symes MLC

Leader of the Government in the Legislative Council

Attorney-General

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Wednesday, 22 June 2022

NEW LAWS CRIMINALISING GROSSLY OFFENSIVE PUBLIC CONDUCT

The Andrews Labor Government is acting to strengthen and clarify our laws around serious and disgraceful public behaviour to better meet the expectations of the Victorian community and help people feel safer.

The Labor Government will today introduce the *Crimes Legislation Amendment Bill 2022*, which creates a new statutory offence of engaging in conduct that is grossly offensive to community standards of behaviour. Those convicted under the offence will face a maximum penalty of five years' imprisonment.

The proposed new laws have been developed following the events surrounding the horrific Eastern Freeway crash in 2020, and after heartfelt campaigning by Stuart Schulze whose wife Leading Senior Constable Lynette Taylor died in the crash. Senior Constable Kevin King, Constable Joshua Prestney and Constable Glen Humphris were also killed in the force's deadliest incident in its history.

The Eastern Freeway tragedy highlighted a gap in responding to instances of grossly offensive conduct. The common law offence of outraging public decency that was used in that case is archaic, unclear in its scope and does not have a clear maximum penalty – it will be abolished as part of the new offence's introduction.

The new offence provides a modern response to public acts that are grossly offensive and cause significant harm and distress. It also sets a clear maximum penalty that can better guide sentencing judges when compared to the common law offence which had no set penalty.

The offence will apply to conduct in a place where people can see or hear it publicly. It will require an accused person to know, or that a reasonable person would have known, their conduct is grossly offensive.

What counts as grossly offensive will require considering the contemporary standards of our diverse and tolerant society. There will be defences for good faith and reasonable conduct that is in the public interest.

Conduct such as being intoxicated or just using indecent, obscene, or profane language are not considered to be grossly offensive and will be excluded from this offence.

While people are rarely charged with grossly offensive conduct, it is important that clearer guidance is set in law about how the conduct should be dealt with. The law includes strong safeguards to ensure the offence is not used to target anyone unfairly, including the Director of Public Prosecutions' agreement to the offence being charged.

As an unrelated item, the Bill will also defer the decriminalisation of public drunkenness to November 2023. This extension will provide more time to trial and evaluate the health-based response to ensure the state-wide model is evidence-based and there are Aboriginal-led services in place.

Quotes attributable to Attorney-General Jaclyn Symes

"Public spaces are for everyone – it's important that Victorians can feel safe to use and enjoy them without intimidation or distress."

"As times change, our laws must change with them to keep up with what Victorians expect of their justice system – while the use of this new offence will likely be small, it's important that it's clear and modernised."

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