**Report of the Portfolio Committee on Justice and Correctional Services on the Prevention and Combating of Hate Crimes and Hate Speech Bill [B 9 - 2018], dated 2 March 2023**

The Portfolio Committee on Justice and Correctional Services, having considered the **Prevention and Combating of Hate Crimes and Hate Speech Bill [B 9 - 2018]** (National Assembly – section 75),referred to it and classified by the Joint Tagging Mechanism (JTM) as a section 75 Bill, reports the Bill [B9A – 2018] with amendments.

The Committee reports further as follows:

1. The Bill was first introduced in the Fifth Parliament on 13 April 2018 but lapsed in terms of National Assembly Rule 333(2) when the Parliament dissolved ahead of the 2019 General Elections.
2. The Bill was subsequently revived by the National Assembly on 29 October 2019 and referred to the Committee for consideration and report.
3. The Committee delayed its consideration of the Bill pending the outcome of an appeal to the Constitutional Court in *Qwelane v South African Human Rights Commission and Another*[2021] ZACC 22, as the case addressed the permissible limitation of the right of freedom of speech, albeit in the context of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000.
4. Once the Constitutional Court delivered judgement on 30 July 2021, the Committee believed itself to be in a position to begin its consideration of the Bill and was briefed by the Department of Justice and Constitutional Development on the contents on 18 August 2021. Public hearings took place on 29 March 2022, as well as 17 and 18 May 2022.
5. Briefly, the Bill seeks to address the conduct of persons, sometimes violent, motivated by prejudices, in the form of hate crimes and hate speech, and to assist those who are victims of these. The Bill, therefore, creates the offences of hate crimes and hate speech and puts in place measures to prevent and combat these offences.
6. The Committee is mindful of the concerns expressed regarding the creation of these offences, especially concerning the permissible limitation of the right of freedom of expression in the context of establishing a crime of hate speech. However, it is clear from the rise in incidents of hate in South Africa, including incidents of racism that the existing law is inadequate and does not act as a deterrent. As these incidents are extremely harmful to our society, there is need for a clear message that conduct motivated by hate will not be tolerated and, as such, perpetrators will be harshly punished.

**Report for consideration.**