



**What is the Problem?** The problem originates with [Texas Government Code Sec. 448.001\(2\)](#) codified in 2021 [HB 3257](#) (Phil King) which states "**Antisemitism means a**

(1) **certain perception** of Jews that may be (2) **expressed as hatred** toward Jews." ... "

(3) **Examples of antisemitism are included with the [International Holocaust Remembrance Alliance's \(IHRA\) 'Working Definition of Antisemitism'](#)\*** adopted on May 26, 2016" (IHRA).

**NOTE:** Numbers listed above are not part of the state law but added for discussion. \*Not listed in state law.

The author of IHRA's definition, [Kenneth Stern](#), said, "using such language in law is problematic." "There's an increasingly large number of young Jews for whom their Judaism leads to an antizionist position," said Stern, director of the Bard Center for the Study of Hate. "**I don't want the state to decide that issue.**"

### **#1 - How do you adjudicate "a certain perception?" YOU CAN'T!**

[TEXAS RULES OF EVIDENCE](#) ARTICLE VII. OPINIONS AND EXPERT TESTIMONY - Perception is only found one time in Rule 701. **Opinion Testimony by Lay Witnesses** If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is: (a) **rationally based on the witness's perception**; and (b) **helpful to clearly understanding the witness's testimony** or to determining a fact in issue.

**Note:** state officials or law enforcement would be considered "expert witnesses."

### **#2 - Do you have the right to "express hatred?" YES!**

As a sacred 1<sup>st</sup> Amendment Right, so long as the speech does not fall into Categories of Unprotected Speech:" a. Incitement - [Brandenburg v. Ohio](#) (1969), b. True Threats - [Virginia v. Black \(2003\)](#) c. Fighting Words - [Fighting words](#), d. Obscenity - [Miller v. California](#) (1973) e. Defamation, etc.

a. **US District Court Western Division – Austin / October 28, 2024 – Excerpts from ruling.**

[STUDENTS FOR JUSTICE IN PALESTINE, AT THE UNIVERSITY OF § HOUSTON, et al., v. GREG ABBOTT](#), "while some may find her speech disagreeable, offensive, or even inflammatory, it is "**bedrock principle underlying the First Amendment . . . that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.**"

Texas v. Johnson, 491 U.S. 397, 414 (1989).

b. **What are current [Supreme Court Rulings](#) regarding free speech?**

These rulings clearly define the protection of free speech to include: A. [National Rifle Association of America v. Vullo \(2024\)](#) clarify protections that "**prohibits government officials from wielding their power selectively to punish or suppress speech.**"

### **#3 - Does the current antisemitism law or proposed bills that reference the IHRA definition and examples establish a protected class of citizens based on race, religion, and nationality, violating the [14th Amendment Equal Protection Clause](#)? YES!**

**#4 - On inquiry, the [11 examples of antisemitism](#) referenced in the seven antisemitism bills and two Holocaust bills were not known by authors' office staff on March 19th.** These 11 examples are not codified in state law but rather are referenced by link to a foreign website at [holocaustremembrance.com](#).

#9 example states, "Using the symbols and images associated with classic antisemitism (e.g., **claims of Jews killing Jesus** or blood libel) to characterize Israel or Israelis."

**Note:** There were more Jewish witnesses against the bills than there were Jewish witnesses for the bills.

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## “Cut and Pasted” Supplemental Information from Texas Government Code and the International Holocaust Remembrance Alliance Foreign Website

### Texas Government Code [Sec. 448.001 DEFINITIONS](#). In this chapter:

- (1) "Advisory commission" means the Texas Holocaust, Genocide, and Antisemitism Advisory Commission.
- (2) "Antisemitism" means a **certain perception** of Jews that may be **expressed as hatred** toward Jews. The term includes rhetorical and physical acts of antisemitism directed toward Jewish or non-Jewish individuals or their property or toward Jewish community institutions and religious facilities. **Examples of antisemitism are included with the International Holocaust Remembrance Alliance's "Working Definition of Antisemitism" adopted on May 26, 2016.**
- (3) "Commission" means the Texas Historical Commission.
- (4) "Genocide" means any of the following acts committed with intent to wholly or partly destroy a national, ethnic, racial, or religious group: (A) killing members of the group; (B) causing serious bodily or mental harm to members of the group; (C) deliberately inflicting on the group conditions of life calculated to wholly or partly cause the group's physical destruction; (D) imposing measures intended to prevent births within the group; or (E) forcibly transferring children of the group to another group.
- (5) "Holocaust" means the killing of approximately six million Jews and millions of other persons during World War II by the National Socialist German Workers' Party (Nazis) and Nazi collaborators as part of a state-sponsored, systematic program of genocide and other acts of persecution, discrimination, violence, or other human rights violations committed by the Nazis and Nazi collaborators against those persons.

Added by Acts 2021, 87th Leg., R.S., Ch. 897 (H.B. 3257), Sec. 1, eff. September 1, 2021.

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### IHRA non-legally binding working definition of antisemitism: ... **included but not limited to:**

1. Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.
2. Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.
3. Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by nonJews.
4. Denying the fact, scope, mechanisms (e.g. gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).
5. Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
6. Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.
7. Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.
8. Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.
9. **Using the symbols and images associated with classic antisemitism (e.g., **claims of Jews killing Jesus or blood libel**) to characterize Israel or Israelis.**
10. Drawing comparisons of contemporary Israeli policy to that of the Nazis.
11. Holding Jews collectively responsible for actions of the state of Israel.