Hate Crime Prevention

Nearly every state has a law on the books regarding hate crimes, yet the laws vary in who they protect and what types of protection are provided. States need to strengthen hate crime statutes to offer better protections to their residents.

Hate Crime Prevention

Summary

- **Thousands of hate crimes are reported each year.**
- **Hate crimes are not ordinary crimes—they are intended to send a threatening message to a particular group within a community.**
- **Hate crimes directed at Muslims, Sikhs and people of Middle Eastern or South Asian descent have increased.**
- **Hate crimes against transgender people are a serious problem.**
- **Hate crime laws send a clear message that hate will not be tolerated.**
- **Nearly every state has a hate crime statute—but they vary in who they protect and what protection they provide.**
- **States need to enact hate crime statutes if they do not already have them, or amend existing statutes to offer better protection to their residents.**

Thousands of hate crimes are reported each year.

The FBI reported 7,462 hate crime incidents in 2002. Forty-nine percent of hate crimes were based on racial prejudice. Another 19 percent were attributed to religious bias, 17 percent were based on sexual orientation, and 15 percent were motivated by prejudice against the victim's ethnicity or national origin. Since it began collecting data in 1991, the FBI has reported almost 80,000 hate crimes.[1]

Hate crimes are not ordinary crimes—they are intended to send a threatening message to a particular group within a community.

Perpetrators are motivated by intolerance and bigotry, harassing or attacking victims because of their race, ethnicity, national origin, religion, sexual orientation, gender identity or expression, or disability. A hate crime is more serious than a conventional crime because it is directed at more than just the immediate victim. Hate crimes are intended to intimidate members of the victim's community.

Hate crimes directed at Muslims, Sikhs and people of Middle Eastern or South Asian descent have increased.

Since September 11, 2001, thousands of crimes directed at Muslims, Sikhs and people of Middle Eastern or South Asian descent have been documented. Anti-Islamic hate crimes reported to the FBI in 2001 increased by more than 1,600 percent over the 2000 volume.[2] Human Rights Watch reports that at least three and as many as seven individuals were murdered in the backlash of September 11.[3] In June 2003, an Indian-American man was robbed, beaten and stabbed in Boston. His assailants mistook the Hindu man for a Muslim.

Hate crimes against transgender people are a serious problem.

Violent crimes against transgender people happen with alarming frequency. The summer of 2003 alone saw murders of transgender people in Council Bluffs, Iowa and in Houston, Indianapolis and New Haven. In Washington, DC, three transgender people were murdered during a two-week span in August. It is imperative that legislators recognize these victims and include gender identity and expression in state hate crime laws.

Hate crime laws send a clear message that hate will not be tolerated.

While hate crimes cannot be legislated out of existence, separate charges or enhanced sentences make the state's position against bias-motivated crimes clear.

Nearly every state has a hate crime statute—but they vary in who they protect and what protection they provide.

Currently, a majority of states protect against hate crimes based on race, ethnicity and religion (44), while over half protect against hate crimes based on gender (26), sexual orientation (29), and disability (39). The District of Columbia protects against all these categories of hate crimes.[4]

Many states now include transgender people in their hate crime protections.

Seven states (CA, HI, MN, MO, NM, PA and VT) and the District of Columbia now include gender identity in their hate crime laws. Both Hawaii and New Mexico strengthened their hate crime laws in 2003 by including gender identity.

States need to enact hate crime statutes if they do not already have them, or amend existing statutes to offer better protection to their residents.

Model hate crime legislation includes three provisions:

- Increasing penalties for crimes against people or property when the victim's race, ethnicity, national origin, religion, sexual orientation, gender identity or expression, or disability motivates the underlying offense.

- Allowing hate crime victims to sue for civil damages.

- Collecting data on hate crime incidents and training police how to recognize, respond to, and report such crimes.

Endnotes

[1] Federal Bureau of Investigations, "Uniform Crime Reports," November 2003.

[2] Federal Bureau of Investigations, "Hate Crimes Statistics, 2001," November 2002.

[3] Human Rights Watch, "'We Are Not The Enemy': Hate Crimes Against Arabs, Muslims, and Those Perceived to be Arab or Muslim after September 11," November 2002.

[4] Anti-Defamation League, "Hate Crimes Laws," 2003.

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For more information...

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Arab American Institute
1600 K Street NW, Suite 601
Washington, DC 20006
202-429-9210
www.aaiusa.org

Human Rights Campaign
1640 Rhode Island Avenue NW
Washington, DC 20036
202-628-4160
www.hrc.org

Leadership Conference on Civil Rights
1629 K Street NW, Suite 1000
Washington, DC 20006
202-466-3311
www.civilrights.org

National Gay and Lesbian Task Force
1700 Kalorama Road NW
Washington, DC 20009
202-332-6483
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Hate Crime Prevention Act

Summary: The Hate Crime Prevention Act establishes enhanced sentences for crimes motivated by bias, provides civil remedies, and directs the state police to maintain records and provide training.

SECTION 1. SHORT TITLE

This Act shall be called the "[STATE] Hate Crime Prevention Act."

SECTION 2. HATE CRIME PREVENTION

After section XXX, the following new section XXX shall be inserted:

(A) HATE CRIMES—ENHANCED PENALTIES

If a person charged with any felony, misdemeanor, or petty misdemeanor offense is found to have intentionally selected the victim or the victim's property because of the victim's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, gender identity or expression, physical or mental disability, national origin, or age, that person may be found guilty of a hate crime with the penalty imposed as follows:

1. Where the underlying offense is a petty misdemeanor, it shall be punishable as a misdemeanor.

2. Where the underlying offense is a misdemeanor, it shall be punishable as a class C felony.

3. Where the underlying offense is a class C felony, it shall be punishable as a class B felony.

4. Where the underlying offense is a class B felony, it shall be punishable as a class A felony.

5. Where the underlying offense is a class A felony, the maximum fine authorized shall be doubled and a 20-year term of imprisonment shall be imposed.

(B) CIVIL ACTION FOR HATE CRIMES

1. If a person commits an intentional tort and has selected the victim or the victim's property because of the victim's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, gender identity or expression, physical or mental disability, national origin, or age, any victim of that tort may file a civil action to secure an injunction, damages or other appropriate relief at law or equity. In this subsection, a victim can be a person, corporation, association or other organization.

2. In any such action, whether a tort has occurred shall be determined according to the burden of proof used in other civil actions for similar relief.

3. Upon prevailing in such civil action, the plaintiff may recover:

a. Both special and general damages, including damages for emotional distress;
b Punitive damages; and / or
c. Reasonable attorney fees and costs.

4. Notwithstanding any other provision of law to the contrary, the parent(s) or legal guardian(s) of any unemancipated minor shall be liable for any judgment rendered against such minor under this section.

(C) HATE CRIME REPORTING AND TRAINING

1. The state police shall establish and maintain a central repository for the collection and analysis of information regarding hate crimes. Upon establishing such a repository, the state police shall develop a procedure to monitor, record, classify and analyze information relating to crimes apparently directed against individuals or groups, or their property, by reason of their actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, gender identity or expression, physical or mental disability, national origin, or age.

2. All local law enforcement agencies shall report monthly to the [state superintendent of police] concerning such offenses in such form and manner as prescribed by rules and regulations adopted by the [state superintendent of police]. The [state superintendent of police] must summarize and analyze the information received and file an annual report with the governor and the state legislature.

3. All information, records and statistics collected in accordance with this subsection shall be available for use by any local law enforcement agency, unit of local government, or state agency, to the extent that such information is reasonably necessary or useful to such agency in carrying out the duties imposed upon it by law. Dissemination of such information shall be subject to all confidentiality requirements otherwise imposed by law.

4. The [state superintendent of police] shall provide training for law enforcement officers in identifying, responding to, and reporting all hate crimes.

SECTION 3. EFFECTIVE DATE—This Act shall take effect on July 1, 2004.