



FACT SHEET: Hate Crime Laws

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THE PROBLEM

Violence against individuals based on their race, religion, sexual orientation, ethnicity, disability and gender is a pervasive problem in America. Thousands of incidents are documented each year by the FBI and local community groups. According to the Leadership Council on Civil Rights, "Hate crimes are a national emergency requiring national attention."

CURRENT FEDERAL HATE CRIME LAWS

Hate Crimes Statistics Act

- In 1990 Congress passed and President George Bush signed the Hate Crimes Statistics Act. The act was reauthorized by Congress in 1996. The Hate Crimes Statistics Act was intended to provide a comprehensive picture of the status of bias crimes in this country.
- Hate crimes under the act are defined as acts against individuals based on their race, religion, sexual orientation, and ethnicity. In 1994 Congress expanded coverage to crimes based on disability.
- The law requires the U.S. Department of Justice to compile data on bias crimes from information received by the FBI and to publish an annual summary of these findings. Local law enforcement officials are not required to report such crimes to the FBI, but they are encouraged to do so.

The Hate Crimes Right to Know Act

- Passed in 1998 as part of the Higher Education Reauthorization Act, the Act raises awareness of all hate crimes on campuses across the country by requiring campus security authorities to collect and report hate crimes according to categories of prejudice, including sexual orientation bias. Campus security authorities are also required to develop programs and strategies to combat these crimes.
- Before the passage of this Act, colleges and universities were only required to report hate crimes that resulted in murder, rape, or aggravated assault. Since the vast majority of crimes on college campuses takes the form of harassment, vandalism and simple assault, this reporting scheme created a false sense of security. Students will now be able to make more informed decisions when choosing a college or university.

Hate Crimes Sentencing Enhancement Act

- In 1994 Congress passed the Hate Crimes Sentencing Enhancement Act to increase sentences when it is found "beyond a reasonable doubt" that the crime was a bias crime. This penalty enhancement law applies only to federal crimes.

Violence Against Women Act

- The Violence Against Women Act was adopted by Congress in 1994 to address violent crimes against women.

PENDING FEDERAL HATE CRIMES LEGISLATION

Hate Crimes Prevention Act

- The Hate Crimes Prevention Act (HCPA) addresses the long-standing problem of violence against the gay/lesbian/bisexual/transgender (GLBT) community by making hate crimes based on race, religion, national origin, sexual orientation, gender and disability prosecutable offenses under federal law.
- The 105th Congress ended without passing the HCPA despite 201 co-sponsors and bi-partisan support. The HCPA will be reintroduced in the 106th Congress.
- This bill has support from the Leadership Conference on Civil Rights, advocacy organizations and the Clinton administration.

State Hate Crime Laws:

- **21** states plus the District of Columbia have enhanced penalty hate crimes laws that include sexual orientation (AZ, CA, CT, DE, DC, FL, IA, IL, KY, LA, MA, ME, MN, NE, NH, NJ, NV, OR, RI, VT, WA, WI). There still remain **19** states with hate crimes laws which do not include hate crimes based on sexual orientation, and **9** states with no hate crimes laws at all. Laws in **1** state, Texas, law address hate crimes in general, but do not name specific characteristics, and are essentially unenforceable.
- The exclusion or removal of sexual orientation from hate crimes legislation by law makers is morally indefensible at a time when anti-gay violence is widespread. Failure to address this critical problem sends a dangerous message to law enforcement and the public that anti-gay violence does not exist, or worse, is somehow less reprehensible than violence against other minorities.
- In 1998, **13** states considered hate crimes bills which included sexual orientation, some as amendments to existing hate crimes laws, others as new hate crimes laws. Kentucky succeeded in passing its first-ever hate crimes bill which included sexual orientation as a protected category. California amended the definition of "gender" in its hate crimes law to include transgendered people. Thus far in 1999, hate crimes legislation has been introduced in **28** states (AL, AR, CA, CO, CT, FL, GA, HI, ID, IN, KS, MD, MN, MS, MO, MT, NM, NY, OK, PA, SC, TN, TX, UT, VT, VA, WV, WY).

WHY HATE CRIME LAWS ARE NEEDED

Although prejudice cannot be legislated out of existence, laws countering bias crime send a clear, unequivocal message to victims, perpetrators, and law enforcement officials that crimes motivated by bigotry will not be tolerated.

- Hate crimes have a greater impact on victims than other types of crimes. Research indicates that victims of bias crimes suffer two to three times more symptoms of trauma than victims of comparable crimes that do not involve prejudice.
- Hate crimes have a greater impact on communities than other types of crimes. Criminal activity based on prejudice terrorizes not only victims but the entire community of which they are a part.
- Hate crimes are an affront to the democratic principles of equality upon which this nation is founded. Attacks motivated on the basis of bias against a person's beliefs, values or identity undermine freedom of expression, association, and assembly and tear at the pluralistic fabric of our society.
- Hate crimes laws help motivate police and prosecutors to take bias crimes more seriously and are useful tools for identifying and prosecuting such violence.
- Hate crimes are vastly underreported. Hate crimes laws send a message that the criminal justice system takes these crimes seriously, and thereby encourages victims to report these crimes.
- When carefully drafted, hate crimes laws do not abridge freedom of speech as guaranteed in the First Amendment to the Constitution. In most cases, hate crimes laws do not punish speech but activity that is already defined as criminal. Speech is relevant only in that it is used to assess motivation in the commission of a crime.
- Hate crimes laws do not provide "special rights" to "special" groups. Rather, such measures afford an extra measure of protection to groups that are singled out for victimization because of their status, identity, or beliefs. Moreover, such laws apply equally to members of minority and majority groups.