
SENATOR FOR A DAY PROGRAM

SENATE BILL

NO. 5
Session of 2020

INTRODUCED BY _____ March 5, 2020

REFERRED TO SENATE JUDICIARY COMMITTEE

Hate Crimes Against Law Enforcement and First Responders

Any speech, written or spoken, that slanders a member of a first response organization or group shall be punishable with fines no more than \$200.

All money generated through violations of this enacted legislation shall be appropriated to the Pennsylvania Emergency Management Agency for emergency response activities.

This bill shall take effect immediately.

Hate Crime Laws Are a Form of Discrimination

BY JAMES B. JACOBS
AUGUST 4, 2016

Louisiana recently enacted a law defining attacking a police officer as hate crime. Texas Governor Greg Abbott proposes a similar amendment to Texas' hate crime statute. Some critics oppose these laws as watering down the meaning of hate crime, which they say should be reserved for especially powerless or vulnerable persons who are victimized because of their minority group status. While I have been a persistent critic of the hate crime law movement, if there are going to be hate crime laws, anti-police bias should certainly be covered.

While hate crime law comes in various shapes and sizes, depending on the particular state or federal version, they generally enhance punishment for crimes motivated at all by widely condemnable biases—the same ones targeted in laws aiming to rectify discrimination in housing, education and employment. However, unlike in these other contexts, the perpetrators of this *criminal* discrimination are not members of the power structure. Indeed, they are mostly young men with confused mindsets. Moreover, the remedy that hate crime laws offer is also different. The victims do not obtain benefits for which they were wrongly denied; rather, their victimizers receive especially severe punishment, usually in jails and prisons that are cauldrons of intergroup, especially inter-racial, conflict and intolerance.

The hate crime law movement re-criminalizes conduct that is already criminal. In effect, it creates a hierarchy of victims—one based upon the group identities of perpetrators and victims, as long as prosecutors can prove a bias motive. Thus, from the beginning, hate crime laws have simply given us something else to argue about: whose victimization should be punished more severely. They further politicize a law-enforcement and criminal-justice process that does best when it is perceived as being apolitical and even-handed—not a tool of identity politics.

Arguments about the kinds of crime victimization that should be defined as hate crime date back to the mid-1980s, when the concept of hate crime was invented. The early hate crime laws focused on criminals with anti-Semitic and anti-black motivation. But they did not initially cover male violence against females. Those who drafted and lobbied for the hate crime laws argued that most male violence against women is motivated by interpersonal conflict, not misogyny, and that to make such crime eligible for hate crime coverage would water down (indeed swamp) the hate crime category. Eventually, politicians rightly rejected that position and added gender bias to the list of those that transform ordinary crime into hate crime.

Hate crime law proponents also opposed recognizing racist attacks on whites as hate crime. They argued that when, for example, blacks attack whites it is invariably for economic, not bias reasons. They lost that argument in the courts. Today, the hate crime laws are often used against African-American perpetrators, perhaps in a small way adding to racial disparities.

Next the battle to hold the line against expansion of the definition of hate crime shifted to sexual orientation bias. Despite the sordid history of gay-bashing, there was much resistance to treating anti-gay and lesbian bias as a hate crime trigger because, according to the opponents, it would lead to recognition of discrimination against gays and lesbians as worthy of inclusion in anti-discrimination law generally—in housing, education and the like. Eventually, that twisted thinking was also rejected. Meanwhile, many other biases were absorbed into various state-level hate crime laws: those based on age, handicap, veteran's status, political party and family status.

Those who oppose extending hate crime coverage to anti-police crimes of violence will be no more successful than the previous hold-the-line arguments. Politicians will see no advantage in opposing the amendment, especially in light of the recent cold-blooded assassinations of law enforcement officers. Such opposition will be viewed as “anti-police.”

(Louisiana's hate crime statute already defined hate crime as an assault “because of [the victim's] actual or perceived membership or service in, or employment with, an organization.” The term *organization* would include anti-police bias. The new amendment just makes this more explicit.)

Hate crime laws should be understood as symbolic expressions rather than necessary criminal justice fixes. First they “send a message” in support of victims and the advocacy groups that speak on their behalf that “we stand with you and deplore your victimization.” Second, they tell the general public: “Your elected representatives deplore criminals, especially biased criminals.” Third, they say to would-be criminals: “Society regards selecting victims on the basis of some biases as even more deplorable than selecting victims at random or for idiosyncratic reasons.” As Governor Abbott put it last week, “At a time when law enforcement officers increasingly come under assault simply because of the job they hold, Texas must send a resolute message that the State will stand by the men and women who serve and protect our communities.”

Hate crime laws are all about expressive politics and not at all necessary for effective and fair law enforcement. Proof is often not easy to come by because offenders usually have mixed and confused motives, and if the crime is committed without epithets or a confession, motivation is difficult to establish beyond a reasonable doubt. (Though adding a hate crime count to an indictment for assault or other crime strengthens the prosecutor's hand in plea bargaining.) And clearly the U.S. does not suffer, at neither the federal nor state level, from insufficiently punitive law. This is especially true when it comes to serious crimes of violence, where long—even life—sentences are routinely available. For cold-blooded murder, Louisiana and Texas already prescribe the death

penalty. Even low-level crimes are almost always punishable much more severely than is necessary or justifiable. That is why “mass incarceration” today is viewed as a national pathology.

Assaulting, much less killing, a police officer has always, in every jurisdiction, been treated extremely seriously. In states with the death penalty, like Louisiana and Texas, murdering a police officer can already be prosecuted as a capital offense. The move to conceptualize attacks on police as hate crime is a rhetorical ploy, but that is true of the whole hate crime law movement. Soon, if not already, so many crimes will be eligible for hate crime treatment that those victims who are not covered will, perhaps rightly, feel discriminated against.

Hate crime statutes are not necessary

by John Bicknell

February 21, 2017 05:48 PM

A Mississippi bill would treat crimes against public safety personnel as an aggravating circumstance worthy of additional prison time, not convert such attacks into hate crimes.

Across the country, federal and state lawmakers fed up with high-profile attacks on law enforcement are pushing legislation that would broaden the protections of hate crime laws to include police officers and other first responders.

As tempting as it is to increase penalties for such attacks on public safety, the idea that undergirds these proposals should be resisted.

It should be resisted not because police are undeserving of extra protection – they are more than deserving – but because the underlying laws violate the foundations of American justice.

Instead of broadening hate crime laws to include more people, we should be getting rid of them altogether.

Hate crime laws are a bad idea not because of what might result from their enforcement, or because they are a slippery slope. Both of those pose dangers. But these proposals at both the state and national level are a bad idea because they are antithetical to the American idea.

You are free to think whatever hateful notions come into your head. You are not free to act on them.

Hate crime statutes turn this self-evident truth on its head. The appellation "Orwellian" is overused, but it is apt in the case of hate crimes – really, just another way to say thought crimes — which punish people for what they think rather than for what they do.

Rep. Ken Buck, R-Colo., [sponsored a bill](#) in Congress last year to make assaulting a police officer a hate crime.

Proposals to punish people for their state of mind are before legislatures in several states, including such diverse places as [Kentucky](#), [Mississippi](#), [Missouri](#), [New York](#), [Pennsylvania](#) and [Texas](#).

Mississippi's debate is instructive. The Magnolia State is weighing separate measures in the state House and Senate which show the right and the wrong way to go about protecting police officers.

The Senate passed its [bill](#) that would add police and first responders to the state's hate crimes law overwhelmingly, 37-13, on Jan. 26.

But there is a better way, and Mississippi lawmakers don't have to look far to find it.

On the other side of the Capitol, the House Judiciary Committee, approved a [measure](#) that would increase penalties for violent crimes against police, firefighters, paramedics and utility workers who are acting in their official capacity.

In effect, the House bill would treat crimes against public safety personnel as an aggravating circumstance worthy of additional prison time. It would not convert such attacks into hate crimes.

The difference might seem inconsequential, and as a matter of outcomes that might be true. But as a matter of how the government treats citizens, the difference is important.

"There is nothing new or unusual about enacting penalties for physical interference with, or attacks on, first responders or police," Walter Olson, a senior fellow at the Cato Institute's Center for Constitutional Studies, [told Watchdog](#). "A law like that can be debated on its own merits. What is new and a really terrible idea is using hate-crime laws as a way of doing so."

Louisiana has already gone down this road, enacting in May 2016 the first state [law](#) that added attacks on police officers and firefighters to the list of hate crimes.

Forty-eight states have enacted hate crime statutes (take a bow, South Carolina and Georgia).

But they're not necessary. Most of us understand that added penalties for the murder of a police officer are justified because such an attack threatens not just an individual but the safety of us all. Those on the front line stand in for those of us behind it.

But aggravating-circumstance provisions in felony statutes deal with this for actions that are aggravating, not for ideas that merely aggravate us.

Hate-crime laws, launched with the best of intentions (although faulty logic and a misunderstanding of history), have now unfortunately become a political club with which to smack around one's ideological opposites.

Many on the Left who were all too happy to endorse hate-crime inclusion for their favored constituencies now [deride such protections](#) for police officers.

Similarly, some on the Right who have [questioned the need](#) for such laws are now jumping on board when the protected class includes one of their constituencies.

Instead of seeking to increase penalties for crimes against those we like because of the nasty thoughts of those we don't, we should be focusing our efforts on defending the police against unjust attacks while ensuring officers act professionally and in the public good.

As hate crime laws expand, who to exclude as victims?

By **Rob Kuznia**

September 10, 2019 at 4:26 p.m. EDT

In California, a man is accused of a series of unprovoked attacks on homeless people. In Arizona, a Democratic congressman's aide [breaks the ankle of a Republican wearing a Make America Great Again hat](#). In Connecticut, a police officer has a brick thrown through his cruiser's window; authorities say the suspect talked about hating cops. All are acts of violence, but are they hate crimes? In a growing number of states, the answer is yes, as the definition of hate crimes expands well beyond traditional categories such as race and ethnicity, religion, national origin, gender and sexual orientation. Seven states and the District now consider homeless individuals a protected group, for example. Five states do the same for police; at least four include political affiliation or political beliefs.

Utah goes the furthest, with a new law that establishes a [whopping 18 categories](#). It adds age, service in the military, status as an emergency responder. It even counts "matriculation" — legal speak for bad blood between schools.

The state has a "pretty good rivalry" between the University of Utah and Brigham Young University, explained Republican state Sen. J. Stuart Adams, who introduced the line item. "If I'm standing outside of a bar and I've got my red University of Utah hat on, and a couple of [BYU] guys come beat me up . . . a hate crimes statute would help me." These greater protections come amid sharp increases in hate crime incidents nationwide, as reflected in federal data and outside reports. Civil rights groups are pushing the five states without any hate crime laws to pass legislation.

But broadening who is covered has divided usual allies and raised thorny questions. Should a group of individuals qualify if their key characteristic — such as wearing a police uniform or living on the street — can change? Who gets to decide when a certain threshold has been met for designating a new category, a move that enables prosecutors to tack on penalty enhancements? And, some leaders ask, at what point do these laws become so broad as to lose all meaning?

Kami Chavis, a law professor at Wake Forest University and an expert on hate crime measures, says the continuing expansions run the risk of diluting such statutes' original intention: to protect historically marginalized or persecuted groups.

"When we start broadening those categories, it is almost like the exceptions swallow the rule," Chavis said. "Our national history is bound up in racial discrimination. . . . When you start giving [protections] to every single vulnerable category, then it could have a negative effect."

Yet times and circumstances change and can warrant a more expansive approach, according to Heidi Beirich, director of the Intelligence Project at the Southern Poverty Law Center. A decade ago, she recalls, some people feared that adding gender to the federal hate crimes statute would defeat its purpose since about half the population is female.

“The view of the civil rights community was: Well, women actually are targeted in ways that men aren’t,” Beirich said. “They come from less power historically. And they face particular kinds of violence that other populations don’t.”

Hate crime laws date to the Civil Rights Act of 1968, which made it a crime to attack or issue threats against people based on “race, color, religion or national origin.” President Barack Obama added sexual orientation, gender, disability and gender identity to the list four decades later when he signed legislation specifically named for two men killed during gruesome hate crimes — [Matthew Shepard](#), who was gay, and [James Byrd Jr.](#), who was black.

In the intervening years, California became the first state to pass its own statute, followed steadily by states across the country. The more recent controversy has been over whom these measures should cover.

There has been no shortage of attacks to fuel the sharp debate. About [7,100 hate crimes were reported nationwide](#) in 2017, marking the third consecutive year of increases and a 17 percent jump over 2016, according to the FBI’s latest statistics. In the wake of the Aug. 3 mass shooting in El Paso, that trajectory is unlikely to reverse in 2019. (Officials are considering federal hate crime charges against Patrick Crusius, who [allegedly was targeting Hispanics when police say he opened fire in an El Paso Walmart.](#))

Since President Trump has been in office, his supporters have repeatedly cited instances of violence against them that they considered hate crimes. Michael Lieberman, the Anti-Defamation League’s Washington counsel, suspects such cases would be difficult to prove.

“If you have a Make America Great Again hat on or ‘I wish Hillary would have won’ hat on and you’re beaten up, it would just be hard to say” that the beating was a consequence, he noted. “What would be the evidence at the scene of the crime? . . . Usually the hate crimes that are prosecuted are not nuanced.” The greater push to expand protections has centered on the homeless and first responders, particularly police.

Civil rights groups such as the SPLC, the ADL and American Civil Liberties Union generally oppose “Blue Lives Matter” laws on the grounds that most states already have penalty enhancements for assaults on public safety workers. On the matter of the homeless, however, they are split.

The ADL is opposed. Lieberman points to a crucial distinction with homeless individuals: Their status isn't immutable. "You could be homeless one day and not the next," he said.

The SPLC disagrees, with Beirich noting that the immutability standard already flexes. After all, a person's religious affiliation is also changeable.

"The homeless are demeaned constantly," she said, "and often times on the basis of the idea that people think it's your own fault for being homeless."

That rare division emerged this spring during renewed debate about a proposal in California, which the [National Coalition for the Homeless](#) says leads the nation in crimes against homeless individuals. The previous year, video footage captured an unprovoked assault as a passerby stopped on a San Francisco sidewalk to twice kick a sleeping homeless man in the face. Police later connected the [alleged perpetrator, a 59-year-old computer technician](#), to the murder of another homeless man in a Chinatown alley.

Given such attacks, Democratic State Assemblyman Mike Gipson wanted a more encompassing law.

"If you are singled out because you're black or because you're Latino, that's a hate crime," said Gipson, an African American who spends one night a year sleeping in homeless encampments in his district in Los Angeles County. "Shouldn't we have that same law for the homeless who are being sought out because they are homeless?" Although his bill died in committee, Gipson plans to try again in 2020.

Tragedies typically propel this kind of legislation. Texas became the fourth state to make police, firefighters and emergency medical personnel a protected group under its hate crimes statute a year after [a sniper killed five officers](#) and wounded seven more in Dallas at the end of a 2016 rally protesting police shootings. The shooter told a hostage negotiator that he wanted to assassinate white officers before a remote-controlled robot killed him with a bomb.

Some national law-enforcement organizations are hesitant to discuss Blue Lives Matter laws. The United States Deputy Sheriff's Association doesn't take a position, with a spokesman explaining that the group stays "out of the political realm." Bill Johnson, executive director of the National Association of Police Organizations, said in a short email that the group supports the laws.

According to the ADL's Lieberman, no one in the United States has been criminally convicted of a hate crime against a police officer or homeless person. And in the case of police, prosecutors in most states already can turn to laws that ratchet up penalties for attacks on emergency responders. By contrast, proving that somebody attacked an officer because they were an officer is much more difficult, he said.

Connecticut's law does not separately cover police, so [the 20-year-old accused of hurling a brick at the cruiser](#) in Hartford last year was charged with a hate crime for the racial

element of the attack. He talked about targeting officers who were white — “because they shoot black people,” according to the arresting officer’s report. The charge was later dropped.

Critics sometimes point to the political bartering that can play into hate crime laws. When Maryland included the homeless under its statute in 2009, the Republican lawmaker behind the move was the same lawmaker who four years earlier had voiced strong objections to a proposal adding LGBT individuals to the list. Alex Mooney, then a state senator and now a West Virginia congressman, drew colleagues’ ire by trying to tack on a dozen other groups, including teachers, pregnant women, and obese people, according to a news report.

Most of Utah’s nonconventional groups were put on by Republicans who, like Adams, made their support of Senate Bill 103 conditional on the additions. Although Adams acknowledged recently that he isn’t sure what categories such as “marital status” and “familial status” really mean, he would have liked for the language to be even broader — to cover “heinous crimes . . . that terrorize communities, regardless of the class.”

Lauren Simpson, policy director for Alliance for a Better Utah, a progressive advocacy and government watchdog organization, criticizes the measure as overly broad. Some lawmakers even tried to include teachers and ranchers, she says.

“On the House floor, they added in political expression,” she recalled. “They said this is a great way to send a message about political civility. But I think penalty enhancements are a really inappropriate tool to try and send that message.”

How Hate Crimes Laws May Help Reduce All Crimes

By John A. Tures • 03/14/19 7:30am

There are many good reasons to support hate crimes legislation. They enjoy public support and are backed by many in law enforcement and in prosecutor offices. Such laws have received bipartisan support from legislators from both political parties. States with hate crimes laws have fewer hate groups as well. But now there's a new reason to back hate crimes bills and proposals to expand their protection: states with them have lower crime rates than states that don't.

Evidence on Hate Crimes, Violent Crimes, Property Crimes and Murder

Ten years ago, Congress passed the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act. Since then, a number of states have joined the U.S. government, passing their own laws on the statewide level. But some states still refuse to do so. These include Georgia, South Carolina, Arkansas, Indiana and Wyoming.

That could change, as the Georgia State House just passed a hate crimes bill by a 96-64 majority. If it clears the Georgia State Senate and Governor Brian Kemp, history will be made. Indiana and Charleston, South Carolina have also recently introduced such measures. Perhaps these states without a hate crimes law would change their minds if they saw the following crime data.

Using 2014 data from the Uniform Crime Reporting Statistics, the most recent year in the FBI's data tool, we can see the following results. States that don't have a hate crimes law have a violent crime rate average of 381.18 incidents per 100,000 residents. For those with a hate crimes law, that violent crime rate average drops to 342.76 incidents per 100,000.

For the murder rate, you'll find states lacking a hate crimes law sporting a statistic of 5.08 killings per 100,000 residents. That drops to a murder rate of 3.95 homicides per 100,000

residents for states prudent enough to pass a hate crimes law. For aggravated assaults, it's a similar disparity in favor of states with hate crimes laws.

Even property crime rates are lower in states that target hate crimes. States without hate crimes laws have a property crime rate of 2,938.72, compared to 2,508.94 for states with a hate crimes law, though armed robbery rates are a mite higher in hate crime law states.

2014 Data	Violent Crime Rate	Murder Rate	Property Crime Rate
States Without Hate Crimes Laws	381.18	5.08	2938.72
States With Hate Crimes Laws	342.7644	3.9533	2508.944

Other Reasons to Support Hate Crime Laws

As noted earlier, such hate crimes laws are backed by law enforcement. “The International Association of Chiefs of Police, the National Sheriffs’ Association, the former UCR Data Providers’ Advisory Policy Board (which is now part of the CJIS APB), the International Association of Directors of Law Enforcement Standards and Training, and the Association of State UCR Programs all have endorsed the UCR Program’s Hate Crime Statistics Program. In addition to this support, thousands of law enforcement agencies nationwide make crucial contributions to the program’s success as the officers within these agencies investigate offenses and report hate crimes when they determine the offenders’ actions were motivated by bias,” the FBI reports. A majority of State Attorneys General applauded the measure. And as Georgia House Republican Chuck Efration noted, the Georgia bill is backed by district attorneys as well. He gets it, as he is a former prosecutor.

Speaking of Efration, he was one of six-co-sponsors of the hate crimes bill that successfully passed the lower house of the Georgia General Assembly. These bill backers include three Republicans and three Democrats, men and women, African-Americans and whites. Georgia once had a hate crimes law back in 2000, but it was tossed out four years later for being too vague. Now, the Peach State hopes to prove it's ready to take on hate crimes, and all crimes too.

As noted earlier, hate crimes laws are also popular with the public. Not long after a domestic terrorist killed 11 worshippers at a Jewish synagogue in Pittsburgh, 75 percent of respondents in a poll described it as “extremely important” for Congress to act against such hate crimes, a bigger number than those concerned about international terrorism.

Perhaps it’s because people realize you don’t have to be part of a religious minority, or a racial minority, or an ethnic minority, gender minority, or any kind of minority, to become a target. After killing his victims, the Pittsburgh terrorist had no problem shooting police officers. And hate groups like the Nation of Islam make the list, showing the perpetrators of such acts are clearly not limited to whites.

Speaking of which, there are also more hate groups in states without a hate crimes law than states with hate crimes laws. Even hate groups can take a hint when they are wanted, or not wanted.

Nothing shows how threatened the majority of Americans are by the hate crimes from these domestic terrorists than the case of Charleston, South Carolina shooter Dylann Roof. He identified the rationale for his slaughter of nine African Americans in a church as designed to start a “race war.” That would mean hundreds, if not thousands, of whites would be slaughtered in the ensuing conflagration he hoped to start, an event that mercifully never happened. Despite that massacre and acts that would lead to many more deaths for all races, South Carolina still couldn’t empower law enforcement to do more to protect the public.

If you are really up for supporting law enforcement, prosecutors, the public and taking a stand against domestic terrorists and crime in general, contact your elected officials and let them know how you feel.