



## **HATE CRIME FAQs** **ALABAMA**

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**Note:** This guide is not exhaustive. Situations or inquiries may arise that are not answered below. In those circumstances, please call 844-9-NO-HATE.

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## 1. What is a hate crime or hate incident?

A hate crime is generally defined as a crime against a person or property that is motivated by bias, prejudice, or hatred toward the personal, or perceived personal, characteristics of a victim, including: race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.

The definition of a hate crime differs from state to state, but always includes an underlying crime.<sup>1</sup> Several states do not have separate statutes for crimes motivated by hate, but at a minimum, most states have enhanced penalties for crimes motivated by hatred based upon the above characteristics. Furthermore, if state and local authorities do not sufficiently protect victims of hate crimes, then the federal government may step in and prosecute hate crime violations.

Alabama's hate crime definition closely resembles the general definition above. In Alabama, a hate crime is defined as a "a crime, the commission of which was shown beyond a reasonable doubt to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability."<sup>2</sup>

Note that Alabama's definition of "hate crime" does not include crimes motivated by a person's sex, gender identity or sexual orientation.

A hate incident is based on the same behaviors and motivations as a hate crime, but does not rise to the level of a crime. For example, you may be a victim of hate speech, which, depending on the circumstances, may not constitute a crime (and may be protected under the First Amendment), but which may constitute a hate incident.

## 2. I believe I was the victim of a hate crime or hate incident. What should I do?

If you think you may be a victim of a hate crime or hate incident, you should immediately take the following three steps:

### STEP 1 – REPORT IT

For emergencies:

- If you (or others) have been injured or fear for your safety, call 911 immediately.
- If you are uncomfortable calling 911 or local law enforcement, consider calling the local United States Attorney, the local FBI Field Office, or the State Attorney General's office to report the offense. Understand, however, that these authorities may not respond as quickly as local law enforcement responding to a 911 call.
- Obtain medical attention if necessary.

For non-emergencies:

- If a non-emergency, call your local police station, or visit your local police office or federal law enforcement office as soon as possible to report the offense.
- If you are not comfortable calling law enforcement, consider calling a trusted community or legal services organization. You can call 1-844-9-NO-HATE to be connected to a local organization.

Follow-up and key things to remember for both emergencies and non-emergencies:

- Ensure that a police report is filed regarding the offense and obtain a copy of the report (which should include the responding officer's name and badge number).
- Request that the police report indicate that the offense may have been a hate crime or a hate incident.
- File the report with local law enforcement, the State Attorney General's office, and federal law enforcement.
- For additional support and documentation, also report it to 844-9-NO HATE.

STEP 2 – GATHER INFORMATION

- Preserve any evidence and take photographs of the evidence. For example, do not remove graffiti but instead, take photographs of the graffiti. Do not delete electronic correspondence (e.g., text messages, emails, social media posts, etc.), including your own. If you decide to involve law enforcement, you should preserve all evidence as directed by law enforcement.
- Document the experience in writing as soon as possible after the offense, including any specific words used during the offense. Record all your thoughts.
- Record any information you can remember about the perpetrator, including approximate age, height, weight, gender, race, clothing and any other distinguishing characteristics.
- Obtain contact information (names, addresses, and telephone numbers) of any other victims or witnesses to the offense.

### STEP 3 – GET ADDITIONAL SUPPORT

- Find support in the community -- through friends and family, victims' organizations, advocacy or community groups, religious organizations, legal groups, professional counseling, etc.
- Consider seeking legal representation.

Remember, you can always contact 1-844-9-NO-HATE.

#### **3. Does Alabama have a state hate crime law?**

Yes, Alabama does have a state hate crime law. Section 13A-5-13 of the Alabama Code punishes crimes “the commission of which was shown beyond a reasonable doubt to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability.”<sup>3</sup> In other words, if someone commits an underlying crime against you (e.g., assault) and it can be shown beyond a reasonable doubt that the commission of that crime was motivated by your race (for example), Alabama law provides for an enhanced punishment against the perpetrator.

#### **4. Who is protected under Alabama’s hate crime law?**

Alabama’s hate crime law protects any person who is the victim of a crime because of his or her actual or perceived:

- Race
- Color
- Religion
- National Origin
- Ethnicity
- Physical Disability
- Mental Disability

Note: Alabama’s hate crime law does not protect victims targeted due to sex, gender identity, or sexual orientation.

#### **5. Someone damaged my property and it appears to have been motivated by bias, prejudice, or hatred against a certain social group (e.g., a swastika, derogatory terms, etc). What are Alabama’s relevant laws?**

Alabama has four laws that you may turn to if someone damages your property because of bias, prejudice, or hatred.

First, Alabama’s hate crime law, discussed under Question 3, could be invoked if the underlying crime is shown beyond a reasonable doubt to have been motivated by the characteristics described above.

The second law, Ala. Code § 13A-11-12, is much more specific. It applies only to certain protected places – any “public monument or structure or place of worship or burial.” Under this law, if someone “desecrates” any of these places, then that person may be guilty of a misdemeanor.

A third law, Ala. Code § 13A-10-151 *et seq.*, punishes very serious crimes – murder, assassination, kidnapping, or a “specified offense” – that are committed with the intent “to intimidate or coerce a civilian population.” Under this law, a person who commits any of these acts with the intent “to intimidate or coerce a civilian population” may be guilty of a felony.

The fourth law is Ala. Code § 13A-6-28, which punishes cross burning “with the intent to intimidate any person or group of persons.” A person convicted under this provision will be guilty of a felony.

Note that these are criminal laws, and any claims under this code must be brought by a prosecutor.

**6. Someone attacked me or a family member. The attack appears to have been motivated by bias, prejudice, or hatred against a certain social group (e.g., before attacking, the perpetrator shouted “Go home!”). What are Alabama’s relevant laws?**

Under Alabama law, the attack itself must be a crime – “assault” (Ala. Code §§ 13A-6-20 through 22) or “menacing” (Ala. Code § 13A-6-23), for example. If the underlying crime can be shown beyond a reasonable doubt to have been motivated by the victim’s “race, color, religion, national origin, ethnicity, or physical or mental disability,” then the punishment for the underlying is enhanced by Alabama’s hate crime statute.

Note that this is a criminal law, and any claims under these sections of code for penalty enhancement must be brought by a prosecutor.

**7. Someone defaced my place of worship (or otherwise targeted a religious institution). Does Alabama have any special laws protecting religious groups from hate motivated acts?**

Alabama law provides for the crime of “Desecration of Venerated Objects” in Ala. Code § 13A-11-12. Under this statute, a person who “desecrates any public monument or structure or place of worship or burial” commits a misdemeanor. If the motivation for the desecration can be shown beyond a reasonable doubt to have been a person’s (or group of people’s) “race, color, religion, national origin, ethnicity, or physical or mental disability,” then the desecration is a hate crime.

Note that this is a criminal law, and any claims under this section must be brought by a prosecutor.

8. **Someone hung a noose at my work, burnt a religious symbol by my home, or otherwise tried to intimidate me and members of my community with a symbol or message. Are there any special laws against intimidation or terrorism in Alabama?**

Yes, Alabama has one special law that directly addresses this type of unlawful conduct. The law, Ala. Code § 13A-10-15, criminalizes “terrorist threats.” A person commits the crime of “terrorist threats” by threatening “by any means to commit any crime of violence or to damage any property” by “intentionally or recklessly terrorizing another person.” If the terrorist threat can be shown to have been motivated by the victim’s “race, color, religion, national origin, ethnicity, or physical or mental disability,” then it is a hate crime for which Alabama provides steeper penalties.

Note that this is a criminal law, and any claims under this code must be brought by a prosecutor.

9. **The state is not investigating my case or bringing a lawsuit. How can I get in touch with an attorney with the state to discuss my case?**

You can contact the State Attorney General’s Office of Victim Assistance’s toll-free telephone number: 1-800-626-7676 or the Office of the Attorney General’s main telephone number: (334) 242-7342; Your local District Attorney’s Victim/ Witness Program (County listing online, or the United States Attorney’s Office Victim/Witness Assistance Program in your district listing online. You can also contact the Stop Hate Hotline at 1-844-9-NO-HATE.

10. **The state is not investigating my case or bringing a lawsuit, but I would like to explore bringing a case with a private attorney against the perpetrator (known as a “civil case”). Does Alabama have civil laws relevant to hate crimes or hate incidents?**

Alabama does not have a civil statute authorizing a private right of action specifically based on hate crimes or hate crime incidents. However, the underlying conduct constituting the hate crime may itself be actionable. For example, if your property was vandalized, you would likely have a private right of action for trespass. See #11 below for more details.

11. **I have been attacked, put in fear of danger, intentionally made to suffer emotional distress, had my property vandalized, or harmed in another way due to an act motivated by hate. What other civil laws can I use to bring a case?**

There are a number of other civil laws that you can use to bring a case against someone who physically or emotionally injures you. This is true even if the person’s actions do not rise to the legal definition of a hate crime or hate incident. These other civil laws, or causes of action, are generally known as torts. A tort is a wrongful act that results in legal liability.

In Alabama, if someone intentionally injures you or your property, you may be able to sue that person for damages using any of the following tort causes of action:

- **Assault and Battery**

- An assault consists of an intentional and unlawful offer to touch another person in a rude or angry manner so as to create in the mind of the person assaulted the fear of a battery.
  - Any touching by a person of the body or clothes of another person in rudeness or in anger is an assault and battery.
  - After proof of assault has been made, a jury may award plaintiff nominal or compensatory damages for insult and indignity, and for hurt to the feelings, and for mental suffering and fright caused by assault.<sup>1</sup>
- **Intentional Infliction of Emotional Distress.** One who by extreme and outrageous conduct intentionally or recklessly causes severe emotional distress to another is subject to liability for such emotional distress, and if bodily harm to the other results from it, for such bodily harm.<sup>2</sup>
  - **False Imprisonment.** Under Alabama law, false imprisonment consists of the unlawful detention of the person of another for any length of time whereby he is deprived of his personal liberty. For there to be false imprisonment, there must be some direct restraint of the person, although any exercise of force, or the express or implied threat of force, by which in fact the other person is deprived of his liberty, compelled to remain where he does not wish to remain, or to go where he does not wish to go, is an imprisonment.<sup>3</sup>
  - **Trespass.** A trespass is when someone interferes with the possessor's exclusive possessory interest in property by causing substantial damage to the property. The test for deciding whether something is a trespass is whether the tort was committed by a direct application of force.<sup>4</sup>

In addition, if it can be proven that the person injured you or your property because of bias, prejudice, or hatred, you may be able to recover punitive damages. Punitive damages are damages awarded in addition to typical compensatory damages and they are generally considered to be a form of punishment. In Alabama, if you can prove by "clear and convincing evidence" that your attacker "consciously or deliberately engaged in oppression, fraud, wantonness, or malice" with regard to you, then you may recover additional damages.<sup>4</sup>

Private citizens can bring these civil tort claims.

**12. I would like to explore bringing a case with a private attorney against the perpetrator (known as a "civil case"), but I do not know any private attorneys. How can I find someone to represent me?**

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<sup>1</sup> *Hyde v. Cain*, 47 So. 1014 (Ala. 1908)

<sup>2</sup> *Martin v. Hodges Chapel, LLC*, 89 So.3d 756 (Ala. Civ. App. 2011)

<sup>3</sup> *Crown Cent. Petroleum Corp. v. Williams*, 679 So.2d 651 (Ala. 1996)

<sup>4</sup> *Rushing v. Hooper-McDonald, Inc.*, 300 So.2d 94 (Ala. 1974)

Contact your local bar association or 844-9-NO HATE.

**13. What are some local and state organizations working on hate crimes and incidents?**

The following organizations are key providers of legal assistance for victims of hate crimes and discrimination:

1. Alabama Victim Assistance  
Phone: 1-800-626-7676  
<https://victims.alabama.gov/#>
2. Your local District Attorney's Office  
A directory of Alabama's District Attorney's Offices can be found at:  
[www.alabamaprosecutor.com/DAList.aspx](http://www.alabamaprosecutor.com/DAList.aspx)
3. Alabama Victims of Crime and Leniency (VOCAL)  
Phone: (800) 239-3219  
[www.vocalonline.org](http://www.vocalonline.org)  
422 South Court Street  
Montgomery, AL 36104-4102
4. Alabama State Victim Notification Service (AlaVINE)  
Phone: 1-877-846-3425  
<https://www.vinelink.com/#/home/site/1000>

The Alabama State Victim Notification Service is a service through which victims of crime can use the telephone or internet to search for information regarding their offender's custody status and register to receive telephone and e-mail notification when the offender's custody status changes.

5. The State Bar of Alabama  
Legal Aid Services directory can be found at: <https://www.alabar.org>

**14. I need additional help. Where can I find additional information or get help?**

If you would like additional information or need additional help, please visit the Communities Against Hate resource page at [www.communitiesagainsthate.org](http://www.communitiesagainsthate.org). If the information you are seeking is not on the resource page or if you need immediate help, please contact 844-9-NO-HATE.

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<sup>1</sup> Examples of underlying crimes include: assault, battery, destruction of property, threats, rape, murder, arson, robbery, and burglary. This list of criminal offenses is not exhaustive, however, and other criminal offenses may also be considered hate crimes.

<sup>2</sup> Ala. Code. § 13A-5-13.



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<sup>3</sup> *Id.*

<sup>4</sup> Ala. Code § 6-11-20, *et seq.*