

HATE CRIME FAQs

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For more information or resources to combat hate, please visit our website at <https://8449nohate.org/> or call into our NO HATE hotline at 1-844-9-NO-HATE

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.¹ 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.

In Idaho, under Idaho Code Section 18-7901 (Title 18, chapter 79, section 18-7901), “it is the right of every person regardless of race, color, ancestry, religion or national origin, to be secure and protected from fear, intimidation, harassment, and physical harm caused by the activities of groups and individuals.” As such, it is a felony to maliciously harass any person due to race, color, national origin, religion or creed. Someone who commits this offense faces up to five years in prison or a \$5,000 fine for each occurrence or both. Under Section 18-7903, a victim of the above may sue the harasser for emotional distress, actual damages, punitive damages and attorney fees. In addition, if two or more individuals engage in paramilitary training in Idaho, they can be sentenced for up to 10 years in prison and fined up to \$50,000.²

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

¹ 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.

² Idaho Code §18-7901

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 Idaho have a state hate crime law?

The Idaho Code does not specifically use the term "hate crime". Instead, Section 18-7902 defines "malicious harassment" as a crime committed by a person who acts maliciously and with the specific intent to intimidate or harass another person, uses or threatens to use violence against another person, or damages another person's property due to that person's race, color, religion, ancestry or national origin.

In other words, if someone interferes with your civil rights by force, threat, or intimidation, or if someone knowingly defaces, damages or destroys your property (including placing cross-burnings or words or symbols or racial or religious terrorism on your property) because of your race, color, religion, ancestry or national origin then that person may be guilty of a malicious harassment under Idaho law.

4. Who is protected under Idaho's hate crime law?

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

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| • National origin; | • Religion |
| • Race | • Ancestry. |
| • Color | |

5. 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 Idaho's relevant laws?

Idaho's malicious harassment law, described above addresses attacks motivated by race, color, religion, ancestry or national origin. Under this law, it is unlawful for any person to

act with malice or specific intent to harass or intimidate based on the above factors. Idaho also has a civil remedies law that allows any victim of malicious harassment to sue the harasser for actual damages, punitive damages and attorney fees.

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

6. 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 Idaho's relevant laws?

Idaho's malicious harassment law, discussed above, provides wide protection to your real and personal property. It prohibits any person from maliciously and with the specific intent to harass another person deface any real or personal property of another person. For purposes of that section, "deface" includes, but is not limited to, "cross-burnings or the placing of any word or symbol commonly associated with racial, religious or ethnic terrorism on the property of another person without his or her permission."

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

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

Idaho does not have a specific law for defacement of a place of worship. However, Idaho Code Section 18-7902 makes it unlawful to deface any real or personal property of another person. For purposes of this section, "deface" includes, but is not limited to, cross-burnings or the placing of any word or symbol commonly associated with racial, religious or ethnic terrorism on the property of another person without his or her permission.

Note that these are criminal laws, and any claims under these sections of code 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 Idaho?

"Cross-burning or the placing of any word or symbol commonly associated with racial, religious or ethnic terrorism on the property of another person without his or her permission"³ constitutes a criminal act under Idaho's malicious harassment law, discussed above.

³ Idaho Code Ann. § 18-7902

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 Victim Office of Victims' Services (listings available at http://www.ag.idaho.gov/victimAssistance/resources_StateLocal.html) or 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 Idaho have civil laws relevant to hate crimes or hate incidents?

The Idaho Code has a chapter on Human Rights, which is intended to protect individuals from discrimination based on race, color, religion, sex or national origin or disability. As such, any person who has been the subject of unlawful discrimination can file a complaint with the Human Rights Commission.⁴

Further, a victim of malicious harassment under Section 18-7903 may sue the harasser for actual damages, punitive damages and attorney fees.

Private citizens can bring these civil claims.

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?

Idaho Section 18-7903 creates a civil cause of action for malicious harassment. As such, the victim of malicious harassment may sue the suspect for special and general damages, including but not limited to damages for emotional distress, reasonable attorney fees and costs and punitive damages.

You can also seek civil remedies available under common law, as it applies to torts such as assault, battery and intentional infliction of emotional distress. This is because Idaho adopts common law as long as there is not another Idaho law that conflicts with it. As such, you may have a claim for any of the following:

- **Assault**
 - an unlawful attempt and apparent ability to commit a violent injury to someone. Also, an intentional threat by word or act to harm someone, in addition to an ability to do so.⁵

⁴ I.C. Section 67-5907.

⁵ Idaho Code Ann. § 18-901

- **Battery**
 - intentionally and voluntarily bringing about an unconsented harmful or offensive contact with a person or to something closely associated with them (e.g. a hat, a purse). Unlike assault, battery involves an actual contact.⁶
- **Emotional Distress**
 - recover for emotional distress caused by another individual.⁷

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?

Contact your local bar association at 208-334-4500 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. Idaho Attorney General
Phone: (208)-334-2400
700 W. Jefferson Street
Boise, ID 83720-0010
2. U.S. Department of Housing and Urban Development : Housing Discrimination Hotline
Phone: (800)-669-9777
3. Crime Victim Assistance
Phone: (208)-334-4547
4. Idaho Commission on Human Rights
Phone: (208)-334-2873

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. If the information you are seeking is not on the resource page or if you need immediate help, please contact 844-9-NO-HATE.

⁶ Idaho Code Ann. § 18-903

⁷ Idaho Code Ann. § 18- 7903