

HATE CRIME FAQs LOUISIANA

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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.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.

Louisiana's hate crime definition closely resembles the general definition above. In Louisiana, a person is prohibited from committing certain criminal offenses² "against person and property because of actual or perceived race, age, gender, religion, color, creed, disability, sexual orientation, national origin, or ancestry of that person or the owner or occupant of that property or because of actual or perceived membership or service in, or employment with, an organization, or because of actual or perceived employment as a law enforcement officer, firefighter, or emergency medical services personnel."³

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.

**Please note hate crime laws were created to protect individuals targeted due to immutable characteristics. Protections for police officers or first responders are based on occupation. There are already long standing protections enhancing penalties for crimes targeting law enforcement. Expanding hate crimes protections beyond immutable characteristics that cannot or*

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 Louisiana's hate crime enhancement statute applies to the following underlying crimes: first or second degree murder; manslaughter; battery; aggravated battery; second degree battery; aggravated assault with a firearm; terrorizing; mingling harmful substances; simple or third degree rape, forcible or second degree rape, or aggravated or first degree rape; sexual battery, second degree sexual battery; oral sexual battery; carnal knowledge of a juvenile; indecent behavior with juveniles; molestation of a juvenile or a person with a physical or mental disability; simple, second degree, or aggravated kidnapping; simple or aggravated arson; communicating of false information of planned arson; simple or aggravated criminal damage to property; contamination of water supplies; simple or aggravated burglary; criminal trespass; simple, first degree, or armed robbery; purse snatching; extortion; theft; desecration of graves; institutional vandalism; or assault by drive-by shooting.

³ La. Revised Statutes Title 14 § 107.2.

should not be changed risks diluting the effect of hate crimes laws as well as other laws protecting law enforcement officers.

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 Louisiana have a state hate crime law?

Louisiana has a hate crime enhancement statute under Section 14:107.2, which enhances the punishment applicable to certain types of crimes that are motivated by “actual or perceived race, age, gender, religion, color, creed, disability, sexual orientation, national origin, or ancestry of that person or the owner or occupant of that property or because of actual or perceived membership or service in, or employment with, an organization, or because of actual or perceived employment as a law enforcement officer, firefighter, or emergency medical services personnel.”⁴ In other words, if you are a victim of a crime, or if someone knowingly defaces, damages or destroys your property under certain qualifying circumstances because of your race, age, gender, religion, color, creed, disability, sexual orientation, national origin, or ancestry, or because you serve as a law enforcement officer, firefighter or emergency medical services professional, then the perpetrator may be guilty of a hate crime under Louisiana law and thus his or her sentence may be increased as a result of the hate crime enhancement statute.

⁴ La. Revised Statutes Title 14 § 107.2.

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

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

- Race
- Age;
- Gender;
- Religion
- Color;
- Creed
 - Disability
 - Sexual Orientation
- National Origin
- Ancestry
- Employment as a law enforcement officer, firefighter or emergency medical services professional*
- Association with a person or group with one or more of these actual or perceived characteristics.

*Please note hate crime laws were created to protect individuals targeted due to immutable characteristics. Protections for police officers or first responders are based on occupation. There are already long standing protections enhancing penalties for crimes targeting law enforcement. Expanding hate crimes protections beyond immutable characteristics that cannot or should not be changed risks diluting the effect of hate crimes laws as well as other laws protecting law enforcement officers.

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 Louisiana's relevant laws?

Louisiana's hate crime enhancement statute, discussed above, provides protection to your real and personal property for certain crimes (*i.e.*, arson, criminal damage to property, burglary, criminal trespass, desecration of graves, vandalism of a religious buildings) that are motivated by race, age, gender, religion, color, creed, disability, sexual orientation, national origin, or ancestry, or because you serve as a law enforcement officer, firefighter or emergency medical services professional.

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

Louisiana has enacted several laws specifically protecting religious institutions from hate crimes and hate incidents. These laws include:

- La. Revised Statutes Title 14 § 52.1 - Simple Arson of a Religious Building

This section punishes any person who intentionally damages a church, synagogue, mosque, or building, structure or place primarily used for religious purposes by means of any explosive substance, or setting a fire. A violation of this section is punishable by a fine not exceeding \$15,000 and imprisonment with hard labor for not less than two years and not greater than fifteen years.

- La. Revised Statutes Title 14 § 62.6 - Simple Burglary of a Religious Building

This section punishes any person who unlawfully enters a church, synagogue, mosque, or building, structure or place primarily used for religious purposes and intentionally commits a felony or theft inside. A violation of this section is punishable by a fine not exceeding \$2,000 and imprisonment with or without hard labor for not less than two years and not greater than twelve years.

- La. Revised Statutes Title 14 § 225 - Institutional Vandalism

This section punishes any person who knowingly vandalizes, defaces or damages a church, synagogue, or other building, structure or place used for a religious purpose. A violation of this section is punishable by fines, imprisonment, or both. The amount in fines and length of imprisonment depends on the amount of damage to or loss of property.

- La. Revised Statutes Title 14 § 101– Desecration of graves

This section punishes any person who unlawfully opens a burial place or building where a body is located and intentionally takes or mutilates the contents inside. This section also punishes any person who, with intent or criminal negligence, damages the grave, tomb, or mausoleum in any manner. A violation of this section is punishable by a fine not exceeding \$500, imprisonment for not more than six months, or both.

- La. Revised Statutes Title 14 § 103.2 – Amplified devices in public places; quiet zones; penalties

This section punishes any person who operates or plays any sound-producing device, or sound-amplification device in excess of fifty-decibels within ten feet of the entrance of a church, synagogue, temple or other house of religious worship, while the building is occupied and services are being performed. This is provided that a sign is posted within ten feet of the front door when services are being performed. A violation of this section is punishable by imprisonment for not more than thirty days.

- La. Revised Statutes Title 14 § 103 – Disturbing the peace

This section punishes any person who foreseeably disturbs or alarms the public by interrupting any lawful assembly of people. While not specified, this section may likely be used to prosecute individuals who disturb congregations engaged in religious exercise, or proceedings in any place of worship. A violation of this section is punishable by a fine not exceeding \$100, imprisonment not exceeding ninety days, or both.

7. **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 Louisiana?**

Yes. La. Revised Statutes Title 14 §§ 40.4 and 40.5 criminalize the common hate tactic of burning a cross, displaying a noose (on the property of another or on a highway or other public place) or wearing masks or hoods with the intent to intimidate a person or group of people.

8. **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 Telephone: (877) 433-9069; 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.

9. **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 Louisiana have civil laws relevant to hate crimes or hate incidents?**

Louisiana's law against institutional vandalism, or the crime of knowingly vandalizing, defacing or damaging a church, synagogue or other building used for a religious purpose, establishes civil liability for general or special compensatory damages, including damages for emotional distress and costs.⁵

In addition, the Louisiana Commission on Human Rights, La. R.S. §51:2231 *et seq.*, which was enacted to enforce specific laws pertaining to discriminatory practices (particularly with respect to employment and access to public accommodations) in the State of Louisiana, establishes a civil cause of action for victims of discrimination. Although not specific to victims of hate crimes or hate incidents, under the Louisiana Commission on Human Rights statute, victims of discrimination may seek specific civil and administrative remedies, as well as file a private lawsuit.

10. **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?**

In Louisiana, if you are the victim of a crime that involved the use or threatened use of force that resulted in personal injury, death or catastrophic property loss (regardless of whether the crime involved a hate crime or hate incident), you may be able to recover reparations from the Crime Victims Reparations Fund under the Louisiana Crime Victims Reparations statute.⁶ The Crime Victims Reparations statute establishes a Crime Victims

⁵ LA Rev Stat. §9:2799.2.

⁶ La. R.S. § 46:1801 *et seq.*

Reparations Board to assist victims with the emotional, physical and financial aftermath of crime. You must have reported the crime to law enforcement officials within 72 hours unless there was a valid reason for later reporting and cooperate with the reasonable requests of law enforcement.

In addition, there are a number of other civil laws that you can use to bring a case directly 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. You may be able to sue that person for damages using any of the following tort causes of action:

- Battery - Battery is defined as any “harmful or offensive contact with a person, resulting from an act intended to cause the plaintiff to suffer such a contact.”⁷ An example of a battery is when someone uses a real gun to shoot another. Another, less extreme, example of a battery is when someone punches or kicks another.
- Assault - An assault is defined as “an imminent threat of battery.” Words may not be sufficient to constitute assault; however, threats coupled with a present ability to carry out the threats are sufficient when the victim is placed in reasonable apprehension of receiving injury. An example of an assault is when someone uses a toy gun to threaten another.⁸
- False Imprisonment – False imprisonment is defined as the arrest and restraint of another person against his or her will without a warrant or other statutory authority.⁹ In other words, a person is falsely imprisoned if he is wrongfully deprived of his freedom to leave a particular place by the conduct of another. An example of false imprisonment would be if someone locked you in a room and you were unable to escape.
- Intentional Infliction of Emotional Distress (“IIED”) - IIED is best defined by its elements. To bring an IIED claim, you must be able to show: (1) extreme and outrageous conduct by another who has the intent of causing, or at least has reckless disregard of the probability of causing, emotional distress; (2) that you suffered severe or extreme emotional distress; and (3) that the offender desired to inflict severe emotional distress or knew that severe emotional distress would be certain or substantially certain to result from his or her conduct.¹⁰ An example of outrageous conduct that could lead to a successful IIED claim would be someone calling your home phone and leaving threatening messages of physical violence or death.

⁷ Landry v. Bellanger, 851 So. 2d 943 (La. 2003).

⁸ Muslow v. A.G. Edwards & Sons, Inc., 509 So. 2d 1012 (La. Ct. App. 2d Cir. 1987)

⁹ Cooks v. Rodenbeck, 711 So. 2d 444 (La. Ct. App. 3d Cir. 1998)

¹⁰ See, e.g., White v. Monsanto Co., 585 So. 2d 1205 (La. 1991).

- Trespass to Land & Conversion – Trespass to land and conversion are causes of action used when another damages your real or personal property. Trespass to land applies to real property and a “trespasser” is defined as “one who goes upon another’s property without the other’s consent.”¹¹ An example of trespass to land would be if someone vandalized, or otherwise damaged, your front lawn. Conversion, on the other hand, applies to personal property and is defined as “any wrongful exercise or assumption of authority over another’s goods, depriving him or her of the possession, permanently or for an indefinite time.”¹² An example of conversion would be if someone damaged your car.

Private citizens can bring these civil tort claims. Civil tort claims general must be brought within one year of the date of the offense.

11. 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 or 844-9-NO HATE.

12. 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. Louisiana Commission on Law Enforcement and Administration of Criminal Justice (Crime Victim Reparations Board)
Phone: 1-888-6-VICTIM
<http://www.lcle.state.la.us/programs/cvr.asp>
2. Louisiana State Police Victim/Witness Assistance
Phone: 1-888-342-6110
<http://www.lsp.org/assistance.html>
3. Your local District Attorney’s Office
A directory of Louisiana’s District Attorney’s Offices can be found at:
http://www.ldaa.org/main/da_roster
4. Louisiana Law Help
Legal Aid Services directory can be found at:
<http://louisianalawhelp.org/>
5. Arcadiana Legal Service
Phone: 1-337-237-4320
<http://www.la-law.org/>

¹¹ Britt Builders Inc. v. Brister, 618 So.2d 899 (La.App. 1st Cir. 1993).

¹² Ultra Fabricators, Inc. v. M C Bank and Trust Co., 724 So. 2d 210 (La. Ct. App. 1st Cir. 1998).

6. State Attorney General's Office
Phone: (225) 326-6079

13. 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.