



LAWYERS' COMMITTEE FOR
CIVIL RIGHTS
UNDER LAW

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HATE CRIME – FAQs

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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.* 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.

Missouri's hate crime statute provides enhanced penalties for crimes which the state believes to be knowingly motivated because of the victim's (1) race, (2) color, (3) religion, (4) national origin, (5) sex, (6) sexual orientation, or (7) disability.¹

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.

* 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.

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, e-mails, 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 Missouri have a state hate crime law?

Yes. Missouri criminal law provides penalty enhancement provisions for certain crimes motivated by hate. If the state believes that the perpetrator of certain crimes was motivated by the victim's "race, color, religion, national origin, sex, sexual orientation or disability," then the state may charge the offender with a more serious crime. Further, if the state pleads and proves that a crime eligible for enhanced punishment was motivated by any of the foregoing factors, the court must assess punishment (and may not suspend the imposition of a sentence).²

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

Missouri's hate crime law protects any person who is the victim of a crime because of their:

- Race;
- Color
- Religion;
- National Origin;
- Sex;
- Sexual Orientation; or
- Disability

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 Missouri’s relevant laws?

Under Missouri law, first and second degree property damage and first degree trespass are included in the list of criminal offenses eligible for enhanced penalties if the offender is motivated by race, color, religion, national origin, sex, sexual orientation or disability of the victim. While there is no separate criminal offense under Missouri law, proof of such motivating factors are grounds for mandatory punishment and heightened penalties (i.e., increased fines or longer prison sentences) for the offender.³

Note: These are criminal laws, and thus, 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 Missouri’s relevant laws?

Under Missouri law, third degree assault and first degree harassment are included in the list of criminal offenses eligible for enhanced penalties if the offender is motivated by race, color, religion, national origin, sex, sexual orientation or disability of the victim. While there is no separate criminal offense under Missouri law, proof of such motivating factors are grounds for mandatory punishment and heightened penalties (i.e., increased fines or longer prison sentences) for the offender.⁴

Note: these are criminal laws, and thus, 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 Missouri have any special laws protecting religious groups from hate motivated acts?

As Missouri has a number of special laws that protect religious groups and places of worship from hate motivated acts. These laws include:

House of Worship Protection Act: Under Missouri law, it is a crime if someone “intentionally and unreasonably disturbs, interrupts, or disquiets any house of worship by using profane discourse, rude or indecent behavior, or making noise either within the house of worship or so near it as to disturb the order and solemnity of the worship services” or “intentionally injures, intimidates, or interferes with or attempts to injure, intimidate, or interfere with any person lawfully exercising the right of religious freedom in or outside of a house of worship or seeking access to a house of worship, whether by force, threat, or physical obstruction.” A “**house of worship**” is defined as any “church,

synagogue, mosque, other building or structure, or public or private place used for religious worship, religious instruction, or other religious purpose.”⁵

Cross Burning: Under Missouri law, it is a crime if someone “burns or causes to be burned, a cross with the purpose to frighten, intimidate, or cause emotional distress to any person or persons.”⁶

Institutional Vandalism: Under Missouri law, it is a crime if someone vandalizes, defaces or otherwise damages (among other places) a “church, synagogue or other building, structure or place used for religious worship or other religious purpose.”⁷ Further, Missouri law also provides a civil cause of action for bodily injury or property damage arising from the crime of institutional vandalism, which expressly allows victims of institutional vandalism to sue for damages (including attorneys’ fees).⁸

Note: other than the civil cause of action for institutional vandalism, 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 Missouri?

Yes. Under Missouri law, it is a crime to “burn or cause to be burned, a cross with the purpose to frighten, intimidate, or cause emotional distress to any person or persons.”⁹

Moreover, under Missouri law, a person commits the offense of making a terrorist threat if the person knowingly “communicates an express or implied threat to cause an incident or condition involving danger to life” with the purpose of “frightening ten or more people or causing the evacuation or closure of any portion of a building, inhabitable structure, place of assembly or facility of transportation.”¹⁰

Note: these are criminal laws, and thus, 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?

The Lawyers’ Committee for Civil Rights Under Law maintains the Stop Hate Resource Hotline (1-844-9-NO-HATE) which serves as a resource for organizations and individuals working to combat hate in their community and can be called for reporting and resource purposes.

You can contact the Missouri Attorney General’s Office, Victims’ Services Division at (573) 751-0309 or the Missouri Victim Assistance Network at (800) 698-9199, or the United States Attorney’s Office Victim/Witness Assistance Program in your district (listing online).

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 Missouri have civil laws relevant to hate crimes or hate incidents?

Other than an express right of action for institutional vandalism (described in [Question 7](#) above), Missouri civil law does not provide a private cause of action for hate crimes. For acts of violence and property damage, victims in Missouri seeking civil recourse should rely on general tort law. Missouri has also established a Crime Victims' Compensation Fund, designed to financially assist victims of violent crime and certain family members or dependents in paying for reasonable medical expenses, counseling expenses, funeral expenses, lost wages and loss of support.¹¹ Apprehension and prosecution of the offender is not required to receive an award from the Crime Victims' Compensation Fund; however, a conviction provides conclusive evidence that the crime occurred. As noted above, if you are the victim of any crime, it is important to report the incident to local police as soon as possible, as you may lose the right to certain benefits for failure to timely report a crime.¹²

Institutional Vandalism: Missouri law provides a civil cause of action for bodily injury or property damage arising from the crime of institutional vandalism, which expressly allows victims of institutional vandalism to sue for damages (including attorneys' fees).¹³

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 Missouri, 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 – The tort of assault requires the following elements under Missouri law: (i) the defendant attempts to injure the plaintiff; (ii) the attempt to injure is unlawful and unjustified; (iii) the defendant has the apparent and present ability to injure the plaintiff; and (iv) the plaintiff sustains damages as a result of the assault. Generally, an assault requires more than insulting, abrasive or profane words.¹⁴

Battery – The tort of battery consists of an intended, offensive, bodily contact with another.¹⁵ Contact with the body is offensive if it offends a reasonable sense of personal dignity.¹⁶ An intentional spitting on a plaintiff is an example of an offensive physical contact.¹⁷

False Imprisonment – False imprisonment is the unlawful restraint of a person against his or her will. There is no false imprisonment, however, unless the defendant intends to cause a confinement. A restraint or confinement which is not against the will of the victim is not a false imprisonment.¹⁸ An example of false imprisonment would be if someone locked you in a room and you were unable to escape.

Emotional Distress – Under appropriate circumstances, a person may recover for injuries and damages resulting from emotional distress that was caused by the intentional or negligent conduct of another. To make a case for intentional infliction of emotional

distress, a plaintiff must show that (i) the defendant's conduct was extreme and outrageous, (ii) the conduct was intentional or reckless, (iii) the conduct caused severe emotional distress that results in bodily injury to the plaintiff, (iv) the conduct was intended only to cause extreme emotional distress and (v) the conduct was so outrageous and extreme so as to be "beyond all possible bounds of decency." To prove negligent infliction of emotional distress, a plaintiff must show that (i) the defendant's conduct was negligent, (ii) the defendant should have realized that his conduct created an unreasonable risk of causing the victim's emotional distress and (iii) that the conduct caused medically diagnosable and medically significant emotional distress.¹⁹

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 is defined as the unauthorized entry by a person upon the land of another, regardless of the degree of force used, even if no damage is done, or the injury is slight. Missouri law presumes that damages result from a trespass, and even if there is no measurable loss, nominal damages may be awarded.²⁰ 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 entails the unauthorized assumption of control or possession of the personal property of another, to the exclusion of the rights of the owner or person in lawful possession.²¹ An example of conversion would be if someone damaged your car.

Note: 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?

You can contact the 844-9-NO-HATE hotline, or use the local attorney referral services listed below.

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. Missouri Attorney General's Office, Victim Services Division:
Phone: (573) 751-0309
2. Missouri Department of Public Safety Victim Services Unit:
Phone: (573) 526-1464
<http://dps.mo.gov/dir/programs/cvsu/>
3. Your local Prosecutor's Office:
A directory can be found at: <https://ago.mo.gov/criminal-division/public-safety/crime-victims/advocates-for-crime-victims>

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.

¹ Mo. Rev. Stat. §557.035.

² Mo. Rev. Stat. §557.035.

³ Mo. Rev. Stat. §557.035; see also Mo. Rev. Stat. § 569.100 (“A person commits the offense of property damage in the first degree if such person . . .[k]nowingly damages property of another to an extent exceeding seven hundred fifty dollars . . .”); Mo. Rev. Stat. § 569.120 (“A person commits the offense of property damage in the second degree if he or she . . .[k]nowingly damages property of another . . .”); Mo. Rev. Stat. § 569.140 (“A person commits the offense of trespass in the first degree if he or she knowingly enters unlawfully or knowingly remains unlawfully in a building or inhabitable structure or upon real property.”).

⁴ Mo. Rev. Stat. §557.035. See also Mo. Rev. Stat. § 565.054 (“A person commits the offense of assault in the third degree if he or she knowingly causes physical injury to another person.”); Mo. Rev. Stat. §565.090 (“A person commits the offense of harassment in the first degree if he or she, without good cause, engages in any act with the purpose to cause emotional distress to another person, and such act does cause such person to suffer emotional distress.”).

⁵ Mo. Rev. Stat. § 574.140.

⁶ Mo. Rev. Stat. § 574.140.

⁷ Mo. Rev. Stat. § 574.085.

⁸ Mo. Rev. Stat. § 537.523.

⁹ Mo. Rev. Stat. § 574.140.

¹⁰ Mo. Rev. Stat. § 574.115

¹¹ See Mo. Rev. Stat. §595.010 through §595.075.

¹² See Mo. Rev. Stat. §595.030. (“In no case may compensation [from the Crime Victims’ Compensation Fund] be paid if the police records show that such report was made more than forty-eight hours after the occurrence of such crime, unless the department of public safety finds that the report to the police was delayed for good cause.”)

¹³ Mo. Rev. Stat. § 537.523.

¹⁴ 34 Mo. Prac., Personal Injury and Torts Handbook § 10:2 (2016 ed.).

¹⁵ 34 Mo. Prac., Personal Injury and Torts Handbook § 10:2 (2016 ed.).

¹⁶ *J.D. v. M.F.*, 758 S.W.2d 177, 178 (Mo. Ct. App. E.D. 1988).

¹⁷ *Duvall v. Lawrence*, 86 S.W.3d 74, 80 (Mo. Ct. App. E.D. 2002).

¹⁸ 34 Mo. Prac., Personal Injury and Torts Handbook § 20:2 (2016 ed.).

¹⁹ 34 Mo. Prac., Personal Injury and Torts Handbook § 18:2 (2016 ed.).

²⁰ *Grossman v. St. John*, 323 S.W.3d 831, 834 (Mo. Ct. App. W.D. 2010).

²¹ E.g., *Mackey v. Goslee*, 244 S.W.3d 261 (Mo. Ct. App. S.D. 2008).