



LAWYERS' COMMITTEE FOR
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HATE CRIME FAQs **NORTH CAROLINA**

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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 and terminology of a hate crime differ from state to state, but it 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 at least some of 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.

North Carolina's hate crime law states that a person who assaults another person, damages or defaces property of another person, or threatens to do either of these acts "because of race, color, religion, nationality, or country of origin" is guilty of a Class 1 misdemeanor.² Additionally, North Carolina has laws that enhance criminal punishments and sentences for crimes motivated by racial, religious, or ethnic bias.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.

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:

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 N.C. Gen. Stat. § 14-401.14.

³ N.C. Gen. Stat. § 14-3; N.C. Gen. Stat. § 15A-1340.16(d)(17).

- 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, 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 North Carolina have a state hate crime law?

Yes, North Carolina's "ethnic intimidation" statute is a hate crime law. North Carolina General Statutes § 14-401.14(a) makes it a Class 1 misdemeanor to assault another person, damage or deface property of another person, or threaten to do either of these acts, because of racial, religious, or ethnic bias. In other words, if someone verbally or physically assaults you, threatens you, or damages or defaces your property because of your race, color, religion, nationality, or country of origin, then that person may be guilty of a hate crime under North Carolina law.

The law also makes it a Class 1 misdemeanor for any person to assemble with one or more persons to teach any technique or means to be used to commit any act in violation of N.C. Gen. Stat. § 14-401.14(a).⁴

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

North Carolina's hate crime law, N.C. Gen. Stat. § 14-401.14, protects any person who is the victim of an assault, property damage, or threat of assault or property damage because of his or her race, color, religion, nationality, or country of origin.

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 North Carolina's relevant laws?

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

⁴ N.C. Gen. Stat. § 14-401.14(b).

First, North Carolina’s “ethnic intimidation” hate crime law, discussed under Question 3, provides broad protection to your real and personal property. This hate crime law prohibits any person from damaging or defacing property of another person because of race, color, religion, nationality, or country of origin.

The second law, N.C. Gen. Stat. § 14-49, is more specific. It applies only to damage caused by explosives or incendiary devices or material. Under this law, if someone “willfully and maliciously”—that is, with feelings of hatred or ill will toward the owner, possessor, or occupant of the property⁵—damages another person’s real or personal property with the use of an explosive or incendiary device, then that person may be guilty of a felony.

A third law that may apply if someone damages or defaces your real property is N.C. Gen. Stat. § 14-144. That statute provides protection only to houses, churches, other buildings, fences and walls. It says that if someone either (1) willfully and unlawfully damages or defaces a building, house or church by any means other than burning, or (2) willfully and unlawfully destroys or pulls down any fence, wall, or enclosure by any means (including burning), then that person may be guilty of a misdemeanor or a felony, depending on the extent of the damage.

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

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

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

- N.C. Gen. Stat. § 14-49 - Malicious use of explosive or incendiary; punishment

This statute specifically protects places of worship from damage caused by explosives or incendiary devices or materials. Subsection (b1) of the statute imposes a greater penalty for damaging places of worship than the statute imposes for damaging other buildings. It states that “any person who willfully and maliciously damages, aids, counsels, or procures the damaging of any church, chapel, synagogue, mosque, masjid, or other building of worship by the use of any explosive or incendiary device or material is guilty of a Class E felony.”

- N.C. Gen. Stat. § 14-62.2 – Burning of churches and other religious buildings

⁵ *State v. Cannady*, 196 S.E.2d 617, 18 N.C.App. 213 (N.C. App. 1973).

This statute makes it a felony for anyone to set fire to or burn a church, chapel or meetinghouse.

- N.C. Gen. Stat. § 14-144 – Injuring houses, churches, fences and walls

As explained under Question 5, this statute makes it a crime to damage or deface certain buildings, including churches, as well as walls and fences.

- N.C. Gen. Stat. § 14-199 - Obstructing way to places of public worship

This statute makes it a Class 2 misdemeanor for any person to maliciously block the way leading to any place of public worship, or to stop up any spring or well commonly used by the congregation.

- N.C. Gen. Stat. § 14-288.4(a)(7)-(8) - Disorderly conduct

This section criminalizes the intentional disruption of a religious service or assembly, funeral, memorial service, or funeral procession.

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

7. Someone hung a noose at my work, burned 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 North Carolina?

Yes, North Carolina has special laws that directly address this type of unlawful conduct. N.C. Gen. Stat. § 14-12.12 makes it a crime to place a burning cross, or any image of a burning cross (real or simulated), on someone else's property. N.C. Gen. Stat. § 14-12.13 makes it unlawful to place any kind of "exhibit," such as a noose, anywhere in the State with the intent to intimidate another person or persons. The conduct described in both of these statutes is punishable as a felony when it is done with the intention of intimidating any person or persons.⁶

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

8. Someone I know is being bullied at school. Does North Carolina have any laws about bullying?

⁶ N.C. Gen. Stat. § 14-12.15.

Yes, North Carolina has several laws in place to protect students, teachers, and other individuals from bullying behavior.

One of these laws, the North Carolina School Violence Prevention Act⁷ requires every K-12 public school in North Carolina to adopt and enforce a strict anti-bullying policy to protect its students and employees. The law states that no student or school employee shall be bullied or harassed while at school, on a school bus, or at a school-sponsored function.”⁸ All schools are required to adopt and follow procedures for receiving and responding to reports of bullying, including provisions that allow people (including bullying victims) to report bullying incidents anonymously.

The North Carolina School Violence Prevention Act covers a wide range of hate-motivated conduct, including but not limited to “acts reasonably perceived as being motivated by any actual or perceived differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, socioeconomic status, academic status, gender identity, physical appearance, sexual orientation, or mental, physical, developmental, or sensory disability, or by association with a person who has or is perceived to have one or more of these characteristics.”⁹ The law applies to any bullying or harassing behavior, whether it takes the form of a pattern of gestures or written or verbal communications (including electronic communications), a physical act, or a threatening communication.¹⁰

The North Carolina School Violence Prevention Act is not a criminal law, so it does not create any crime for which a person can be prosecuted.¹¹

However, North Carolina also has several “cyber-bullying” laws that make it a crime, under certain circumstances, to engage in bullying conduct through the use of a computer or computer program. These laws may impose criminal penalties for bullying or harassing conduct directed at students or school employees when the bullying conduct is done electronically (for example, on social media).

First, N.C. Gen. Stat. § 14-458.1 makes it a crime for anyone to engage in cyber-bullying of a minor (anyone under the age of 18) or the parent or guardian of a minor. The statute defines cyber-bullying to include conduct such as creating a fake profile or website,

⁷ N.C. Gen. Stat. §§ 115C-407.15 through 115C-407.18

⁸ N.C. Gen. Stat. § 115C-407.15(a)-(b).

⁹ N.C. Gen. Stat. § 115C-407.15(a).

¹⁰ N.C. Gen. Stat. § 115C-407.15(a).

¹¹ Federal district courts have likewise declined to read the North Carolina School Violence Prevention Act to create a private civil right of action. *See, e.g., Benjamin v. Sparks*, 173 F. Supp. 3d 272 (E.D.N.C. 2016). However, North Carolina state courts have not examined whether someone may bring a civil claim for relief under this statute.

impersonating someone online, posting personal information or photos, breaking into a password-protected account, and other acts performed electronically with the intent to intimidate or torment a minor. Cyber-bullying of a minor is punishable as a Class 1 misdemeanor when the perpetrator is 18 years of age or older; for perpetrators under the age of 18, the crime is a Class 2 misdemeanor, with the alternative possibility of deferred prosecution and probation.

Second, N.C. Gen. Stat. § 14-458.2 specifically prohibits cyber-bullying of school employees by students. Under this statute, any student who uses a computer or computer network to engage in cyber-bullying with the intent to intimidate or torment a school employee shall be guilty of a Class 2 misdemeanor.

Finally, N.C. Gen. Stat. § 115C-366.4 requires that a student who is convicted of cyber-bullying a school employee be transferred to another school within the local school district. If there is not another appropriate school in the district, the student at least must be transferred to a different class or assigned a different teacher who was not involved as a victim of the cyber-bullying.

9. A prosecutor is working on my case and has brought criminal claims that are not related to a hate or bias motivation. Are there additional claims he or she can bring in the criminal context because the incident was motivated by hate or bias?

Yes, North Carolina has a number of penalty enhancement laws that provide increased punishments for perpetrators of common crimes motivated by bias, prejudice, or hatred. For example, if you were physically attacked by another individual, that would mostly likely be considered battery—a common crime. But, if you were attacked by another individual and that individual attacked you because of your race or nationality, then that battery may carry with it a hate crime penalty enhancement, and your attacker may face a longer than normal prison sentence. In North Carolina, the following penalty enhancement laws may be used for hate crimes:

- N.C. Gen. Stat. 14-3: Punishment of misdemeanors, infamous offenses, offenses committed in secrecy and malice, or with deceit and intent to defraud, or with ethnic animosity

This statute provides a penalty enhancement for misdemeanors committed because of racial, religious, or ethnic bias. It states that if any Class 2 or Class 3 misdemeanor is committed because of the victim's race, color, religion, nationality, or country of origin, the offender shall be guilty of a Class 1 misdemeanor. Likewise, if any Class A1 or Class 1 misdemeanor offense is committed because of the victim's race, color, religion, nationality, or country of origin, the offender shall be guilty of a Class H felony.

- N.C. Gen. Stat. § 15A-1340.16(d)(17): Aggravating and mitigated sentences

This is a sentence-enhancing statute for felonies. In deciding a convicted felon's punishment, a judge may impose a harsher sentence after considering any of certain listed aggravating factors. This sentence states that committing a felony offense against a victim because of the victim's race, color, religion, nationality, or country of origin is an aggravating factor.

Note that these are criminal laws, and any claims under these statutes for penalty enhancement must be brought by a prosecutor.

10. 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 North Carolina Attorney General's Office of Public Protection Section, Telephone: 1-866-719-0108, or your local District Attorney's Victim/ Witness Program (a directory of North Carolina's District Attorneys' Offices is available at <http://www.ncdistrictattorney.org/yourDA.html>). You can also contact the Stop Hate Hotline at 1-844-9-NO-HATE.

11. 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 North Carolina have civil laws relevant to hate crimes or hate incidents?

Yes, North Carolina has a civil statute, N.C. Gen. Stat. §99D-1, that allows private citizens who are victims of certain hate crimes to seek relief by bringing a civil claim. A claim under § 99D-1 arises when all three of the following have occurred:

- (1) Two or more persons, motivated by race, religion, ethnicity or gender, conspire to interfere with another person's exercise or enjoyment of his or her civil rights;
- (2) One or more of the conspirators commits an act in furtherance of the conspiracy by using force, repeated harassment, violence, physical harm, or threats of physical harm to persons or property; and
- (3) The act described in subsection (2) interferes, or is an attempt to interfere, with the victim's exercise or enjoyment of his or her civil rights, as described in subsection (1).

A victim may bring an action personally, or the North Carolina Human Relations Commission may bring an action on a victim's behalf. Forms of relief available may include an injunction ("restraining order"), damages (including emotional distress), punitive damages, and attorneys' fees and the costs of bringing the claim in court. N.C. Gen. Stat. § 99D-1 bars any claim against a governmental unit or governmental official with respect to actions taken within the scope of their official governmental duties.

12. 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 North Carolina, 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 – Intentionally placing a person in reasonable fear of an imminent, harmful or offensive contact. An example of an assault is when someone uses a toy gun to threaten another person.
- Battery – Intentional and harmful or offensive physical conduct with a person without that person's consent. Examples of batteries include shooting a person with a gun, beating a person, or kicking a person.
- False Imprisonment – The illegal restraint of a person against that person's will. An example of false imprisonment is when someone kidnaps a person and refuses to let him or her escape.
- Intentional Infliction of Emotional Distress ("IIED") – Intentional conduct that is extreme, outrageous, and causes severe emotional distress to the victim. An example of conduct that could lead to a successful IIED claim would be repeatedly stalking a person and putting that person in fear of death or bodily injury.
- Trespass to Real Property – Intentionally, and without authorization, entering or remaining present on property that another person owns or occupies. An example of trespass to real property would be if someone vandalized, or otherwise damaged, your front lawn.
- Conversion – Theft or destruction of personal property or money. An example of conversion would be slashing the tires on another person's car.

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 North Carolina, you may be awarded punitive damages only if you can prove by "clear and convincing evidence" that your attacker acted with either: (1) fraud; (2) "malice," meaning "a sense of personal ill"

toward you, that motivated the attacker to injure you or your property; or (3) “willful or wanton conduct,” meaning “the conscious and intentional disregard of and indifference to the rights and safety of others, which the [attacker] knows or should know is reasonably likely to result in injury, damage, or other harm” and which is “more than gross negligence.”¹²

Private citizens can bring these civil tort claims.

13. 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 the North Carolina Lawyer Referral Service, 1-800-662-7660 or www.NCFindALawyer.org; or contact the North Carolina State Bar, (919) 828-4620, www.ncbar.gov.

You can also call 844-9-NO HATE.

14. 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. North Carolina Attorney General’s Office Public Protection Section
Phone: (919) 716-6780
E-mail: yves@ncdoj.gov
2. North Carolina Adult Correction Victim Unit
Victim Services for Prisons, Probation and Parole
1-866-719-0108, Monday-Friday, 9 a.m.-5 p.m.
3. North Carolina Victim Assistance Network
This nonprofit agency provides information and assistance for victims and family members of crime victims. A directory of local and statewide victim services is available on its website: <http://www.nc-van.org/directory.html>
<http://www.nc-van.org/>
1-800-348-5068 or (919) 831-2857
4. North Carolina Statewide Automated Victim Assistance and Notification (NC SAVAN) - 24-hour toll-free automated offender information and notification service:

¹² N.C. Gen. Stat. §§ 1D-5, 1D-15.

877-NC SAVAN, (877) 627-2826

5. Your local District Attorney's Office
A directory of North Carolina's District Attorney's Offices can be found at: <http://www.ncdistrictattorney.org/yourDA.html>
6. Crime Victims Compensation Services
4232 Mail Service Center
Raleigh, N.C. 27699-4703
1-800-826-6200 (in North Carolina) or (919) 733-7974
7. Rape Victim Assistance –
Provides free forensic medical examinations for victims of rape or sex offenses
1-800-826-6200 (within NC) or (919) 733-7974
Office of Victim Services
4232 Mail Service Center
Raleigh, NC 27699-4703
8. North Carolina Human Relations Commission
Phone: 919-807-4420
E-mail: valerie.branch@doa.nc.gov
9. Center for Safer Schools -- North Carolina Department of Public Instruction, Division of Safe and Healthy Schools Support
<http://www.centerforsaferschools.org>
Contact: Dr. Ken Gattis, Coordinator: kenneth.gattis@dpi.nc.gov
10. North Carolina State Bar
www.ncbar.gov
(919) 828-4620
11. North Carolina Lawyer Referral Service
1-800-662-7660 or www.NCFindALawyer.org
12. Advocates for Children's Services
www.legalaidnc.org
866-219-LANC (5262)
13. North Carolina Legal Aid
www.legalaidnc.org/acs
Phone: (919) 226-0052
E-mail: acsinfo@legalaidnc.org

15. 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.