

HATE CRIME FAQs UTAH

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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.

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.

Utah does not have a statutory definition of a hate crime, but provides for sentence enhancements when the defendant committed a crime with the intent to “intimidate or terrorize” the victim, causing the victim to “reasonably fear to freely exercise” any right protected by the U.S. or Utah Constitution.² Crimes motivated by prejudice against a victim based on the fact that the victim is a member of a commonly protected category of persons (e.g., persons of particular races, ethnicities or religions), and committed with the intent to terrorize could (but does not necessarily) fall under this statute.

In its civil law, Utah generally prohibits discrimination in public places against persons on the basis of their race, color, sex, religion, ancestry, or national origin.³ Additionally, persons are protected against discrimination in housing or employment based on family status, disability, sexual orientation, or gender identity.⁴

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 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, 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 Utah have a state hate crime law?

Utah does have a state “hate crime” law, but the law does not create a stand-alone offense for hate crime prosecution. Instead, it provides for penalty enhancement where certain primary offenses are committed “with the intent to intimidate or terrorize another person” so as to prevent them from freely exercising any right protected by the U.S. or Utah Constitution. The penalty enhancement applies only to certain misdemeanor crimes which are identified in the law (including, but not limited to, assault, trespass, property destruction and theft). Thus a lower level offense could result in a higher penalty upon conviction.

While the law was titled by the Utah Legislature as a “hate crimes” law, the law differs from hate crime laws in other states in that it does not explicitly cover crimes motivated by animosity against specific protected groups (*e.g.*, members of racial, ethnic, religious or other commonly protected groups). It applies to any of the specified crimes in which the perpetrator intended to use intimidation or terror to make any victim fear exercising a constitutionally protected right.

4. Who is protected under Utah’s hate crime law?

The Utah “hate crimes” penalty enhancement law applies broadly. Thus, a state prosecutor can invoke the “hate crimes” law, regardless of who the victim of the specified misdemeanor crimes is. **The law can apply so long as there is evidence that the crime was committed with the intent to cause, or has the effect of causing, the victim to reasonably fear exercising any constitutionally protected right.**

Note that this is a criminal law and can apply only after the alleged perpetrator has been charged with one of the specified misdemeanor crimes. Because it is a criminal law, it is up to the prosecutor to invoke the penalty enhancement provision of this law.

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

The penalty for the crime could be subject to enhancement under the Utah “hate crimes” law, as the law covers the misdemeanor crime of property destruction as well as criminal trespass (which includes destruction by graffiti). The circumstances of the crime would have to be accompanied by evidence that it was committed with the intent or effect of causing the victim to reasonably fear freely exercising a constitutionally protected right (e.g., the right to free exercise of religion, or the right to an education).

- 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 Utah’s relevant laws?**

The penalty for the crime could be subject to enhancement under the Utah “hate crimes” law, as the law covers misdemeanor assault. In addition, the circumstances of the crime would have to be accompanied by evidence that it was committed with the intent or effect of causing the victim to reasonably fear freely exercising a constitutionally protected right (e.g., the right to free exercise of religion, or the right to an education).

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

The penalty for the crime could be subject to enhancement under the Utah “hate crimes” law, as the law covers the misdemeanor crime of property destruction as well as criminal trespass (which includes destruction by graffiti). Again, the circumstances of the crime would have to be accompanied by evidence that it was committed with the intent or effect of causing the victim to reasonably fear freely exercising a constitutionally protected right. In this scenario, the constitutional right at issue would likely be the right to free exercise of religion.

- 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 Utah?**

There do not appear to be any special criminal laws that would apply in this situation other than the previously described “hate crimes” penalty enhancement law which might apply if the acts of intimidation constitute any of the specified misdemeanor crimes.

- 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 for Victim of Crime Telephone: (800) 621-7444, or your local District Attorney (County listing online: <http://uacnet.org/wp-content/uploads/2017/03/2017-UAC-Membership-Directory.pdf>). 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 Utah have civil laws relevant to hate crimes or hate incidents?

Yes, Utah has civil laws relevant to hate crimes and hate incidents. Private citizens can bring these civil claims. The laws are:

- The Civil Rights Law, Utah Code § 13-1-1, *et seq.*, which established that all persons within Utah are free and equal. This law prohibits discrimination by business establishments, places of public accommodation, and all enterprises regulated by the state.
- The Fair Housing Law, Utah Code § 57-21-1, *et seq.*, prohibits discriminatory housing practices and threats, intimidation or interfering with a person’s fair housing rights.

In addition to civil lawsuits, hate crime victims have other procedural tools:

- The Utah Antidiscrimination Act, Utah Code § 34A-5-101, *et seq.*, which establishes that employers may not engage in discriminatory employment practices, prohibits employers and other persons from retaliation, harassment and other actions in matters of compensation or other employment terms. Private citizens can bring claims with the Utah Division of Antidiscrimination and Labor.
- The Bullying and Hazing Law, Utah Code § 53A-11a-101, *et seq.*, which prohibits school employees and students from bullying at a school or school-related event. A bullying victim cannot bring a private lawsuit under this law, but schools must have policies prohibiting bullying.

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 Utah, 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 - An assault is defined as (a) intending to cause harmful or offensive contact with another person or an imminent apprehension of such contact by which (b) the other person is put in such imminent apprehension.⁵ An example of an assault is when someone uses a toy gun to threaten another person.

- Battery - Battery is defined as an act (a) intending to cause a harmful or offensive contact with another person or an imminent apprehension of such contact from which (b) a harmful contact with another person directly or indirectly results.⁶ An example of a battery is when someone uses a real gun and shoots another person. Another, example of a battery is when someone punches or kicks another person.
- False Imprisonment – False imprisonment is defined as (a) intending to confine another person within boundaries fixed by the actor, (b) which results in confinement while (c) the victim is conscious of the confinement or is harmed by it.⁷ 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 intentional conduct (a) with the purpose of inflicting emotional distress, or (b) where any reasonable person would have known that emotional distress would result; and those actions are of such a nature as to be considered outrageous and intolerable in that they offend against the generally accepted standards of decency and morality.⁸ Outrageous conduct must evoke outrage or revulsion; it must be more than unreasonable, unkind, or unfair.⁹ 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.
- Conversion – Conversion applies to personal property and is defined as (a) an act of willful interference with property, (b) done without lawful justification, (c) by which the person entitled to the property is deprived of its use and possession, and (d) the party is entitled to immediate possession of the property at the time of the alleged conversion.¹⁰ An example of conversion would be if someone wrecked your car.

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 or 844-9-NO HATE.

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

Utah Attorney General’s Office

Online complaint form: <https://attorneygeneral.utah.gov/complaint-form>

Phone: 1-800-244-4636 (toll free for in-state calls).

Email: uag@utah.gov.

Addresses: Office of the Attorney General, Utah State Capitol Complex, 350 North State St., Suite 230, Salt Lake City, UT 84114-2320.

Utah State Capitol Office, Office of the Attorney General, PO Box 142320, Salt Lake City, UT 84114-2320.
Heber M. Wells Building, P.O. Box 140811, Salt Lake City, UT 84114.

Utah Office for Victims of Crime

Website: <https://justice.utah.gov/Crime>

Phone: (801) 238-2360 or (800) 621-7444

Email: cwettlaufer@utah.gov

Address: 350 East 500 South Suite 200, Salt Lake City, UT 84111.

Pro Bono Legal Services Directories

<https://www.utcourts.gov/howto/legalclinics/index.asp>

<http://www.utahbar.org/public-services/pro-bono-assistance-page>

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 www.8449NOHATE.org or the Communities Against Hate resource page at www.communitiesagainsthate.org/resources. If you would like additional information or support, please contact 844-9-NO-HATE.

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 Utah Code § 76-3-203.3

³ Utah Code § 13-7-3.

⁴ Utah Code § 57-21-2; Utah Code § 34A-5-106(a).

⁵ *Tiede v. State*, 915 P.2d 500, 503, n.3 (Utah 1996).

⁶ *Id.*

⁷ *Id.*

⁸ *Bennett v. Jones, Waldo, Holbrook & McDonough*, 70 P.3d 17, 30 (Utah 2003).

⁹ *Franco v. The Church of Latter-Day Saints*, 21 P.3d 198, 206 (Utah 2001).

¹⁰ *Rand v. KOA Campgrounds*, 338 P.3d 222, 225 (2014).