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HATE CRIME FAQs

GEORGIA

Disclaimer: This guide is designed for informational purposes only. It is not legal advice and is not intended to create an attorney-client relationship. The Lawyers' Committee for Civil Rights does not warrant any information contained in this guide, nor does the Committee suggest that the information in this guide should be used as a basis to pursue legal advice or decision-making.

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 order to find that an offense was committed because of bias or prejudice, Georgia's hate crime law specifies that the person who commits the underlying offense must have intentionally selected the person or property against whom the offense was committed based on the victim's actual or perceived race, color, religion, national origin, sex, sexual orientation, gender, mental disability, or physical disability.² For purposes of reporting hate crimes, Georgia requires police departments to file a 'Bias Crime Report' each time an officer investigates an alleged violation of the hate crime law, whether or not an arrest was made.³ The Reports are reserved for statistical purposes, but victims and defendants who have been arrested under the law have the legal right to review and copy the sections of the respective reports relating to the defendant. Police departments must also report all incidents alleging violations of the hate crime law to the Georgia Bureau of Investigation, which compiles and annually publishes the statistics in the Georgia Uniform Crime Reports.

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.

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 Ga. Code Ann. § 17-10-17 (West).

³ Ga. Code Ann. § 17-4-20.2 (West).

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 Georgia have a state hate crime law?

Yes, Georgia's hate crime law went into effect on July 1, 2020. Section 17.10.17 of the Georgia Penal Code prohibits any person from committing a crime against another individual or group because of the target's "actual or perceived race, color, religion, national origin, sex, sexual orientation, gender, mental disability, or physical disability."⁴ In other words, if someone uses force, threat, or intimidation, or damages or threatens to damage property, at least in part because of bias or hate, then they may be guilty of a hate crime under Georgia Law and could face enhanced criminal penalties.

If the offense that the person committed is a designated misdemeanor, the judge will impose a prison sentence of not less than six nor more than 12 months, and a fine of up to \$5,000.00. A "designated misdemeanor" could be a simple assault, simple battery, battery, criminal trespass, or misdemeanor theft, as provided under Georgia law. If the person committed a felony, the judge will impose a sentence of not less than two years, and a fine not to exceed \$5,000.00.

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

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

⁴ Ga. Code Ann. § 17-10-17 (West).

- Race;
- Color;
- Religion;
- National origin;
- Sex;
- Sexual orientation;
- Gender;
- Mental disability;
- Physical disability.

Note: Georgia does NOT consider gender identity as a protected group for purposes of its hate crime 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., a swastika, derogatory terms, etc.). What are Georgia’s relevant laws?

Georgia’s hate crime law (Ga. Code Ann. § 17.10.17) addresses property attacks motivated by bias or prejudice.

If a perpetrator intentionally commits a property crime against you because of your actual or perceived race, color, religion, national origin, sex, sexual orientation, gender, mental disability, or physical disability, then the perpetrator will face an enhanced criminal sentence. The underlying crime can be a designated misdemeanor as provided by the hate crime law or a felony. Common felonies against property include, but are not limited to, larceny, felony theft and arson. The designated misdemeanors that apply to property are criminal trespass and misdemeanor theft.

A person commits a criminal trespass if he or she knowingly and without authority enters upon your land, premises, or vehicle, for an unlawful purpose *or* remains there after being told to leave.⁵ A person also commits a trespass if he or she, without your consent, intentionally damages any of your property, or knowingly and maliciously interferes with the possession and use of your property. The extent of the damages determines whether the trespass is a misdemeanor or a felony.

Furthermore, under Georgia’s Street Gang and Terrorism Prevention Act (Ga. Code Ann. § 16-15-1), a person may be found guilty of “criminal gang activity” for committing “any act of gang related painting on, tagging, marking on, writing on, or creating any form of graffiti on the property of another.” Thus, if a white supremacist gang tags, marks, or creates any type of graffiti on a family’s home based on bias towards other races, religions, etc., then the person who commits the act could be found guilty under this act.

⁵ Ga. Code Ann. § 16-7-21 (West).

Moreover, as discussed in greater detail under Question 11, individuals who have had their property damaged may have a cause of action under Georgia’s civil interference with enjoyment of private property statute (Ga. Code Ann. § 51-9-1).

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 Georgia’s relevant laws?

Georgia’s hate crime law (Ga. Code Ann. § 17.10.17) addresses attacks motivated by bias or prejudice.

If a perpetrator intentionally commits certain crimes against you because of your actual or perceived race, color, religion, national origin, sex, sexual orientation, gender, mental disability, or physical disability, then the perpetrator will face an enhanced criminal sentence. For example, if you were physically attacked by another individual, that would most 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.

The hate crime law applies to certain misdemeanors, including simple assault, simple battery, battery, criminal trespass, and misdemeanor theft, as provided under Georgia law. A simple assault under Georgia law includes any attempt to commit a violent injury to another individual, or to place another individual in fear of such violent injury.⁶ If a perpetrator does intentionally cause substantial physical harm to another individual, the offense becomes a battery.⁷ Certain characteristics of the victim—such as the victim’s age and whether such victim is pregnant—play an important part of determining the degree of both offenses.

Furthermore, actions similar to shouting racial slurs against a certain social group could be prosecuted under different Georgia laws. For example, if the attacker was wearing a mask or hood to conceal his or her face, he or she may be guilty under Georgia’s statute, which prohibits wearing masks or hoods (Ga. Code Ann. § 16-11-38).

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

Yes. Georgia does have a special law protecting places of worship. Under Ga. Code Ann., § 16-7-26 (Vandalism to a Place of Worship), a person who maliciously “defaces or desecrates a church, synagogue, or other place of public religious worship” commits

⁶ Ga. Code Ann. § 16-5-20 (West).

⁷ Ga. Code Ann. § 16-5-23.1 (West).

the offense of vandalism to a place of worship. Additionally, under Ga. Code Ann. § 16-7-21, a person commits a criminal trespass when he or she intentionally enters onto property without permission or damages the property.

If the court finds that the person committed either crime out of bias against the religious institution, then the person could also be guilty under Georgia's Hate Crime Law (Ga. Code Ann. § 17.10.17) and would face enhanced penalties.

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 Georgia?

Yes. Georgia does have a law against terrorism. Under Georgia law, terroristic threats include threats to commit a crime of violence, release a hazardous substance, and or burn property with the purpose of terrorizing another. An example of this is burning a cross, which the statute explicitly prohibits.

The individual may also be guilty of violating Georgia's Street Gang and Terrorism Prevention Act (Ga. Code Ann., §16-15-1) and Georgia's hate crime law (Ga. Code Ann. § 17.10.17), discussed above.

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 at (404) 656-3300. 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 Georgia have civil laws relevant to hate crimes or hate incidents?

Victims of hate crimes and hate incidents may be able to file a civil lawsuit seeking financial compensation from the perpetrator or from other parties whose unreasonable conduct gave rise to conditions which allowed the crime or incident to occur.

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 civil laws can I use to bring a case?

You can use a number of civil laws to bring a case against someone who physically or emotionally injures you. This is true even if the person's actions are not legally considered hate crimes or hate incidents. Rather, Georgia law requires individuals to generally refrain from acting to injure others, and it allows injured parties to file suit. (Ga. Code Ann. § 51-1-6). These civil laws, or causes of action, are generally known as torts.

Some of the Georgia tort causes of action which may provide a civil remedy for victims who have suffered injury or damage because of a hate crime or hate incident include, but are not limited to:

a. Physical injury, right of action; intention:

A physical injury done to another shall give a right of action to the injured party, whatever may be the intention of the person causing the injury, unless he is justified under some rule of law. However, intention shall be considered in the assessment of damages. (Ga. Code Ann., § 51-1-13).

b. Violent injury or attempt to commit injury:

Any violent injury or illegal attempt to commit a physical injury upon a person is a tort for which damages may be recovered. (Ga. Code Ann. § 51-1-14).

c. Intentional Infliction of Emotional Distress:

Damages for the intentional infliction of emotional distress are recoverable when the perpetrator's conduct is a "wanton, voluntary or intentional wrong the natural result of which is the causation of mental suffering." *See, Pierson v. News Group Publications, Inc.*, 549 F. Supp. 635 (S.D. Ga. 1982). A claim for intentional infliction of emotional distress has four elements: (1) intentional or reckless conduct (2) which is extreme and outrageous and (3) caused the emotional distress (4) which is severe. *Pyle v. City of Cedartown*, 524 S.E.2d App. 1999).

d. False Imprisonment:

False imprisonment is the unlawful detention of the person of another, for any length of time, whereby such person is deprived of his or her personal liberty. (Ga. Code Ann. § 51-7-20).

e. Wrongful Death:

If death ensues as a result of any tortious injury or damage, Georgia law provides that a wrongful death action may be maintained by the spouse, children or estate of the deceased against the person(s) responsible for causing the decedent's death. (Ga. Code Ann. § 51-4-1, *et seq.*).

f. Interference with enjoyment of private property:

The right of enjoyment of private property being an absolute right of every citizen, every act of another which unlawfully interferes with such enjoyment is a tort for which an action shall lie. (Ga. Code Ann. § 51-9-1).

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 local and state organizations working on hate crimes and incidents?**

Law Enforcement – Atlanta Police Department has an LGBTQ Liaison Unit
Phone: (404) – 546 – LGBT (5428)

FBI Field Office
2635 Century Parkway N.E.
Suite 400
Atlanta, GA 30345
Phone: (404) – 679 – 9000
Website: Atlanta.fbi.gov

Office of Attorney General
40 Capital Square, SW
Atlanta, GA 30334
Phone: (404) – 656 – 3300
Email: agolens@law.ga.gov
Website: <http://law.ga.gov/>

Department of Justice Programs Office for Victims of Crime
DOJ Victim Notification System (866) – 365 – 4968

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.