

HB 198: AN ACT RELATING TO AGGRAVATING FACTORS CONSIDERED AT SENTENCING

Rep Andy Josephson
31st Legislature

AGGRAVATING FACTORS IN SENTENCING

If a defendant is convicted of a crime, they will then be sentenced. A large number of factors may be considered during this phase.

AS 12.55.155(c) contains 37 separate factors which, if proven, shall be considered at sentencing, and allow for additional sentencing beyond the presumptive range spelled out in AS 12.55.125.

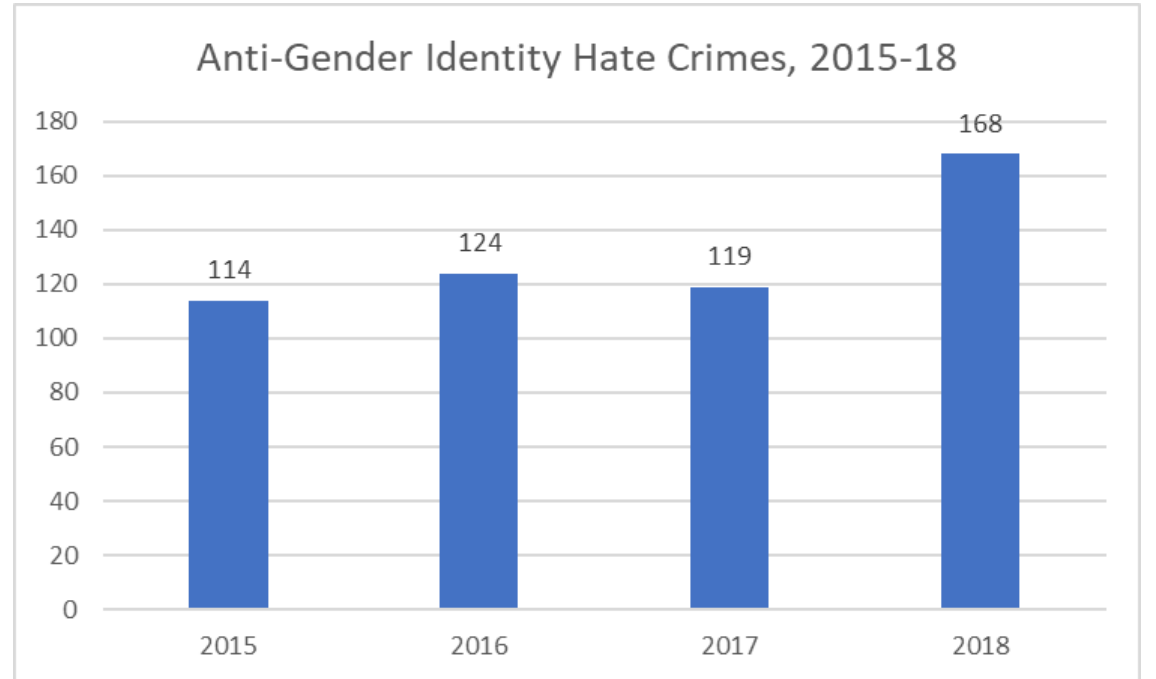
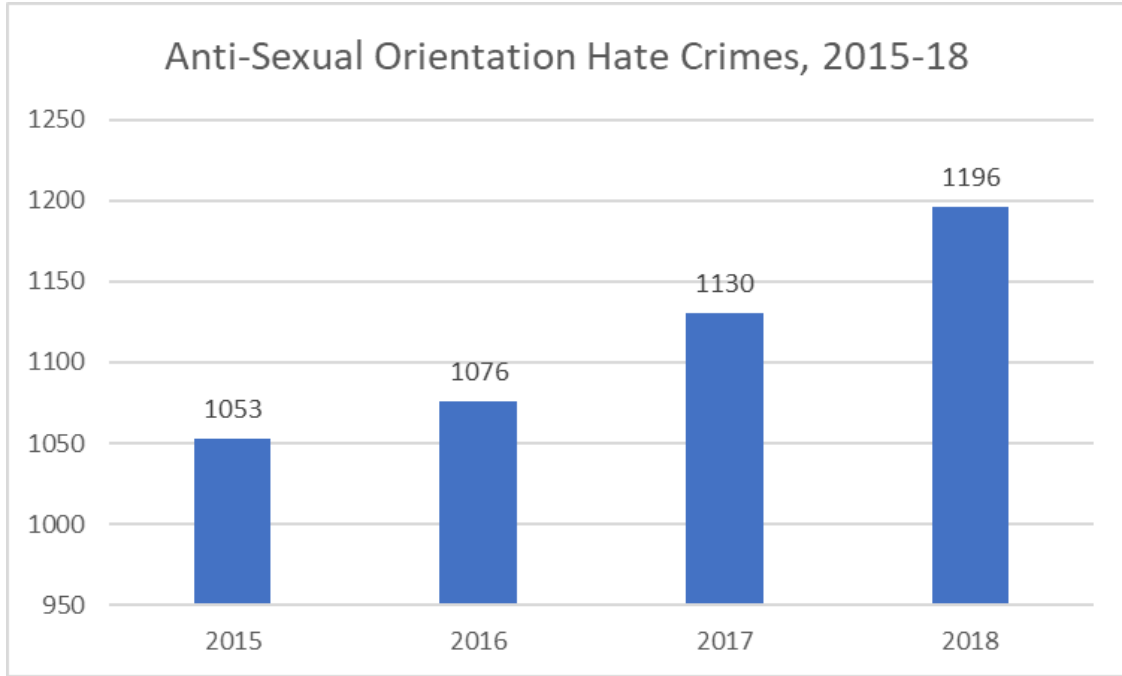
In conjunction with AS 12.55.125(d), mitigating and aggravating factors may be considered when a defendant is sentenced, and may increase or decrease the overall sentence imposed.

WHY DO WE HAVE AGGRAVATING FACTORS?

- Motive and details matter.
- As with all laws, these factors reflect societal attitudes.
- In instances where aggravators are relevant, the defendant has already been convicted and the details of the crime are broadly considered abhorrent or aberrant.
- When a sentence is imposed beyond the presumptive range, it can be seen as an indication that the motive was particularly egregious or that the defendant demonstrated a disregard for societal norms beyond what might be expected for a 'typical' crime of that type.

HB 198 AMENDS AGGRAVATOR 22

- AS 12.55.125(c)(22) currently allows a sentencing court to impose additional sentencing if “the defendant knowingly directed the conduct constituting the offense at a victim because of that person’s race, sex, color, creed, physical or mental disability, ancestry, or national origin”
- HB 198 adds “sexual orientation or gender identity” to this list.



Source: FBI Uniform Crime Reporting, 2015-18

HATE CRIMES TARGETING VICTIMS BECAUSE OF
THEIR SEXUAL ORIENTATION OR GENDER IDENTITY
ARE ON THE RISE NATIONALLY

ALASKA IS NOT IMMUNE

'I don't want it to be about me'

1

After series of attacks, local woman fears LGBTQ community is being targeted.

LGBTQ activist in hiding after she was attacked on the Kenai Peninsula

2

Packed town hall addresses LGBTQ safety

3

Town hall ends with call to action for local lawmakers

Soldotna passes resolution in support of hate crime legislation

4

The resolution would add "sexual orientation and gender identity" as a factor considered at sentencing

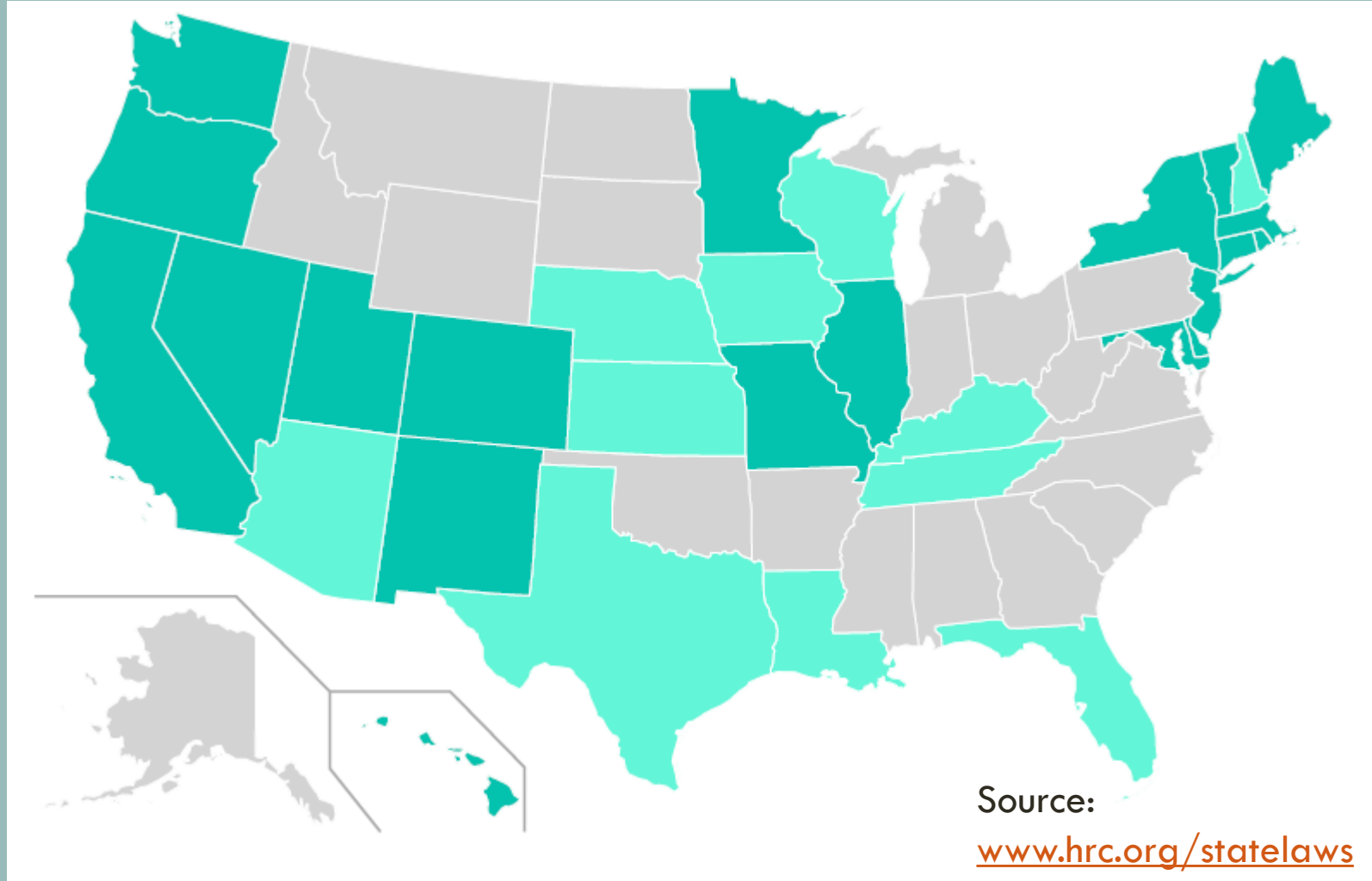
1 Brian Mazurek, Peninsula Clarion, Dec 26, 2019.

2 Rashah McChesney, KTOO, Dec 30, 2019.

3 Brian Mazurek, Peninsula Clarion, Jan 4, 2020.

4 Brian Mazurek, Peninsula Clarion, Jan 23, 2020.

EXISTING STATE LAWS NATIONWIDE



- Address hate or bias crimes based on sexual orientation and gender identity (20 states & D.C.):** California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Maine, Maryland, Massachusetts, Minnesota, Missouri, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, Washington
- Address hate or bias crimes based on sexual orientation only (11 states):** Arizona, Florida, Iowa, Kansas, Kentucky, Louisiana, Nebraska, New Hampshire, Tennessee, Texas, Wisconsin

HATE CRIME STATISTICS EXPLANATION

<https://www.cnn.com/videos/us/2019/11/07/hate-crime-statistics-explainer-orig.cnn>