

HB 51: AN ACT RELATING TO AGGRAVATING FACTORS CONSIDERED AT SENTENCING

Rep. Andy Josephson
32nd Legislature

AGGRAVATING FACTORS IN SENTENCING

After someone is convicted under Alaska's criminal code, their sentencing takes place. Many factors may be considered during this phase that are mitigating or aggravating to the initial sentence.

AS 12.55.155(c) contains 37 separate aggravating factors which, if proven, shall be considered at sentencing.

WHEN AGGRAVATING FACTORS ARE CONSIDERED



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.
- The impact of an assault motivated by hate towards a group has larger repercussions than even the initial terrible impact on the individual.

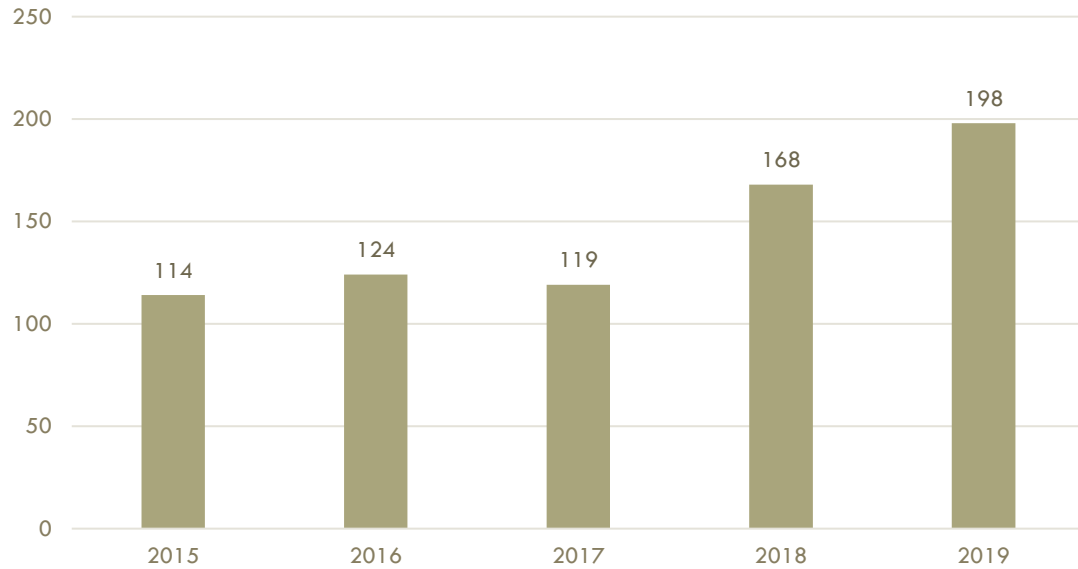
WHY DO WE HAVE AGGRAVATING FACTORS FOR HATE CRIMES?

1. When someone is attacked *because* of their identity within a certain group – the entire community is threatened.
2. Violent hate crimes can lead to retribution and escalating inter-group tension.

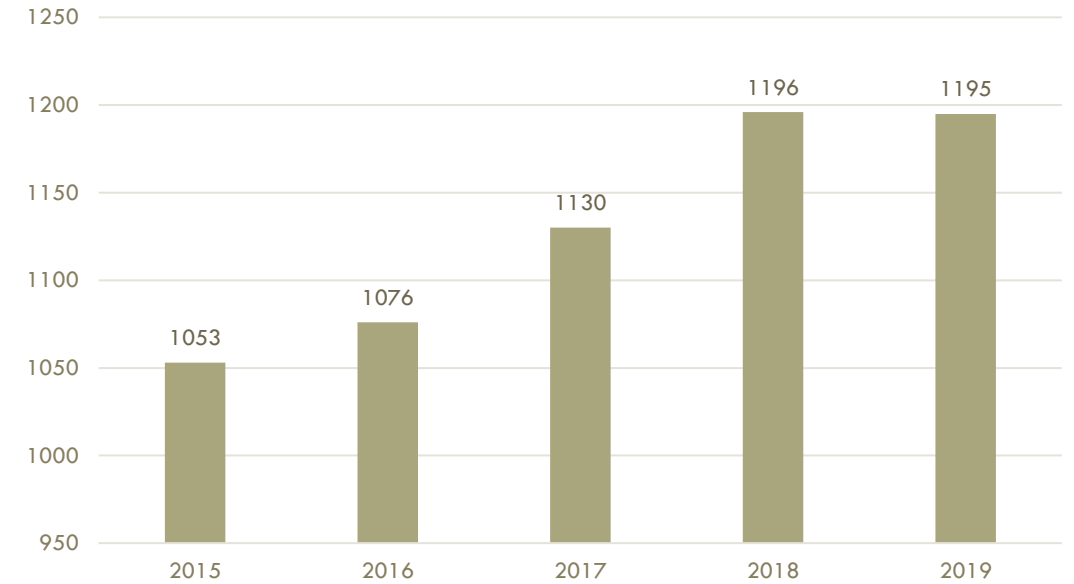
SECTIONAL ANALYSIS: HB 51 AMENDS AGGRAVATOR 22

- AS 12.55.155(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 51 adds “sexual orientation or gender identity” to this list.

Anti-Gender Identity Hate Crimes, 2015-19



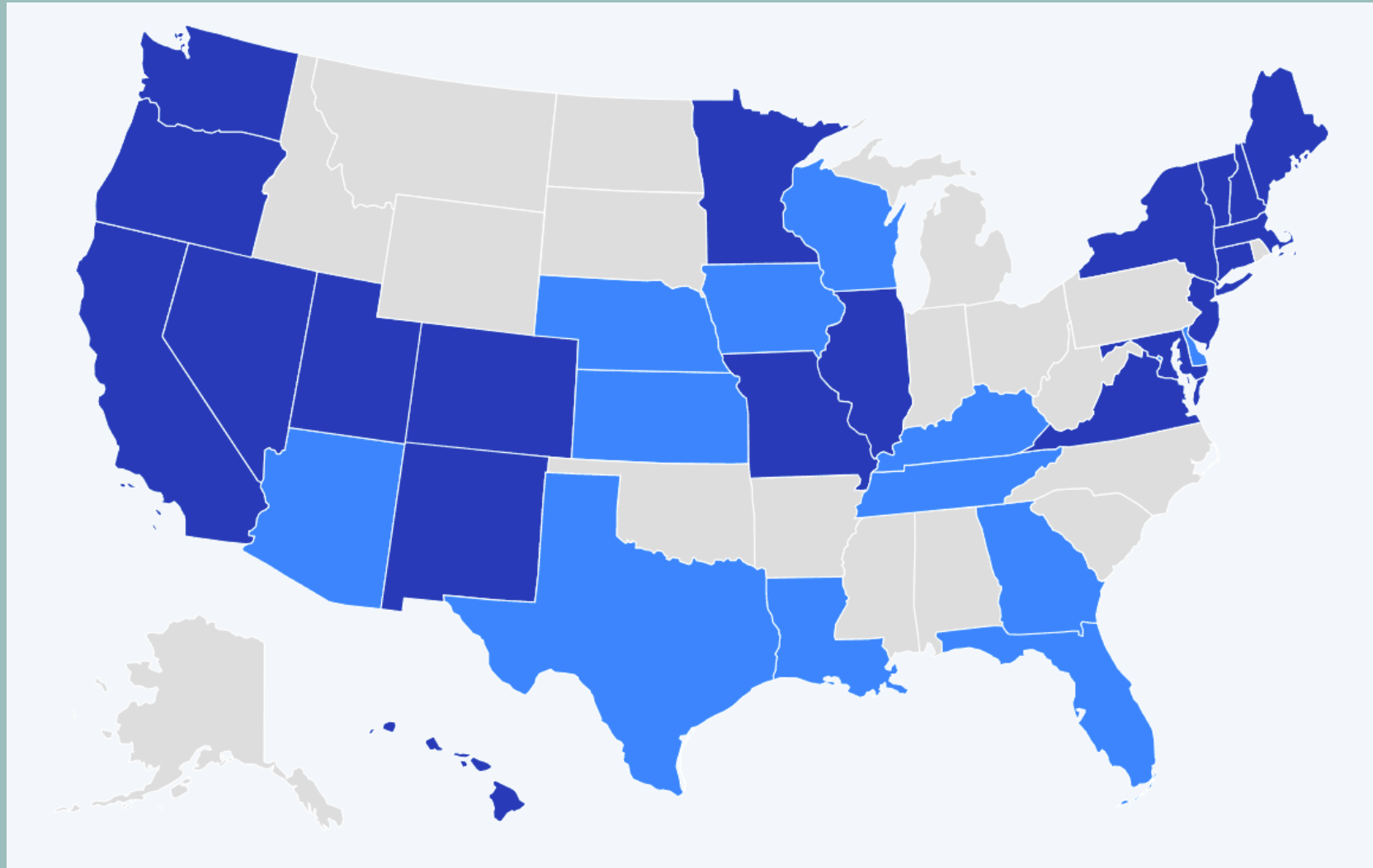
Anti-Sexual Orientation Hate Crimes, 2015-19



Source: FBI Uniform Crime Reporting, 2015-19

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

HATE CRIMES NATIONWIDE



● Address hate or bias crimes based on sexual orientation only
12 States & DC

● Address hate or bias crimes based on sexual orientation and gender identity
20 States

<https://www.hrc.org/resources/state-equality-index>

BUSINESS LEADERS FACE LOSING CUSTOMERS OUT OF FEAR

“Anti-LGBTQ bigotry ran rampant in Wyoming last year. In addition to isolated incidents of violence and discrimination, several communities broke out in dispute over LGBTQ representation in public spaces.”

- Mary Stuerer of the Casper Star-Tribune in Wyoming in 2021.

Protecting the LGBTQ+ community under a hate crime statute “sends a message that bias-motivated crimes are taken seriously.”

- Chris Brown, Wyoming Lodging and Restaurant Association Lobbyist.

GEORGIA 2020 HATE CRIME BILL

Georgia passed HB 426 in 2020 with wide bipartisan support.

60 out of 100 Republicans in the State House supported the bill along with 26 out of 34 Republicans in the State Senate. That's a total of 64% of Georgia Republicans.

Georgia's HB 426 includes Race, Color, Religion, National Origin, Sex, Sexual Orientation, Gender, Mental Disability, or Physical Disability.

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.