

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

Rep Andy Josephson  
31<sup>st</sup> Legislature

# AGGRAVATING FACTORS IN SENTENCING

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

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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.

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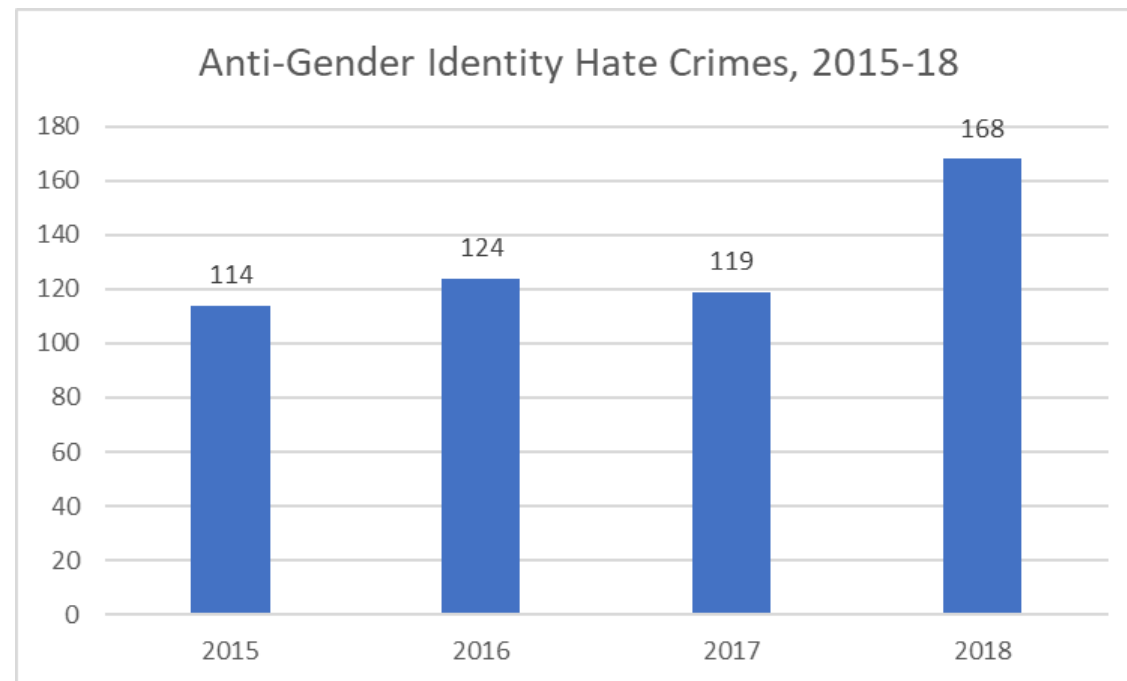
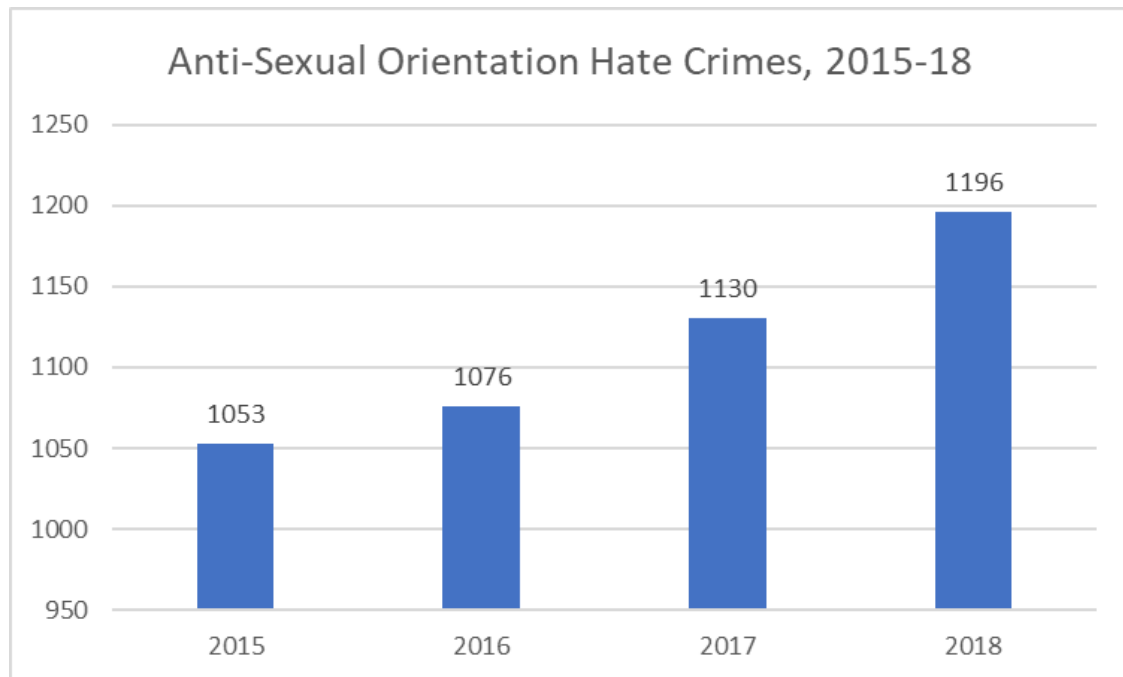
In conjunction with AS 12.55.125(d), mitigating and aggravating factors may be considered when a defendant is sentenced, and may increase or decrease the overall sentence imposed.

# 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

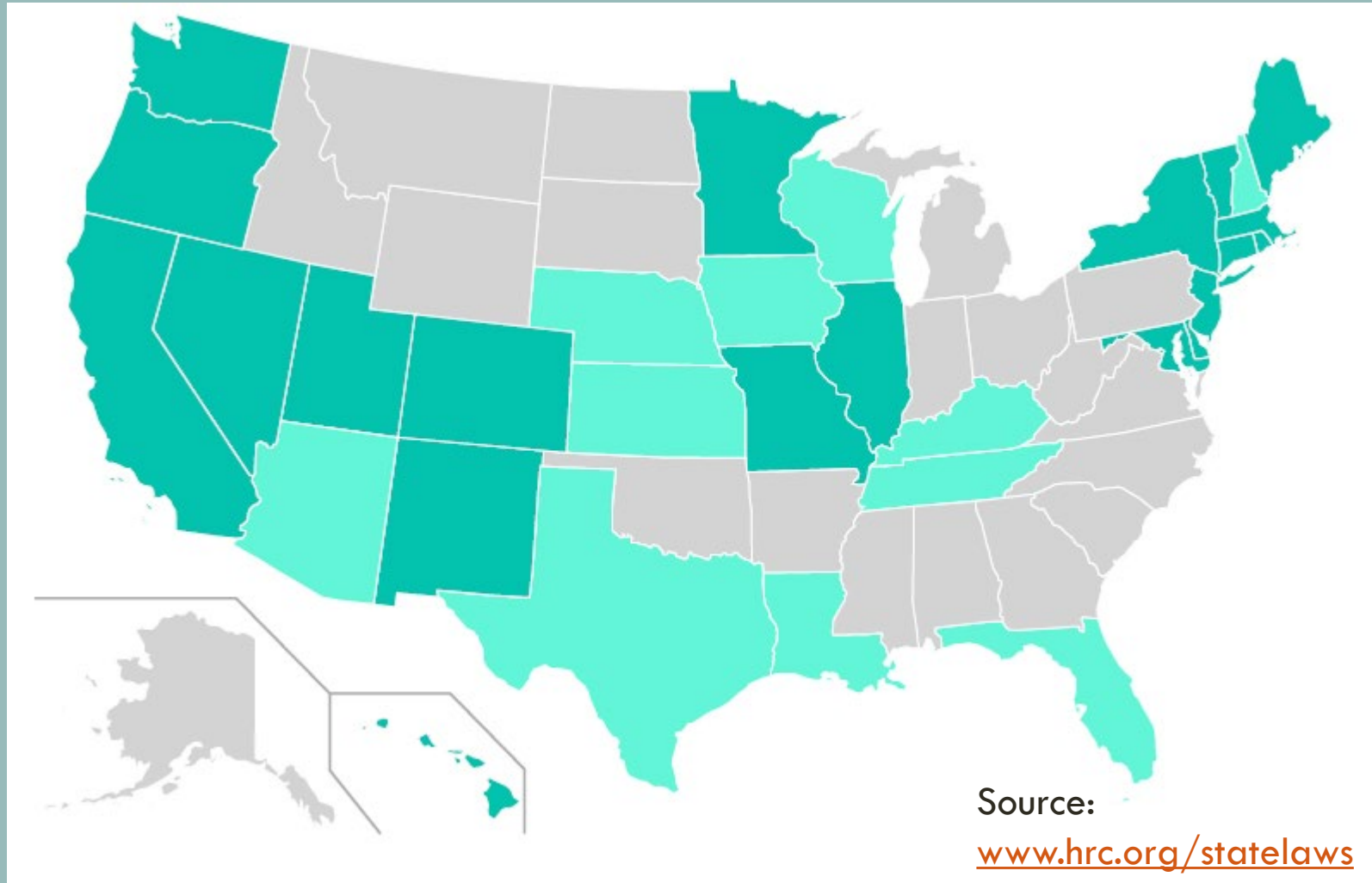
1 Brian Mazurek, Peninsula Clarion, Dec 26, 2019.

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>