



HATE CRIMES:

Updating Laws to Include Sexual Orientation and Gender Identity Bias.

In 2001, the Texas Legislature passed the "James Byrd, Jr. Hate Crimes Act." The act allows trial courts to impose stiffer penalties for crimes committed due to bias against the victims' real or perceived "race, religion, color, sex, disability, sexual preference, age, or national origin." However, until legal protections include sexual orientation and gender identity, and the state acknowledges the sustained threats against vulnerable Texans, the LGBTQ+ community will remain at risk of violence and persecution.

Existing laws offer no protections for victims of crimes caused because of bias against gender identity or expression.

Even as we experience increased transgender visibility through a range of inspiring national media stories, the levels of violence and harassment transgender people face – particularly transgender women and transgender women of color – constitute a national crisis. There are no protections available for victims of crimes caused because of bias against the victim's gender identity or expression. Gender identity or expression should be added to the current list of attributes because, like the currently listed attributes, it is a universal trait that has historically been the basis for widespread and systemic discrimination and violence in our culture. In

addition, language should be updated to reflect sexual orientation rather than sexual “preference.”

Texas has the second highest number of transgender murders in the country.

In 2020, 18 transgender individuals were murdered in Texas, second only to the state of Florida, which saw 20 murders. Any policies that implicitly condone violence against the LGBTQ+ community or devalue the lives of LGBTQ+ individuals only further foster an environment of violence.

Rhetoric matters, and Texans should be doing everything we can to improve safety for our fellow Texans, including transgender Texans and the rest of the LGBTQ+ community.

- Transgender people are 28% more likely to experience physical violence than other people.[1]
- Transgender individuals living in America today have a 1 in 12 chance of being murdered.[2] The average person has about a one in 18,000 chance of being murdered.[3]
- One out of every 1000 homicides in the U.S. is an anti-transgender hate crime.[4]

HATE CRIMES LAWS ACROSS THE U.S.

National hate crime laws require law enforcement agencies to investigate and prosecute crimes committed with bias against LGBTQ+ people, covering crimes motivated by a victim’s actual or perceived gender, sexual orientation, or gender identity. When President Obama signed the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act into law in 2009, it was the first federal law to explicitly protect LGBTQ+ people. As of 2021, twenty-three states (2 territories + D.C.) in the United States have hate crime laws enumerated to include sexual orientation and gender identity.⁵

Despite these inclusive legal protections existing on the federal level, updating hate crime laws is only one of many steps on the path to complete equality. Current hate crime laws focus on punishing the “perpetrator,” and neglect to offer support for the survivor or the families and friends of those

killed during an act of interpersonal hate violence. Hate crimes are not motivated by a lack of laws prohibiting them, but rather systemic prejudice, centuries of devaluing members of marginalized groups, and misguided but deep-seated sentiments of hatred, fear, and ignorance. In order to truly lift up the transgender community, we also need to move beyond hate crimes to provide economic opportunity and decrease stigma through nondiscrimination laws, better procedures for updating identity documents, and cultural competency training in schools and government programs.

HOW TO ADVOCATE FOR THE UPDATE OF THE HATE CRIMES LAW:

- This bill does not give transgender people special privileges. It gives everyone the protection they need. In fact, the law currently takes the motivations for crime into account. For instance, a murder's motivation can make the difference between a charge of negligent manslaughter or capital murder. This legislation is consistent with current legal practice.
- This law is about the motivation of the criminal, not about the identity of the victim. Because the expansion of protections would include mistaken perceived sexual orientation-- for instance if a heterosexual man suffers from a hate crime by being perceived as too effeminate, or if a woman suffers violence after being labeled as too butch-- this law is crucial for the safety of all Texans, regardless of gender identity or sexual orientation.

Related Bills in the 87th Legislative Session

HB 1402 (A. Johnson, D-Houston), **HB 4254** (Morales Shaw, D-Houston)

[1] Bolles, Alexandra. "Violence Against Transgender People and People of Color is Disproportionately High, LGBTQH Murder Rate Peaks." *GLAAD*. GLAAD.org, 4 June 2012. Web. 1 Mar. 2013. <<http://www.glaad.org/blog/violence-against-transgender-people-and-people-color-disproportionately-high-lgbtqh-murder-rate>>.

[2] Kay Brown, instructor for "20th Century Transgender History and Experience" at the Harvey Milk Institute in San Francisco, Washington Blade, Dec. 10, 1999.

[3] Based on the FBI's "Uniform Crimes Reports, Crime in the United States 2000," showing the murder rate of 5.5 people per 100,000.

[4] Human Rights Campaign. *How Do Transgender People Suffer from Discrimination?* (n.d.). Retrieved from: <http://www.hrc.org/issues/1508.htm#referece1>

[5] Movement Advancement Project. Equality Maps – Hate Crime Laws. Retrieved from: https://www.lgbtmap.org/equality-maps/hate_crime_laws