

Indiana's Hate Crime Law

Introduction

Indiana's hate crime law allows judges to impose longer sentences for crimes motivated by bias. The law does not, however, list the protected categories, but instead refers to the state's bias crime reporting statute that mentions color, creed, disability, national origin, race, religion and sexual orientation. Age, sex, and gender identity are not explicitly included.

Background of the Bill

In 2019, the Indiana State Senate introduced Senate Bill 12 that generally stated that if a crime was committed with the intent to harm or intimidate an individual or a group of individuals because of certain perceived or actual characteristics of the individual or group of individuals, then the defendant may be subjected to an increased punishment. The bill would allow judges to consider a stricter sentence for someone who harms or intimidates a person or group based on a list of protected characteristics including race, religion, sex, sexual orientation, gender identity or disability. After Senate Bill 12 passed through relevant committees, the Senate voted to amend the bill eliminating all specific protected characteristics including race, sexual orientation, and gender identity. Both the Senate and the Indiana House of Representatives passed the revised bill. In April 2019, Governor Eric Holcomb signed the bill into law (see [Indiana Criminal Code 10-13-3-38](#)).

Although many civil rights organizations, including the Matthew Shepard Foundation and the Anti-Defamation League, consider Indiana's law to be wholly insufficient for failing to delineate the protected categories, Indiana was hailed for being one of the first states to pass a hate crime law in 1947. A portion of the law read, "It shall be unlawful for any person or persons acting with malice to create, advocate, spread or disseminate hatred for or against any person, persons or group of persons, individually or collectively by reason of race, color or religion." The law was ruled unconstitutional in 1964 for running afoul of the First Amendment after a defendant successfully challenged his arrest for distributing anti-Semitic and racist leaflets. The law was removed from the state's criminal code in 1977.

Conclusion

We urge you to contact Gov. Holcomb and add your voice to the growing list of civil rights advocates calling for passage of a more effective and specific hate crime law in Indiana.