

5 Feb. 2023

To: ND House Judiciary Committee

Ref: HB 1537-Written Testimony

I write to you as a citizen of North Dakota. I do not write as a representative of any employer. Professionally I am a Cultural Liaison Officer for a Police Department, I have taught Intercultural Communication at the University of North Dakota, and I have my Master's Degree in Criminal Justice Studies from St Cloud State and a Bachelor's Degree in Criminal Justice from the University of North Dakota.

HB 1537 comes before you to introduce Bias Crimes into the ND Century Code, as a sentencing enhancement. A biased crime has two parts, the crime itself and the biased motivation. Both parts have to be proven for a person to be found guilty of a biased crime. According the FBI and US Department of Justice, biased crimes have been on the increase across the US. The reason for enhanced sentences of these crimes is due to the level of violence involved with these crimes. A majority of biased crimes are personal crimes to include aggravated assault to murder (DOJ, 2023). The most common motivation of biased crimes is thrill seeking, which is someone spontaneously looking for excitement and often do not know their victims. Other motivators would include defensive, retaliatory, and mission driven. Defensive motivations are the second most common motivation, which involves a person committing a crime based on a trait the person sees as a danger to themselves (Southern Poverty Law Center, 2023).

One common misconception is that biased crime legislation tries to curtail a person's constitutional right to free speech. The US Supreme Court has upheld that hate speech and other forms of speech are covered as free speech. The distinction is when a person voices a threat of violence against someone, as in menacing or terrorizing. This bill does not affect a person's right of free speech. This bill only adds enhancement to crimes when there is found to be a motivation of bias involved in the crime.

Furthermore, this bill includes a wide variety of protected classes to include veteran status, race, political affiliation, sex, religion, and sexual orientation to name a few. It should be reiterated that the crimes that include these bias motivation factors cause violent crimes. If we look at the US society today, there is a strong polarization in terms of political affiliation, race, and sexual orientation. These strong feelings can cause volatile reactions from people. Again, this bill only adds enhancement to sentences of certain crimes, if a biased motivation is found to have been involved. This bill does not restrict a person's freedom of speech.

Looking at the numbers, only approximately 12 of 109 of North Dakota law enforcement agencies report hate crimes to the State and Federal Government, in 2019. Nationally in 2021, race motivations make up about 64 percent of biased crimes, followed by sexual orientation at 15 percent, and religion at 14 percent. Crime data shows that 66 percent of these crimes are crimes against a person. In North Dakota for 2020, there were 21 biased crimes reported 17 of which race the primary motivation for the crime. The other three there was a bias motivation against sexual orientation. Furthermore, in 2019, there were 18 biased crimes, in ND. Fourteen of these had a biased motivation of race, three involved a bias of sexual orientation, and one involved a bias of religion. Again, currently only about 12 agencies report biased crimes, in ND for the year 2019 (USDOJ, 2023).

I encourage the North Dakota Legislature to vote to implement the biased crimes bill that is being submitted. Not only does it act as a deterrent to would be perpetrators, but it would also include required training for law enforcement on biases and investigations of biased crimes. This training would improve the capabilities of our great police officers in the state, especially as the state gets more diverse. This bill will also require all agencies to report biased crimes, which will help us to see the full picture of what is going on in the state pertaining to the criminal realm. The more information of criminal activity we have the better our officers will be at finding solutions to the issues. I ask that you vote to enact this bill.

Very Respectfully,  
Brian Samson  
Grand Forks, ND

References:

US Department of Justice. [www.justice.gov/hatecrimes](https://www.justice.gov/hatecrimes). 2023.

Southern Poverty Law Center. [www.splcenter.org](https://www.splcenter.org). 2023