

AN ANALYSIS OF STATE HATE CRIME LEGISLATION: DO LEGISLATIVE
HISTORY DOCUMENTS HOLD THE KEY TO HATE CRIME LAW REFORM?

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AN ANALYSIS OF STATE HATE CRIME LEGISLATION: DO LEGISLATIVE
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DEDICATION

This dissertation is dedicated to my parents, who instilled in me a love of learning and have supported me constantly in all my endeavors. It is also dedicated to my grandma, sister, and friends who all have made this process far easier than it could have been without their support. I love you all, and thank you.

ABSTRACT

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Hate crime legislation in the United States is a relatively recent phenomenon, with California passing the first hate crime law in the country in 1978. Since, nearly every state has adopted some form of hate crime legislation. Many have amended those laws in subsequent years. Prior scholarship has investigated how state hate crime laws were adopted in the U.S., examining the potential influence of Internal Determinants (state-specific characteristics/focus) and Regional Diffusion (actions/attributes of other states). These studies found that the hate crime law adoption process is a complex blend of these two types of factors. Prior work, though, has not examined legislative history documents to determine their potential usefulness for adding to our understanding of states' hate crime law adoption processes. This dissertation provides a content analysis of legislative history documents accompanying hate crime laws in nine states and Washington, DC. Focus is placed solely on laws that establish protected classes and penalty enhancements, as they form the foundation for all other hate crime statutes a state has. Analyses determine the presence of Internal Determinants and Regional Diffusion in states' legislative history documents. Most legislative history documents are solely bill drafts and records of legislative actions taking place. Other portions of these documents, though, shed light on the role Internal Determinants and Regional Diffusion play in most of the selected states' hate crime law adoption processes. A general approach emerged for the states in the sample. Much can continue to be learned from legislative history documents accompanying states' hate crime laws. Advocacy efforts and states

themselves should focus their attention on how other states adopted their hate crime laws when looking to expand their own legislation.

KEY WORDS: Hate crime, Hate crime law, Hate crime law reform, Legislative history documents, Content analysis

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TABLE OF CONTENTS

	Page
DEDICATION	iii
ABSTRACT	iv
ACKNOWLEDGEMENTS	vi
TABLE OF CONTENTS.....	vii
LIST OF TABLES	x
LIST OF FIGURES	xiii
CHAPTER I: INTRODUCTION	1
Definition of Hate Crime	6
Distinguishing Hate Crime from other Types of Crime	8
CHAPTER II: THE CRIMINAL LEGAL SYSTEM AND HATE CRIME	15
History: Evolution of Federal and State Hate Crime Legislation in the United States.....	15
Processing Hate Crimes through the Criminal Legal System	27
Policymaking and Hate Crime.....	35
Legislative Histories	46
CHAPTER III: METHODOLOGY.....	51
Data Source.....	51
Selection Criteria	52
Data Collection Process.....	67
Analytic Strategy	72
CHAPTER IV: RESULTS	75

Description of Individual State Analyses	76
California	80
Connecticut	97
Georgia	114
Illinois	119
Indiana	128
New Hampshire	132
Texas	143
Utah.....	150
Washington, DC	158
Wyoming	172
Overall Themes.....	180
Overall Trends- Regional Diffusion	186
Overall Patterns/Themes.....	191
Within-Region Comparisons of States’ Legislative History Documents	193
CHAPTER V: DISCUSSION	202
Social Movements	203
Political Factors	206
‘Visibility’ of Hate Crime.....	209
Actions by Other Jurisdictions.....	210
General Strategy for Hate Crime Law Adoption.....	211
Other Potential Sources of Information for Hate Crime Law Adoption Research..	214
Limitations.....	214

CHAPTER VI: CONCLUSION.....	217
REFERENCES	219
VITA.....	245

LIST OF TABLES

Table	Page
1 U.S. Census Bureau Regional Breakdown of States and the District of Columbia.....	53
2 Expansiveness Scores for all 50 States and the District of Columbia	56
3 Number of Hate Crime Statutes, Bills, Legislative History Documents, and Total Page Counts among Selected States	76
4 California’s § 422.55 Statute Progression	83
5 California’s § 422.56 Statute Progression	85
6 California’s § 422.75 Statute Progression	87
7 Glossary of California’s Legislative History Documents	89
8 Distribution of Internal Determinants and Regional Diffusion Themes in California’s Legislative History Documents	91
9 Connecticut’s § 46a-58 Statute Progression	100
10 Connecticut’s § 53a-40a Statute Progression	101
11 Connecticut’s § 53a-181i Statute Progression	103
12 Connecticut’s § 53a-181j, k, and l Statute Progression	105
13 Glossary of Connecticut’s Legislative History Documents.....	106
14 Distribution of Internal Determinants and Regional Diffusion in Connecticut’s Legislative History Documents	108
15 Georgia’s § 17-10-17 Statute Progression	116
16 Glossary of Georgia’s Legislative History Documents	117

17	Distribution of Internal Determinants and Regional Diffusion in Georgia's Legislative History Documents.....	118
18	Illinois' § 5/12-7.1 Statute Progression	122
19	Glossary of Illinois' Legislative History Documents	124
20	Distribution of Internal Determinants and Regional Diffusion in Illinois' Legislative History Documents.....	125
21	Indiana's § 10-13-3-1 Statute Progression.....	130
22	Glossary of Indiana's Legislative History Documents	131
23	New Hampshire's § 651:6(f) Statute Progression	133
24	Glossary of New Hampshire's Legislative History Documents.....	134
25	Distribution of Internal Determinants and Regional Diffusion in New Hampshire's Legislative History Documents	136
26	Texas' § 42.014 Statute Progression.....	144
27	Glossary of Texas' Legislative History Documents	145
28	Distribution of Internal Determinants and Regional Diffusion in Texas' Legislative History Documents.....	147
29	Utah's § 76-3-203.14 Statute Progression	154
30	Glossary of Utah's Legislative History Documents	155
31	Distribution of Internal Determinants and Regional Diffusion in Utah's Legislative History Documents.....	156
32	Washington DC's § 22-3701 Statute Progression	161
33	Glossary of Washington, DC's Legislative History Documents	162

34	Distribution of Internal Determinants and Regional Diffusion in Washington, DC's Legislative History Documents	164
35	Wyoming's Hate Crime Bill Progression	172
36	Glossary of Wyoming's Legislative History Documents	177
37	Broad Internal Determinants Themes Uncovered in the Legislative History Documents from the Nine Selected States and Washington, DC	181
38	Distribution of Internal Determinants and Regional Diffusion Among the Nine States' and Washington, DC's Legislative History Documents	182
39	Broad Regional Diffusion Themes Uncovered in the Legislative History Documents from the Nine Selected States and Washington, DC	187

LIST OF FIGURES

Figure	Page
1 Federal Hate Crime Legislation Timeline.....	15
2 Map of Selected States and Washington, DC	51
3 Menu Options for Statutes in Westlaw	69
4 History Tab Options for Statutes in Westlaw	69
5 Listing of Legislative History Documents for Statutes in Westlaw	70
6 General Strategy for Hate Crime Bill Adoption	212

CHAPTER I

Introduction

While hate crimes—those crimes motivated by discrimination and prejudice—have existed throughout history, they have only attracted significant attention in recent decades. Increased awareness and recognition of hate crimes span legislatures, media, rights groups, and a variety of research disciplines, including criminal justice and criminology (Al-Hakim, 2015; Becker, 1999; Franklin, 2002; Jenness & Ryken, 2001). Increased discourse surrounding hate or bias-motivated crime¹ is attributable to media coverage of tragic homicide cases motivated by bias (e.g., the lynching and murder of Emmett Till in Money, Mississippi in 1955; the Matthew Shepard murder in Laramie, Wyoming in 1998; the murder of Ahmaud Arbery during his run in Glynn County, Georgia in 2020). This media attention has led to increased public awareness of and outcry toward hate crime; however, instances of hate crime are not limited to brutal murders or only to those cases that receive such media attention.

Between 2015-2019, the average number of hate crime offenses reported annually in the Uniform Crime Report (UCR) ranged between 6,000 to well over 7,000 (FBI, n.d.). While approximately 15,500 law enforcement agencies were participants in the FBI's Hate Crime Statistics Program during this time frame, only one-eighth of the 15,500 agencies, on average, reported hate crime incidents. To be sure, it is possible no hate crime incidents occurred in locations that reported zero hate crime incidents. However, in

¹ Empirical research and lawmakers use 'bias crime,' 'bias-motivated crime,' 'hate-motivated crime,' and in some instances, 'prejudice-motivated crime' interchangeably with or in place of 'hate crime' (Chakraborti, 2018; Mason, 2014; McDevitt et al., 2001; Pezzella & Fetzer, 2017; Ruback, Gladfelder, & Lantz, 2015; Wickes et al., 2016). This dissertation recognizes the overlap between these concepts and uses the term "hate crime."

comparison, the National Crime Victimization Survey (NCVS) iterations from 2013-2017 reported an annual average of 204,600 hate crimes, of which 101,900 were formally reported to law enforcement (Oudekerk, 2019). This glaring discrepancy may be attributable to the broader inclusion criteria the NCVS has for hate crime. For the NCVS, the Bureau of Justice Statistics classifies crimes as a hate crime if the “victim perceived that the offender used hate language, left behind hate symbols, or the police investigators confirmed that the incident was a hate crime” (Oudekerk, 2019). Conversely, the Federal Bureau of Investigation (FBI) only relies upon voluntarily reported hate crime statistics from police agencies for their UCR reports (FBI, n.d.). Arguably, any hate crimes that agencies report to the UCR program have been investigated and “confirmed” to some degree, as opposed to any instance—with or without police involvement—where victims *perceived* the offender was motivated by bias due to language used or if hate symbols were present. In addition, over 50% of incidents in the NCVS were never reported to the police, precluding their inclusion in the UCR. Based on the discrepancies between the NCVS and UCR prevalence estimates of hate crime, there is good reason to question how these cases are being understood by criminal justice personnel.

With hate crime legislation, jurisdictions have opted to grant legal protection to various groups of individuals. Thus, if someone committed a crime against an individual and was motivated to some degree to do so by a trait the victim possesses or is perceived to possess, then that crime can be classified as a hate crime. The federal government, most U.S. states, and the District of Columbia include a combination of the following protected classes in their hate crime legislation (Bills & Vaughn, under review):

- Race
- Religion
- Ethnicity/Nationality
- Sexual Orientation
- Disability
- Gender Identity
- Gender/Sex
- Age
- Homelessness
- Political Affiliation
- Matriculation²
- Marital Status
- Family Responsibility
- Familial Status
- Law Enforcement
- Judges
- Correctional Officers
- U.S. Armed Forces Members
- EMS/EMT Personnel
- Firefighters
- Involvement in Civil/Human Rights Activities

² Enrollment or registration as a student at an institution of higher education by an individual intending to earn a degree

On average, those who are Black and those who are Jewish are the most likely to be targets of hate crime (FBI, n.d.). From 2015-2019, an annual average of 2,248.8 anti-Black and 879.2 anti-Jewish hate crime offenses were formally reported in the UCR. During this period, several other groups also saw similar rates of hate crime. An annual average of 842 anti-white, 797.4 anti-gay male, and 534.6 anti-Hispanic/Latinx hate crimes were reported to the UCR (FBI, n.d.). These types of hate crimes collectively represent the five most reported bias motivations, with others (notably, anti-transgender, anti-mental disability³, and anti-Sikh) seeing sharp increases between 2015-2019 in UCR reports (FBI, n.d.). Additionally, hate crimes committed against those of Asian descent have seen a significant uptick during the COVID-19 pandemic, both within the United States and across the world (Cabral, 2021; Edmonson & Tankersley, 2021; Hong & Bromwich, 2021).

The increased prevalence of hate crime, public discourse surrounding the issue, empirical research on the topic, and heightened attention from the criminal legal system on hate crimes have led to the development and adoption of hate crime-related policy and calls for further improvements to current hate crime statutes (Jenness, 1999, 2007; Shively, 2005). Legislation provides an official way for the criminal legal system to respond to hate crime through enhancing penalties for crimes committed against certain protected groups that jurisdictions have specified. In other words, the base offense (i.e., assault, vandalism) initially leads to charges being filed, which are subsequently enhanced with a hate crime charge. However, hate crime legislation does not provide blanket coverage for all crimes committed against others due to certain characteristics

³ The FBI splits “anti-mental disability” and “anti-physical disability” hate crimes in UCR reports.

they possess. Consequently, the phrasing and content of hate crime legislation are of utmost importance. Discussed in more detail below, legislation, including hate crime legislation, is not static but has evolved quite rapidly over the last few decades. This dissertation analyzes this important perspective by examining *how* states developed their hate crime legislation and—in nearly every instance—adopted it. Focus is placed on the statutes that establish protected classes and penalty enhancements, and how those protected classes are described, as these statutes provide the foundation for all other hate crimes statutes a state may have. All documented legislative history from these statutes in nine states and the District of Columbia will be analyzed.

While hate crime legislation was created, at least partially, in response to the rising rate of hate-motivated crimes, public outcry, and criminal legal system attention, empirical research has largely not examined the inner workings of the policy development process for hate crime laws (c.f., Jenness & Grattet, 1996; Grattet, Jenness, & Curry, 1998; Haider-Markel, 1998; Jenness, 1999; Soule & Earl, 2001). Given hate crime legislation is a relatively new phenomenon and there have been a number of recent high-profile incidents that spurred changes, hate crime legislation has evolved significantly since early research was conducted on its development at the turn of the century. In addition, state hate crime legislation remains in flux, with states making both small and wholesale changes. Due to the limited body of empirical work, recent amendments made by states, and the overall fluidity of state hate crime laws, an updated understanding is warranted. The limited body of work that has examined policy development related to hate crime legislation has not thoroughly examined these very

recent contemporary changes that might reflect a different snapshot than laws passed at the turn of the twenty-first century.

Legislative history documents provide a unique opportunity to examine the adjustments made during this policy development process. Legislative history documents are compilations of records and information lawmakers keep that outline approaches for developing legislation and how it proceeds through the lawmaking process (Cannan, 2013; McKinney & Sweet, 2019; Slapin & Proksch, 2014). Legislative history provides insight into how such laws were formed, including strategies for developing hate crime legislation, obstacles for enacting it, and legislative aspects that are more likely to receive support and be approved. The current study undertakes an analysis of legislative history documents from nine states—California, Connecticut, Georgia, Illinois, Indiana, New Hampshire, Texas, Utah, and Wyoming—and the District of Columbia to better understand the development of hate crime statutes, in particular those that denote protected classes and penalty enhancements. The selection of states represents a mix of states from across the country, with expansive and sparse legislation, some that recently made changes to their statutes, and states with historical context that may have played a role in state and federal hate crime law adoption. While it is important to acknowledge this sample does not represent the entirety of the U.S., the purposive selection of states emphasizes potential key drivers of policy change.

Definition of Hate Crime

There is no empirical or legislative consensus on the definition of hate crime. Differences consist of the terminology used to denote manifestations of motivation underlying the commission of a hate crime (e.g., ‘hate,’ ‘bias,’ ‘prejudice,’ ‘targeted

hostility’) and the scope of crimes eligible for classification as a hate crime (Chakraborti, 2010, 2018; Hall, 2013). Scholars have posited that the inability to reach a universal and exhaustive definition for hate crime is influenced by trying to account for multiple factors, including cultural nuances, social norms, and political interests (Boeckmann & Turpin-Petrosino, 2002; Hall, 2013; Perry, 2001). This makes conceptualization and operationalization of hate crime challenging. Generally speaking, though, empirical work defines hate crimes as criminal acts committed against a victim because of the group they belong to or identify with or are perceived to belong to by the offender(s) (Chakraborti, 2018; Chakraborti & Garland, 2012; Cogan, 2002; Craig, 2002; Gerstenfeld, 2004; Hall, 2013; Perry, 2001; Uhrich, 1999). Protected classes include, but are not limited to: race, ethnicity/nationality, religion, sexual orientation, disability, gender, and gender identity (see also pages 21-22).

Regarding state legislation, jurisdictions diverge considerably as well, largely due to cultural, social, and political influences (Gerstenfeld, 2013; Nelson et al., 2016; Ott & Aoki, 2002). To be sure, these factors have also affected federal hate crime legislation; however, federal hate crime legislation has remained more consistent over time, with new laws building upon previous legislation rather than eliminating or significantly altering statutes. Nevertheless, additions to federal hate crime legislation have been made several times to expand protected classes and increase the federal government’s role during hate crime investigations within states. Federal and state-level hate crime legislation are detailed in Chapter II (beginning on page 14).

For the purposes of the UCR, the FBI relies upon the current federal statute definition. As of the writing of this dissertation, hate crimes are federally defined as “a

committed criminal offense which is motivated in whole or in part, by the offender's bias(es) against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity" (FBI, n.d.). The FBI also acknowledges that individual people are not the only victims of hate crime. Victims of hate crime can also be institutions, government organizations, religious groups, and society as a whole. That said, individual persons remain the most common type of hate crime victim. Therefore, hate crime statutes that protect individuals are the focus of this dissertation (FBI, n.d.).

Distinguishing Hate Crime from other Types of Crime

Though hate crimes require either a property or violent crime to occur, hate crimes are differentiated from other crimes in several regards. Most importantly, hate crimes are a combination of some crime *along with* bias/prejudice motivating the commission of that crime. In other words, hate crime charges are brought as a penalty enhancement alongside the base crime(s) committed. This is important; a hate crime cannot occur without another base offense.

Challenges to Victim Identity

Another way hate crimes stand apart from crimes, in general, is the personal nature of the bias which catalyzed the commission of the act. Hate crime challenges a victim's identity, as the perpetrator targeted them due to some intrinsic quality they possess or the offender perceived they possessed (Herek, Gillis, & Cogan, 1999; Lawrence, 1999; Meyer, 2010; Pezzella & Fetzer, 2017; Rose & Mechanic, 2002). For example, this could be the victim's sexual orientation or ethnicity—characteristics that may already lead to differential treatment by others—that may, in turn, result in hate crime victimization. An intrinsic quality can also include the victim's religious beliefs,

the tenets of which may be instilled very early in their lives. While roughly one-third of Americans switch religions during their life course, the vast majority of those who do switch religions stick to closely related denominations, highlighting the mostly static nature of religion in a person's life (Glass, Sutton, & Fitzgerald, 2015; Loveland, 2003; Smith & Sikkink, 2003). Taken together, these examples reinforce that hate crime targets largely intrinsic qualities, which can have significant consequences for victims.

Some groups of individuals may be targeted due to events, stereotypes, or misperceptions. Arab and Muslim individuals were targeted following the September 11, 2001 attacks on the World Trade Center in New York City, as reflected in the 1,654 percent increase in anti-Islamic hate crimes from 2000 to 2001 (FBI, n.d.). Anti-Arab and anti-Muslim hate crime rates have remained at least four times higher than prevalence rates from pre-2000 (Disha, Cavendish, & King, 2011; FBI, n.d.). In the United States, despite recent advances in the civil rights of sexual minorities and overall improvement in public attitudes toward sexual minority communities (Baunach, 2011; Marsden, Smith, & Hout, 2020), sexual minorities have been consistent targets of hate crime due to societal stigma arising from heteronormative standards (Herek, 2009; Walters et al., 2020). Currently, Asian individuals are experiencing increased harassment and hate crime during the COVID-19 worldwide pandemic (Edmonson, 2021a; Hong, 2020), which should be reflected in subsequent data collected. Such stereotypes against individuals may be based on projecting anger or hatred onto groups of people who had nothing to do with the events they are blamed for and may be due to misinformation spread either by people or media sources.

Offender Motive in Hate Crime Cases

There are also important differences between hate crimes and other crimes when the offender's motive is considered. Empirical research, media reports, and interviews with offenders concerning how/why offenders decide to target hate crime victims have found that some hate crime offenders may choose a victim based on availability, opportunity, or out of boredom, with the underlying theme that victims possess or are perceived to possess the characteristic(s) of the group the offender holds bias and/or hatred toward (Byers, Crider, & Biggers, 1999; Gerstenfeld, 2017; Levin & McDevitt, 1993; McDevitt, Levin, & Bennett, 2002). Levin and McDevitt (1993) developed a typology as a preliminary method for categorizing hate crime offenders based upon what drove them to commit their crimes. While it was applicable to a portion of cases in their samples and those of subsequent tests, significant limitations have been noted (Fisher & Salfati, 2009; Gruenewald & Kelley, 2014; Phillips, 2009). Nevertheless, this body of work took steps toward discovering what differentiates offenders of hate crimes from more general offenders.

Consequences for Victims

Further distinguishing hate crime from crime in general are the consequences hate crimes have on victims. Hate crime victims may be subjected to a slew of additional challenges beyond the trauma emerging from their victimization, and potentially more so than victims of non-bias-motivated offenses (Fetzer & Pezzella, 2019; McDevitt et al., 2001; Williams & Tregidga, 2014). Similar to other forms of victimization, hate crime victims can experience a multitude of negative health outcomes. Victims of hate crime can experience a breadth of health consequences resulting from their victimization, and

those consequences can be more impactful compared to those experienced by non-hate crime victims (Ehrlich, Larcom, & Purvis, 1994; Fetzer & Pezzella, 2019; Harlow, 2005; Hein & Scharer, 2013; Herek, Gillis, & Cogan, 1999; Herek et al., 1997; McDevitt et al., 2001; Williams & Tregidga, 2014). Victims of hate crime face an increased likelihood of suffering physical injuries compared to non-hate crime victims (Cheng, Ickes, & Kenworthy, 2013; Corcoran, Lader, & Smith, 2015; Fetzer & Pezzella, 2019; Herek, Cogan, & Gillis, 2002; Messner, McHugh, & Felson, 2004). Hate crime victims have also reported anxiety, depression, fear, loss of control, isolation, post-traumatic stress disorder, and association of self-identity with vulnerability (Barnes & Ephross, 1994; Cheng et al., 2013; Corcoran et al., 2015; Craig-Henderson & Sloan, 2006; Garnets, Herek, & Levy, 1990; Hein & Scharer, 2013; Herek et al., 1999; Herek et al., 1997; Iganski & Lagou, 2014; Lyons, 2006; Williams & Tregidga, 2014). In research that has compared samples of hate crime victims and non-hate crime victims, victims of hate crime have a stronger emotional reaction to their experiences, describe their victimization as more serious, and note that it had significant short- and long-term effects on their lives (Botcherby et al., 2011; Garofalo, 1997; Iganski, 2008). Related research without a non-hate crime victim comparison group has reached similar findings (Barnes & Ephross, 1994; Dzelme, 2008; Hershberger & D'Augelli, 1995; Otis & Skinner, 1996). Victims of hate crime may also experience social consequences to being victimized in the form of isolation or stigma arising from their communities, sometimes out of the community's broader fear of being targeted themselves (Benier, 2017; Lyons, 2006; Perry, 2012).

The Effect of Hate Crimes on Communities

Another challenge victims of hate crime may face is related to the effects the crimes can have on communities, in particular on individuals who identify as a member of a group for which the initial victim was targeted (e.g., transgender individuals, those of Jewish and Arab faiths). While other crime types can have an effect on communities—potentially heightening fear of crime and/or causing changes in behavior—this may especially be the case for hate crime, with the initial crime causing ripples of reactions across a community. Perry and Alvi (2012) described this phenomenon as the *in terrorem* effect, wherein a perpetrator intimidates an entire group of people/a community by victimizing a single member of that group. In other words, the actions of a hate crime offender can produce similar consequences among other members of the community as those experienced by the primary victim (i.e., a neighborhood, religious denomination, racial or ethnic group, sexual orientation, or another aspect of a person's identity). Perry and Alvi (2012) found support for this notion. Indeed, members of the communities to which the primary victim belonged reported feelings of inferiority, anger, fear, and began to believe that violence was to become a normal occurrence for people like them (Perry & Alvi, 2012).

Subsequent research with other samples reached similar findings in support of the *in terrorem* effect (Bell & Perry, 2015; Duncan & Hatzenbuehler, 2014; Lim, 2009). Lim (2009) conducted interviews with 45 Asian American respondents regarding the effects of anti-Asian hate crime. Respondents noted that, wherever they go, they “carry with them the reason for their own potential victimization,” and this potential for becoming a hate crime victim constantly permeates their thinking and is something they must find a

way to manage (Lim, 2009, p. 189). The responses given by Lim's (2009) sample illustrate an aspect of the *in terrorem* effect: the ability of a hate crime incident to affect many more people than just the original victim.

Bell and Perry (2015) also relied upon interviews to examine the *in terrorem* effect. Fifteen Canadian individuals who self-identified as sexual minorities (lesbian, gay, bisexual, or pansexual in their sample) took part in several semi-structured focus groups. The moderator asked participants about the prevalence of anti-LGB⁴ hate crime, the effects of it on victims as well as on the LGB community, and how they thought it could be prevented in the future. Respondents mentioned five themes that were representative of the *in terrorem* effect: the psychological and emotional impact of anti-LGB hate crime on LGB non-victims; victim-blaming manifestations; modifying day-to-day behavior; the impact anti-LGB hate crime has on “decisions to come out or go back into the closet”; and resisting anti-LGB violence by outwardly embracing who they are rather than hiding their real selves from the world (Bell & Perry, 2015, p. 112). While the first four themes reflect the negative effects of hate crime on members of the victim's community, the last theme shows that some individuals take a strong stance against being negatively affected by hate crime incidents.

Duncan and Hatzenbuehler (2014) examined whether suicidality within the previous year was more common in areas with higher reported levels of anti-LGBT hate crime. They relied upon a sample of the 108 adolescents in the 2008 iteration of the Boston Youth Survey who self-identified as sexual minorities. Duncan and

⁴ Although transgender individuals were actively recruited to participate, none of the participants in Bell and Perry's (2015) study identified as transgender, so they used the acronym 'LGB.' Further, Bell and Perry (2015) recognize that anti-transgender hate crime may be dissimilar to anti-LGB hate crime and opted to only examine anti-LGB hate crime.

Hatzenbuehler (2014) found that sexual minority youths living in areas with higher reported rates of anti-LGBT hate crime were significantly more likely to indicate they had experienced suicidal ideation or had attempted suicide than sexual minority youths living in areas with lower reported anti-LGBT hate crime rates. These troubling findings reflect how strongly hate crimes can affect members of the group the hate crime victim belongs to.

Awan (2014) and Waddington (2010) both reached results that point to similar outcomes of hate crime that occurred online, with effects permeating the initial victim's social network of family, friends, and others. Collectively, consequences of hate crime victimization—whether expected or actualized—may cause additional issues related to reporting and ultimately case processing in the criminal legal system. In the following section, an overview of hate crime legislation is provided as background for how cases may (or may not) progress through the system.

CHAPTER II

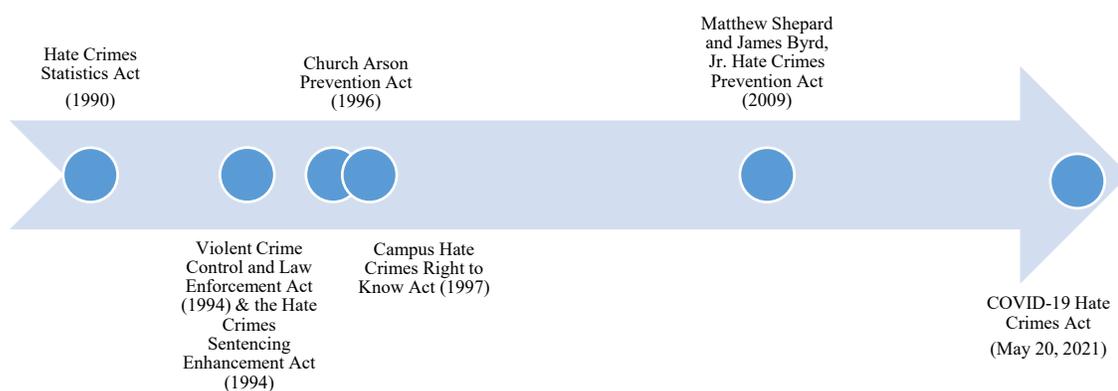
The Criminal Legal System and Hate Crime

History: Evolution of Federal and State Hate Crime Legislation in the United States

Broadly speaking, the criminal legal system faces numerous obstacles in responding to hate crime (Franklin, 2002). This ranges from initial law enforcement involvement to courtroom actors, who may have narrow or misconstrued views of hate crime (Lantz, Gladfelter, & Ruback, 2019; Lyons & Roberts, 2014; Nolan et al., 2015), which arguably affects their handling of hate crime cases and may even influence public perceptions of hate crime. Any response to hate crime by the criminal legal system will be guided by legislation. Stated differently, if there is no law, then there is no way for the legal system to become involved. As such, a review of that legislation—both at the federal and state levels—is warranted. Figure 1 provides a visual representation of the timeline associated with federal hate crime legislation. This will provide context for where such legislation originated, and how it has evolved into what it is today.

Figure 1

Federal Hate Crime Legislation Timeline



Federal Hate Crime Legislation

While just one type of hate crime, anti-race hate crimes have played a central role in getting federal hate crime statutes established. News coverage and analysis of various hate crime incidents increased public awareness of hate crimes. Public and media recognition of hate crimes led to increased attention from political leaders. Hate crime incidents involving racial minority victims and ‘skinhead’ offenders attracted this acknowledgement in particular (Levin & McDevitt, 1993; Reno et al., 1999). These racially motivated cases, along with some other highly publicized hate crimes, fueled advocacy efforts and have been the impetus for the adoption of federal hate crime legislation in the United States.

As a result, the first piece of legislation enacted by the U.S. Congress was the Hate Crimes Statistics Act (HCSA) signed by then-President George Bush in 1990 (HCSA, 1990). The HCSA required the FBI to begin collecting nationwide hate crime data and called upon law enforcement agencies to help with this endeavor, albeit requesting this assistance in a voluntary manner (Haider-Markel, 1998; HCSA, 1990; Uhrich, 1999). Hate crimes—as indicated by the HCSA—include cases of premeditated murder, voluntary manslaughter, simple and aggravated assault, forcible rape, arson, intimidation (e.g., verbal or physical threats), and vandalism that included evidence of prejudice related to race, ethnicity, religion, or sexual orientation (Cogan, 2002; HCSA, 1990; Jenness, 2007). Due to the HCSA’s (1990) mandates, the FBI has collected hate crime data from an increasing number of law enforcement agencies since 1990. The first of their now-annual hate crime statistics reports was published in 1992 as a part of their

Uniform Crime Reporting Program (FBI, n.d.). Such data come from thousands of federal, state, tribal, city, county, and institution of higher education agencies.

A few years later, as part of a six-year bipartisan effort, the Violent Crime Control and Law Enforcement Act of 1994 (VCCLEA) made substantial changes to criminal justice law, from prison and crime prevention funding to how the criminal legal system responds to and handles violence against women. It also amended the HCSA by adding ‘disability’ to the list of protected classes (VCCLEA, 1994). Following its enactment, the FBI began to collect data on anti-disability hate crimes at the start of 1997 (FBI, n.d.). The Hate Crimes Sentencing Enhancement Act (HCSEA) was also passed in 1994, which made commission of a hate crime a federal offense and augmented existing penalties for hate crime offenders (HCSEA, 1994). The HCSEA indicated that the U.S. Sentencing Commission would either amend existing guidelines for sentencing hate crimes to increase penalties by at least three offense levels (meaning several additional months to years added to the sentence) or the Commission would disseminate stand-alone sentencing guidelines for hate crime cases (HCSEA, 1994). The U.S. Sentencing Commission opted to enhance hate crime sentences by at least three levels.

The federal government further expanded the scope of crimes they designate as hate crimes not long after the passage of the HCSEA. The Church Arson Prevention Act (CAPA) was signed into law by then-President Bill Clinton in 1996. Importantly, the Act supplanted the HCSA’s ‘sunset clause’⁵ for its provisions, which made federal recognition of hate crimes, penalties for hate crimes, and mandated federal data collection of hate crime permanent fixtures (CAPA, 1996). It established that federal law prohibits

⁵ A provision of a law that is set to expire after a certain date barring legislation action extending it

damaging religious property, as well as “obstructing any person’s free exercise of religious beliefs” (CAPA, 1996). Further, the Act increased sentences for “defacing or destroying any religious real property because of race, color, or ethnic characteristics” from 10 to 20 years and lengthened the statute of limitations on federal hate crime cases from five to seven years (CAPA, 1996).

The Campus Hate Crimes Right to Know Act (CHCRKA) was passed in 1997, amending the Higher Education Act (HEA) of 1965 (CHCRKA, 1997; HEA, 1965). It was enacted as a response to concerns that hate crimes committed on college campuses were becoming a “serious national problem” (CHCRKA, 1997). Its purpose was to continue bolstering hate crime data collection efforts. The CHCRKA did so by expanding institutions of higher education’s duties related to the 1990 Clery Act, which requires federally funded colleges and universities to compile and disseminate annual campus crime reports (Clery Act, 1990). The CHCRKA requires institutions of higher education and campus security authorities to both collect and report data on any crimes carried out on campus that were committed due to the race, gender, religion, sexual orientation, ethnicity, and/or disability of the victim (CHCRKA, 1997).

The next federal hate crime-related legislative action was taken in 2009, when then-President Barack Obama signed into law the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA). The HCPA made several additions to federal hate crime legislation. First, the HCPA expanded both the list of protected classes to include gender and gender identity and mandated the FBI to collect data on hate crimes motivated by bias toward gender and gender identity (HCPA, 2009). The HCPA also provided three years of funding (from 2010-2012) to assist local and state law enforcement agencies

with investigating and prosecuting hate crimes. Further, the HCPA broadened the circumstances in which the U.S. government can claim jurisdiction to prosecute hate crimes (HCPA, 2009; Smith & Foley, 2010).

The U.S. Attorney General is permitted to prosecute hate crimes under three circumstances: 1) if a state is either unwilling or unable (i.e., cannot claim jurisdiction or does not have a hate crime statute establishing protected classes and penalty enhancements) to prosecute a hate crime; 2) if state officials are in favor of federal rather than state prosecution of a case; or, 3) if a state previously investigated and/or prosecuted for a hate crime, but the investigative or trial result did not satisfy federal interests in combatting hate crime (HCPA, 2009; Smith & Foley, 2010). In the latter instance, the federal government is considered a separate sovereignty from the state under the dual sovereignty doctrine, circumventing double jeopardy concerns (United States Congress, n.d.). A recent example of the federal government claiming jurisdiction using the HCPA occurred in the case of Ahmaud Arbery, who was murdered in Georgia while jogging on February 23, 2020. At the time, Georgia did not have a hate crime statute that denoted protected classes or penalty enhancements, so the state could not pursue hate crime charges. As a result of the federal intervention, Mr. Arbery's three killers were indicted on federal hate crime charges on April 28, 2021 (Benner & Wright, 2021).

The newest federal hate crime legislation is the COVID-19 Hate Crimes Act (CHCA), signed by President Biden on May 20, 2021, as a means to address the increase in reported anti-Asian hate crimes seen during the COVID-19 pandemic (CHCA, 2021; Edmonson & Tankersley, 2021). The CHCA, while designed partially to tackle the rising number of anti-Asian hate crimes, also bolsters the criminal legal system's response to

hate crimes overall (Edmonson, 2021b). The CHCA requires the Department of Justice (DOJ) to expedite the review of reports of hate crime cases. It further requires the DOJ to develop guidance for law enforcement agencies at all levels (i.e., state, local, and tribal) on how to establish an infrastructure for online hate crime reporting, hate crime data collection, and hate crime-focused educational campaigns (CHCA, 2021). The CHCA seeks to make reporting hate crimes easier, including recommending the establishment of and providing grants for state-run hate crime reporting hotlines. The CHCA also provides grants for assisting state and local governments in implementing the National Incident-Based Reporting System and to fund law enforcement training on how to prevent, address, and respond to hate crimes (CHCA, 2021). It will also help provide hate crime resources in multiple languages for victims. Finally, the CHCA allows courts to order hate crime offenders to participate in community service or an educational course as a condition of supervised release (CHCA, 2021).

Vice President Kamala Harris and Representative Bobby Rush have also introduced the Emmett Till Antilynching Act—named for a 14-year old who was murdered in Mississippi in 1955—a bill that would establish a new criminal civil rights violation for lynching (United States Congress, 2020, 2021). The first version of the bill was passed nearly unanimously by the U.S. House of Representatives on February 26, 2020. It was sent to the U.S. Senate a day later, but no further legislative actions took place (United States Congress, 2020). It was reintroduced on January 4, 2021. The most current legislative action⁶ was that the bill was referred to the House Subcommittee on

⁶ As of July 1, 2021

Crime, Terrorism, and Homeland Security on March 1, 2021 (United States Congress, 2021).

In sum, federal hate crime legislation has evolved in two major ways since it was first enacted. The scope of protected classes has expanded from the initial four the Hate Crimes Statistics Act established (i.e., race, ethnicity, religion, and sexual orientation) to include disability, gender, and gender identity as well. The other change seen with federal hate crime legislation is the broadening of the ways in which federal criminal justice organizations investigate and respond to hate crime. Statutes have mandated data collection efforts that persist today, enhance penalties for hate crime, widened the circumstances in which the federal government can investigate hate crime in states, made it easier for people to report hate crime, and enhanced hate crime-related training efforts for law enforcement through funding. Hate crime legislation at the state level has evolved in similar ways.

State Hate Crime Legislation

State hate crime laws predate federal legislation, with the West Coast being the pioneer in this policy development. California passed the first state hate crime law in 1978. At the time, it only outlined penalty enhancements for homicides with what they described as ‘special circumstances,’ which included committing a murder because of the victim’s race, religion, or nationality (California Penal Code, 1978). In 1981, the Anti-Defamation League drafted a Model Hate Crime Statute, which was created to assist states in developing their own hate crime laws (Anti-Defamation League, 2012). Oregon enacted its own hate crime legislation in 1981, which imposed penalty enhancements for several crimes (assault, criminal mischief, harassment, “menacing,” and murder)

motivated by bias toward the victim's race, color, religion, and/or national origin (Oregon Penal Code, 1981). Oregon was also the first state to establish protected classes, granting legal recognition to race, color, religion, and national origin.

Together, the Anti-Defamation League's Model Statute and Oregon's initial hate crime law created a framework that established a standard typically seen today among states' hate crime laws: penalty enhancements imposed for a range of crimes committed due to bias/prejudice toward a group the victim(s) belong to or are perceived to belong to (Anti-Defamation League, 2012; Grattet et al., 1998; Stacey, 2015). Washington also passed its first hate crime statute in 1981, which denoted "malicious harassment" as a crime committed when a person acts maliciously and with the aim of harassing or intimidating another person due to that person's race, religion, ancestry, or national origin by assaulting them, verbally harassing them, or through damage to property (Washington Penal Code, 1981).

In the two years following these trailblazing pieces of legislation, seven other states (in sequential order: Rhode Island, Pennsylvania, New York, and Alaska in 1982; Massachusetts, Illinois, and Idaho in 1983) passed their own hate crime legislation. An additional 18 adopted their own hate crime legislation by 1987 (Grattet et al., 1998). As of February 2021, 49 states and the District of Columbia have some form of hate crime legislation in place that protects particular groups of individuals with a protected class designation. While three states—Arkansas, Indiana, and South Carolina—technically have hate crime laws, they have very limited legislation that criminalizes certain acts rather than establishing protected classes. Wyoming—where Matthew Shepard was brutally murdered in 1998, and for whom the federal Matthew Shepard and James Byrd,

Jr. Hate Crimes Prevention Act of 2009 is partially named—has no state-level hate crime legislation whatsoever at the time this dissertation was written.

While hate crime laws are found in 49 of the 50 United States and Washington, DC, what each state currently includes in this legislation varies considerably. An examination of each state's hate crime legislation reveals that the contents of their hate crime laws range in comprehensiveness of protected groups (e.g., race, ethnicity/nationality, religion, sexual orientation, gender, gender identity, disability, age, etc.) and other legal provisions (Bills & Vaughn, under review). Other legal provisions can include, but are not limited to, criminalization of institutional vandalism and/or cross burning, mandating hate crime data collection by state agencies, requiring law enforcement training on hate crime, permitting civil action to be taken, and affording victims of hate crime additional rights. The District of Columbia, California, and Utah have some of the most extensive and inclusive (i.e., more crimes are included, and more groups are granted legal protection) hate crime statutes in the United States (see Table 2). The District of Columbia, in particular, designates crimes committed due to bias toward marital status, personal appearance, family responsibilities, and matriculation as hate crimes. The District of Columbia's protected classes also include those that are more commonly found in state statutes, namely race, ethnicity/nationality, religion, sexual orientation, gender, and disability. In contrast, some states, such as Idaho, Montana, and Virginia, only grant protection to race, ethnicity/nationality, and religion—categories that all states with hate crime legislation that includes protected classes provide legal coverage to at a minimum.

At the time this dissertation was written, Georgia and Utah have made the most recent substantial changes to their hate crime legislation. On April 2, 2019, Utah completed a years-long effort to enact additional hate crime legislation beyond its previous law, which only criminalized institutional vandalism (Whitehurst, 2019). Utah expanded its hate crime law to include an extensive list of protected classes: race, ethnicity/nationality, religion, sexual orientation, gender, gender identity, disability, political affiliation, age, homelessness, and emergency responders. Utah's hate crime legislation also includes those serving in the armed forces, correctional officers, familial status, marital status, and matriculation as protected classes. Further, Utah now requires hate crime data collection through the establishment of a statewide system to share statistics with the FBI's Uniform Crime Reporting Program. Similarly, Georgia added a set of protected classes to their formerly limited hate crime legislation (which only criminalized institutional vandalism and cross burning) on June 26, 2020. This occurred 16 years after the Georgia Supreme Court struck down the state's original hate crime legislation that was enacted in 2000 (Slotkin, 2020). In Georgia's new legislation, protected class status was given for race, religion, national origin, gender, sexual orientation, and disability. Georgia also mandates hate crime data collection by law enforcement agencies throughout the state.

When considering the current hate crime laws of every state, the 'standard' hate crime statute (at least 50 percent of jurisdictions with hate crime statutes) includes the following protected classes: race, ethnicity/nationality, religion, sexual orientation,

gender, and disability.⁷ The presence of all other protected groups varies significantly among states. Others are far less common, such as gender identity, political affiliation, homelessness, age, or law enforcement. For some protected classes, only one or two jurisdictions include them (e.g., firefighters, service in the U.S. Armed Forces, correctional officers).

The terms states use in their legislation to denote each protected class can also differ, further adding to the variation states currently have in hate crime statutes. There is little disparity in phrasing used to describe race (race, color); sexual orientation (sexual orientation; sexual preference); gender (gender; sex); gender identity (gender identity; gender expression); political affiliation (political affiliation; political expression); and homelessness (homelessness). Conversely, there are a variety of terms used to describe the remaining protected classes, including ethnicity/nationality (ethnicity; national origin; ancestry; country of origin; nationality; alienage; ethnic background; citizenship); religion (religion; creed; religious beliefs; religious practice; religious conviction); disability (physical or mental disability; physical, sensory, or mental handicap; blindness, physical or mental; physical); age (age; advanced age (65+); age (60+)); and law enforcement (state, city, county, or federal peace officer; law enforcement officer; peace officer; special function officer). This can be problematic as some terms are behaviorally based (e.g., religious practice) while others are not (e.g., religion; religious beliefs).

Some states also use more than one term to describe protected classes, which in effect extends legal protection to more groups. California, for example, uses ‘national

⁷ This section on a ‘standard’ hate crime statute, terminology states use, terminology combinations, and a review of other hate crime-related provisions states use are adapted from work by Bills and Vaughn (under review).

origin,' 'ancestry,' 'country of origin,' 'ethnic background,' and 'citizenship' to describe who is protected in the ethnicity/nationality protected class. This definition of ethnicity/nationality is far more expansive than practically every other state. Most other states include a more general phrase like 'national origin' and/or 'ancestry.' Collectively, phrasing differences reflect the reality that someone who experiences what constitutes a hate crime under legal and empirical definitions may be considered a victim in some states but not in others, perhaps influencing how the criminal legal system responds to hate crime incidents.

The same current 'standard' hate crime statute may also include provisions. Provisions address other facets of hate crime beyond designating certain groups as protected classes and include: allowance for civil redress (i.e., dealing with hate crime cases in civil court), mandated state-level data collection, prohibition of institutional vandalism (e.g., defacing/damaging a business, place of worship, or a school), and legal recourse for cross burning (on public or private property with the intent of intimidating others). Similarly, not all states have the same provisions in their hate crime legislation. Prohibitions against institutional vandalism are the most common (46 states), followed by mandated hate crime data collection (31 states), and options for civil recompense (27 states). Slightly less common are legal recourse for cross burning (23 states), interference with religious worship (16 states), provisions that explicitly mention additional rights afforded to hate crime victims (16 states), and mandated hate crime-focused law enforcement training (13 states). Five states have provisions that do not fall into any of these categories. For instance, three states (Connecticut, Illinois, and Texas) included mandated educational programs for offenders, but they all vary. Connecticut also has

further enhanced penalties for “persistent” hate crime offenders. Last, Maine requires law enforcement agencies to develop organizational policies on hate crime.

Processing Hate Crimes through the Criminal Legal System

Reporting

The first step in initiating the legal process is contingent upon the decision-making of victims, bystanders, and anyone who comes upon a hate crime incident and has the ability to report it. Stated differently, the legal system is only invoked when someone reports the crime to authorities (Hindelang & Gottfredson, 1976; Wong & Christmann, 2008). The decision-making process to report (or not) is influenced by a number of internal and external factors. Research examining reporting behaviors by hate crime victims has found that they may choose not to report an incident to police because they want to handle the situation on their own (Perry, 2012; Sandholtz, Langton, & Planty, 2013); they feel they are unworthy of law enforcement involvement (Perry, 2012; Sandholtz et al., 2013); they are afraid of blame from others (Craig & Waldo, 1996; Lyons, 2006); they fear reprisal from the offender for reporting (Briones-Robinson, Powers, & Socia, 2016); they distrust the police (Cuerden & Blakemore, 2020; Myers & Lantz, 2020); or they receive advice to not report (Wong et al., 2013).

Formal reporting of hate crime, whether by the victim(s), witnesses, or someone else, initiates the legal process. This, however, does not guarantee that the incident will progress all the way through to conviction. To be sure, research addressing law enforcement and victim responses to hate crime indicates that hate crime incidents are often not reported formally, and among those that are, they rarely progress past the investigation phase of the process (Lantz et al., 2019; Lyons & Roberts, 2014; Pezella,

Fetzer, & Keller, 2019; Walfield, Socia, & Powers, 2016). While the nuances of reporting (or not) are important to understand, the legal process, and by default, legislation associated with the crime is only invoked when a crime is reported to the police. For this reason, the following sections focus on the criminal legal process for incidents of hate crime.

Law Enforcement Response to Hate Crime

Ambiguity in Hate Crime Definitions. Often recognized as the ‘gatekeepers’ to the criminal legal system, empirical research examining law enforcement’s response to hate crime is relatively new and underexplored (Lyons & Roberts, 2014). Many of the difficulties afflicting law enforcement’s response to hate crime arguably begin with and stem from definitional issues of hate crime (described in detail in the preceding sections). Variation in what constitutes a hate crime and the operational definitions of hate crime exists not just at the state level but also among local jurisdictions (Grattet & Jenness, 2005; Hall, 2013). These definitions vary considerably and can be vague (Boyd, Berk, & Hamner, 1996; Grattet & Jenness, 2005; Martin, 1995; Shively, 2005). This ambiguity negatively affects the enforcement of hate crime laws, particularly in identifying and classifying instances of hate crime (Boyd et al., 1996; Cronin et al., 2007).

Assessing and Identifying Motive. Related to definitional variations in hate crime law, law enforcement actors also struggle with assessing and identifying motives in hate crime cases (Cronin et al., 2007; King, Messner, & Baller, 2009). Proving motive is not a necessity for most crimes outside of hate crimes, making this investigative aspect of hate crimes less familiar for law enforcement (Cronin et al., 2007). Compounding this, judging and determining bias motivation may require a complex investigation, made even

more difficult if evidence is lacking or is of poor quality (King et al., 2009; Lyons & Roberts, 2014). Given that not every hate crime case includes physical or easily identifiable evidence of bias, this aspect of the investigative process can be difficult for case progression through the legal system.

Stereotypes about Hate Crime. Further problems affect law enforcement's response to hate crime beyond the issues caused by jurisdictional variation in definitions for hate crime and difficulty with proving motive. A significant problem is the stereotypes and preconceived notions about hate crime that some law enforcement actors possess. Scholarship has noted that, alongside victim (Perry, 2012; Sandholtz et al., 2013), witness (Lyons & Roberts, 2014), and community (Cronin et al., 2007; Lyons, 2008) perceptions that some hate crime cases are more serious than others, law enforcement is not immune to subjective interpretations that only certain hate crimes are more worthy of investigation (Lantz et al., 2019; Lyons & Roberts, 2014). Specifically, hate crime incidents involving a white offender targeting a person of color are more likely to proceed in the criminal legal process than cases involving a person of color targeting a white victim. Lantz and colleagues (2019) also found that cases involving a weapon, strangers, injury, more severe violence, and a hate group were more likely to enter the legal system and be subsequently processed than cases without these elements.

As mentioned in the research above, law enforcement actors may associate certain case aspects with what a 'typical' hate crime looks like, including victim and offender characteristics, offense type, and offense location (Cronin et al., 2007; Lantz et al., 2019; Lyons, 2008; Nelson et al., 2016). These characteristics are part of a set of personal (and subjective) mechanisms used to discern cases worthy of investigative attention (Bell,

1996, 2002; Boyd et al., 1996; Cronin et al., 2007; Martin, 1995). Such perceptions and approaches lead to divergent identification and investigative outcomes (Lantz et al., 2019; Lyons & Roberts, 2014), particularly if officers have a narrow view of what constitutes a hate crime. This has been reflected in focus groups of police officers as well. For example, Nolan and colleagues (2015) found that officers perceived hate crime to be a rare phenomenon in their jurisdiction and that they felt a majority of crimes could be explained by a motive other than bias. This translates then to few crimes worthy of being considered hate crimes in the eyes of law enforcement, which may affect subsequent case processing.

External Pressures and Influences. Law enforcement investigation of hate crime can be further complicated by external pressures. Research has noted that local agencies and the policies they adopt and enforce are influenced by a variety of groups, including federal and state organizations, fellow local agencies, advocacy groups, and the communities they serve (Grattet & Jenness, 2005; McVeigh, Welch, & Bjarnason, 2003; Walker & Katz, 1995). A lack of public support for hate crime laws may lead to an inadequate response and handling of hate crime cases by law enforcement. If the public is skeptical about the protection hate crime laws provide for particular groups, and thus are not in favor of such legislation, law enforcement may be less inclined to investigate hate crime to avoid pushback and community resistance (King et al., 2009; Nolan & Akiyama, 1999). King and colleagues (2009) found that racial antagonism and cultural traditions—measured as a history of lynching in the 10 states in their sample—were associated with lower compliance with hate crime legislation and decreased response to anti-Black hate crime.

However, it is not always the case that communities are averse to law enforcement's response to hate crime. External influences can also heighten pressure to properly respond to high-profile hate crime cases, especially those that are notably heinous and those that receive widespread media attention (Gerstenfeld, 2013; Lyons & Roberts, 2014; Nelson et al., 2016; Ott & Aoki, 2002; Swigonski, Mama, & Ward, 2014). Research has found that individuals recognize the seriousness of different types of hate crime, not just high-profile cases (Cabeldue et al., 2018; Cronin et al., 2007; Lyons, 2008; Rayburn, Mendoza, & Davison, 2003). This may put pressure on an agency to investigate an incident as a hate crime.

Global Law Enforcement Response to Hate Crime. While the United States struggles with investigating hate crimes, it is not isolated. Rather, this problem is systemic across the globe. Indeed, law enforcement agencies in Australia, Canada, and the United Kingdom also suffer from the same investigative issues and limitations when it comes to hate crimes (Chakraborti, 2009; Hall, 2010; James, 2007; Poynting & Perry, 2007; Rowe, 2004; Wickes et al., 2016). This showcases the international nature of law enforcement difficulties associated with effectively responding to hate crimes.

Hate Crime Training for Law Enforcement. In light of these issues, law enforcement agencies have worked to institute officer training and department protocols to address cases of hate crime (Cronin et al., 2007; Farrell, Owens, & McDevitt, 2014; Ruback et al., 2015; Walker & Katz, 1995). Responses, however, are highly variant and may be limited. For example, Ruback and colleagues (2015) found that Pennsylvania's law enforcement hate crime training protocols, in many jurisdictions, when present, were limited to broad cultural/ethnic diversity training. Research has also found that many

agency policies that implement diversity or hate crime training are insufficient (like those described by Ruback et al., 2015), and lack sustainability for offering the training over an extended period of time (Docking & Tuffin, 2005; Miles-Johnson, 2016). Despite these potential limitations, research has shown that promising approaches to improve law enforcement's response to hate crime include comprehensive and high-quality training, policies/checklists that guide officer responses, and second-level case review (i.e., enforcement of legislation, classification) (Cronin et al., 2007; Jenness & Grattet, 2005; Mason, McCulloch, & Maher, 2016; Miles-Johnson et al., 2018; Nolan & Akiyama, 1999).

Prosecution of Hate Crimes

The Role of Prosecutorial Discretion. The nature of hate crime and the effects victims may experience present obstacles for hate crime case progression. Prosecutors possess a substantial, and effectively unrivaled, amount of discretion in their positions in the criminal legal system (Albonetti, 1987; Shermer & Johnson, 2010). That discretion includes determining what offenses to charge a criminal offender, if any (McPhail & Jenness, 2005). Prosecutors are not required to press charges for a specific crime(s) against anyone, including hate crimes. As a result, the discretion afforded to prosecutors, combined with that of law enforcement, complicates the degree to which hate crime legislation is implemented.

Despite this importance, there has been relatively little empirical attention given directly to the prosecution of hate crime (Byers, Warren-Gordon, & Jones, 2012). Prosecution of hate crimes presents numerous obstacles, some of which are not unique to hate crimes, but they nonetheless make this process difficult (Alongi, 2016; Bell, 2002;

Gillis, 2013). Foremost, prosecutors must be able to prove the offender(s) was propelled to commit the crime because of their bias/prejudice toward the victim or group to which the victim belongs. In some cases, definitive evidence of bias/prejudice is present. In others, though, indisputable evidence may be hard to come by. A victim or eyewitness, for example, may claim the offender shouted an anti-Semitic remark before or during an assault but was the only person to hear it. Prosecutors managing such cases may opt not to pursue hate crime charges and instead focus on the base crime (e.g., assault, theft). It would be difficult to both demonstrate bias existed—and was the catalyst for the crime—with circumstantial evidence and/or when there was no identified suspect (Alongi, 2016; Byers et al., 2012; Byers & Zeller, 2001; Gillis, 2013; Jacobs & Potter, 1998).

Plea Bargaining. Even with evidence of bias/prejudice on behalf of the offender, it is important to note that the vast majority of criminal cases in the United States, both at the state and federal level, end in plea agreements (Beenstock, Guetzkow, & Kamenetsky-Yadan, 2019; Bureau of Justice Statistics, 2015). This is largely due to prosecutors exercising their discretion and, in an effort, to keep the system moving. Prosecutors engage in a cost-benefit analysis to maximize efficiency of an over-taxed American legal system. Plea agreements save time and money that would be spent on a full criminal trial process. Further, in the case of hate crimes, the criminal penalty for the underlying offense may be deemed a sufficient punishment for an offender in the eyes of the prosecutor (e.g., life sentence for murder). In such instances, prosecutors may not bother with the sentence enhancements that hate crime charges bring (Boram, 2015).

Ambiguity and Uncertainty with Hate Crime Legislation. Beyond those potential evidential obstacles, prosecutors may perceive and toil with ambiguity in hate

crime legislation, just as law enforcement does, causing them to not levy hate crime charges, especially if legislation recently changed (Grattet & Jenness, 2005; McPhail & Jenness, 2005). With new legislation, prosecutors may be less familiar with what the law addresses and case history will be lacking. This unfamiliarity has led some state prosecutors to not file hate crime charges due to these new complexities and decreased certainty of conviction (Jacobs & Potter, 1998; McPhail & Jenness, 2005). This reduced certainty relates to the focal concerns that prosecutors rely upon (blameworthiness, community protection, and practical constraints and consequences) (Steffensmeier, Ulmer, & Kramer, 1998); prosecutors want to file charges in cases with the highest chance of conviction (Albonetti, 1986, 1987). With new legislation, prosecutors are arguably going to be cautious about proceeding through the legal process, as they have little legal precedent to formulate their case around, which arguably creates an unknown certainty of conviction.

Hate crimes are not unique in this sense; other types of crime, including stalking and human trafficking, face similar issues (Farrell et al., 2014; Miller, 2001). Miller (2001), studying anti-stalking laws, found that both law enforcement and prosecutors alike tended to refer stalking cases to specialized departments due to confusion surrounding what is considered a stalking offense. In regard to contemporary changes to human trafficking legislation, Farrell and colleagues (2014) note that victims of human trafficking have traditionally been processed as offenders in the justice process, something the laws permitted.

Victim Cooperation in Hate Crime Cases. Prosecution of hate crimes may also be hindered by limited victim cooperation throughout case processing. This may be due

to perceived or actualized apathy from criminal justice actors, secondary victimization experienced by victims, or backlash from the victim's community for working with the legal system (Comstock, 1989; Orth, 2002; Parsons & Bergin, 2010; Perry, 2012; Sandholtz et al., 2013). Hate crime victims may also be uneasy about having to face their assailant and recalling their victimization experience in court, as is also the case for sexual violence and intimate partner violence survivors (Koss, 2000; Rothbaum et al., 1992).

Policymaking and Hate Crime

As evidenced in the preceding sections, hate crimes are a unique form of crime that can challenge a victim's identity via an offender's bias toward an innate characteristic they possess. This may lead to a differential impact on hate crime victims. Despite this, the criminal legal system struggles to respond to hate crime incidents. Legislation plays a central role in this response by outlining what is or is not considered a hate crime, and the types of penalties that can be imposed. In the realm of hate crime, however, legislation varies broadly across jurisdictions. A comprehensive review of the policymaking process for hate crime, along with prior analyses of state hate crime laws will help shed light on why states' hate crime laws differ.

Legislation establishes legal/illegal behavior and influences all aspects of the criminal legal system, including how it responds to crimes. Laws are not created and enacted quickly or without forethought; rather, the development of legislation takes place over time and is subject to a number of influences. Seminal work by Berry and Berry (1990) indicates that there are two general approaches that are useful for understanding how state-level (and other jurisdictions) policy is formed and adopted: 1) the Internal

Determinants models and 2) the Regional Diffusion models. While separate models, both have received support, and allow researchers to focus on sets of influential factors.

Internal Determinants Models

Internal Determinants models argue that various social, political, and economic state attributes—all individual-level state characteristics—influence the adoption of policies (Berry & Berry, 1990; Walker, 1969). States adopt policies according to their own characteristics, such as political landscape, economic conditions, and social climate, as well as adopt policies based upon available financial resources (Matisoff, 2008). Individual state attributes may facilitate or impede policy innovation (i.e., developing policies for the state that have not been pursued before) and adoption (Berry & Berry, 1990; Matisoff, 2008).

Limited research has investigated the role of Internal Determinants for criminal justice policy, and research that has stuck to an arguably surface-level examination of the influence of social, political, and economic state attributes (Grattet et al., 1998; Haider-Markel, 1998; Jenness & Grattet, 1996; Soule & Earl, 2001). Research has examined Internal Determinants in two ways, both of which employ cross-sectional approaches. The first is by looking at *when* a state adopts particular legislation among a group of states that could potentially enact it. For example, this is done by looking at the year a state initially enacted a law. The second approach is determining *if* a state has adopted certain legislation by a set date, such as by 2014 (Berry & Berry, 1990; Matisoff, 2008). As far as this researcher is aware, research has not examined the collective influence of social, political, and economic factors by measuring them directly. With Internal

Determinants models, states are not considered to be influenced by and/or consider other states' actions (Berry & Berry, 1999).

Regional Diffusion Models

Regional Diffusion models, on the other hand, posit that the timing surrounding policy formation and the actions of neighboring states affect policy adoption (Berry & Berry, 1990; Walker, 1969). According to Regional Diffusion models, internal characteristics generally have no influence on policy adoption. As noted by Berry and Berry (1999), the diffusion process occurs over time as innovation is shared through communicative channels among members of a social system. In this case, states are members of a social system in the United States, with ideas offered more frequently among neighboring states (Berry & Berry, 1999; Matisoff, 2008; Soule & Zylan, 1997). According to this model, states analyze legislation adopted by other states to determine efficacy. If neighboring states' legislation is efficacious, states are more likely to follow their lead as a means for garnering respect from their residents/other states and give the appearance that they are responding to the issue at hand (e.g., rising drug crime, increased rates of hate crime) (Berry & Berry, 1999). In addition, Regional Diffusion models posit that states may fall in line with the legislative actions of their neighboring states or national efforts as a means to conform to established standards. However, hate crime legislation is no stranger to debate over how expansive it should be, or whether it should exist at all (Brax, 2016; Cogan, 2002; Jacobs & Potter, 1998). As a result, if states perceive the actions of another state as irrational, misguided, or controversial, they will be less likely to adopt similar legislation (Soule & Earl, 2001).

Prior Analyses of Policy Adoption

Prior research spanning decades has found that jurisdictions—local, interstate, and global—rely upon one another to develop legislation, particularly for new phenomena, providing support for Regional Diffusion models (Berry & Berry, 1990; Butler et al., 2017; Gilardi, 2010; Gray, 1973; Knoke, 1982; Thomas et al., 1987). Jurisdictional reliance upon their peers for policy development, however, is not limited solely to just geographic proximity (Shipan & Volden, 2012). Indeed, prior research on policy formation has consistently noted that policy itself is a multifaceted phenomenon, developed through the influence of myriad elements arising from our social environment. This also gives credence to the ideas of the Internal Determinants models (Grattet et al., 1998; Gray, 1973; Jenness, 1999; Jenness & Grattet, 1996).

This policy formation process and the numerous influences at play operate similarly for hate crime (Grattet et al., 1998; Jenness, 1999; Jenness & Grattet, 1996; Phillips & Grattet, 2000). As Grattet and colleagues (1998) note, with emerging problems or occurrences, information about how to address it is limited or non-existent. Due to this, political systems may turn toward other policymaking bodies who have undertaken trailblazing efforts to see what they have enacted, with particular attention paid to those whose ideologies align with theirs (Strang & Meyer, 1993). Elaborating on hate crime policy formation and adoption, Jenness and Grattet (2005) analyzed perviousness: responsiveness to environmental influence and organizational agreement and alignment with what is being advocated for. Jenness and Grattet (2005) found perviousness of a law enforcement agency to be a strong predictor of hate crime policy adoption during periods of policy innovation and implementation. Their research affirms earlier work that

highlights the role social environments play in adopting new policy and does so in the context of hate crime.

Prior Analysis of Hate Crime Legislation Adoption

Only a handful of studies have analyzed state and federal hate crime legislation adoption. Some articles and government reports simply provide a snapshot of state hate crime legislation at a given time as the focus or as a portion of a report on hate crime (Jenness & Grattet, 1996; Reno et al., 1999; Smith & Foley, 2010). Other research has examined potential influential factors for both the adoption and content of state hate crime legislation (Grattet et al., 1998; Haider-Markel, 1998; Jenness & Grattet, 1996; Soule & Earl, 2001), with Jenness (1999) doing so at the federal level. However, this prior research was generally conducted when state and federal hate crime laws were relatively new, as a means for beginning to understand the nature of the laws being established. Put differently, states and the federal government had begun developing and enacting their own hate crime laws, but empirical efforts to understand what that legislation contained, how it was developed, and if it mirrored other federal or state statutes had not yet been explored. Given the purpose of this dissertation, a review of this previous work is warranted. This dissertation will illustrate how legislation has been empirically examined, and how the current work addresses a new area of research for hate crime law.

Social Movements and Policy Development. Prior scholarship has shed light on a legislative development and adoption process influenced by the convergence and interaction of various social and political factors within the state, reflective of the effects of Internal Determinants. Social movements have historically played a role in drawing

attention to hate crime (Grattet & Jenness, 2001; Jenness, 2007; Maroney, 1998). They have also played a key role in how jurisdictions choose to adopt hate crime legislation and what comprises it (Grattet et al., 1998; Haider-Markel, 1998; Jenness, 1999). Social movements can include interest/advocacy groups, moral entrepreneurs, and wider collective efforts by members of society. Research by Jenness (1999) found that the mobilization of such movements is critical, especially in the early stages of hate crime policymaking. Jenness (1999), though, cautioned that solely considering structural factors or the role of social movements in hate crime law adoption provides an incomplete view of how and why legislators undertook such action.

Political Factors and Policy Development. Efforts made by social movements and interest groups are intertwined with the political factors that have been found to influence state hate crime legislation (Grattet et al., 1998; Haider-Markel, 1998; Jenness & Grattet, 1996). States were found to be more likely to adopt hate crime legislation when they possess a greater commitment to group rights and an innovative policy culture (Grattet et al., 1998; Jenness & Grattet, 1996; Soule & Earl, 2001). Haider-Markel (1998) examined ‘competition between political parties,’ which the author posited should be positively related to hate crime law adoption. Political figures in more competitive arenas generally need to be more progressive in their actions if they wish to retain their position (Haider-Markel & Meier, 1996; Nice, 1992; Skogan, 1990). Haider-Markel (1998) found that greater political party competition had a positive influence on the adoption of state hate crime legislation and on the scope of the laws.

‘Visibility’ of Hate Crime Incidents and Policy Development. The development and adoption of hate crime legislation among states has also been found to

be influenced by the ‘visibility’ of hate crime incidents (Grattet et al., 1998; Haider-Markel, 1998; Jenness & Grattet, 1996; Soule & Earl, 2001). Both the formally reported hate crime rate and media coverage of hate crime incidents play a role in setting what Grattet and colleagues (1998) described as the “historical context” when legislation might be considered and adopted. As more hate crimes are reported formally (i.e., to law enforcement) and media coverage of hate crime incidents occurs, publicity and recognition of hate crime becomes more widespread, which may increase public calls that “something must be done” (Jenness & Grattet, 1996, p. 148).

This context has historically influenced the adoption of hate crime legislation as politicians respond to rising pressure to address increases in the number of hate crime incidents and to appease the public (Grattet et al., 1998; Haider-Markel, 1998; Jenness & Grattet, 1996). As this dissertation will explore, it is possible this phenomenon was reflected recently in Georgia, with the passage of new hate crime statutes weeks after the murder of Ahmaud Arbery, an unarmed Black man who was killed while running. This murder sparked state and nationwide protests and directed scrutiny toward the state’s previously limited hate crime legislation (Hauck, 2020; Slotkin, 2020). In March 2021, a case involving a man who attacked three spas in the Atlanta area and killed eight people (six of which were of Asian descent), drew further national outrage and attention toward rising numbers of anti-Asian hate crimes (Fausset, Bogel-Burroughs, & Fazio, 2021).

Actions of Other Jurisdictions and Policy Development. Further pressure for states to adopt hate crime law come from the actions of other jurisdictions, representative of the ideas of Regional Diffusion (Grattet et al., 1998; Soule & Earl, 2001). Indeed, this is something that has been found to be the case for state legislation more broadly (Berry

& Berry, 1990; Gray, 1973; Walker, 1969). As Grattet and colleagues (1998) uncovered in their event history analysis of U.S. states' hate crime legislation, officials in policymaking positions felt pressure to enact such laws as more states adopted hate crime legislation. This pressure did not supersede the influence of social movements/interest groups, political factors, or the 'visibility' of hate crime incidents but rather further drove states to enact their own legislation. The policies other states adopted also served as a reference point for states when developing their own hate crime laws (Grattet et al., 1998). This therefore would be reflective of the Regional Diffusion model working in tandem with Internal Determinants. Soule and Earl (2001), in their examination of the potential effect of interstate and intrastate factors on state hate crime law adoption using legislative history documents, found support for the "pressure" thesis as states increasingly enacted their own hate crime legislation. As evidenced here, it is not solely pressure from the public that legislators contend with, but also the need to compete and align with other states, again consistent with both the Internal Determinants and Regional Diffusion models of policy adoption.

The findings from the research in this area show that the adoption of hate crime legislation by states is a complex process where social movements, political factors, hate crime visibility, and actions by other jurisdictions all play a role in whether a state adopts hate crime legislation. These factors also influence how states go about developing the legislation. The time in which the articles were published (e.g., 1996-2001) combined with the fluid nature of hate crime legislation (e.g., recent substantial changes to Georgia's and Utah's laws) and increased attention on hate crimes (Benner & Wright, 2021; Cabral, 2021; Edmonson, 2021a, 2021b; Hong & Bromwich, 2021) further shows

the need for contemporary research to examine this area. In addition, prior work focused solely on the initial adoption of hate crime legislation and did not account for the potentially numerous changes that states make to hate crime laws. Thus, research examining changes made by states over time is warranted.

The Use of Legislative History from Hate Crime Legislation

As far as this researcher is aware, only two empirical works have used legislative history documents to examine how hate crime legislation was developed (Jenness, 1999; Soule & Earl, 2001). Legislative history documents, discussed in more detail in the following section, are a collection of draft bills, commentaries, and various rationales that accompany legislation through its developmental processes (Cannan, 2013; McKinney & Sweet, 2019). One study examined legislative history documents that accompany federal hate crime legislation (Jenness, 1999). The other work by Soule and Earl (2001) used legislative history documents in their examination of what factors influenced the adoption of hate crime legislation at the state level. These two studies are described in detail in the following two sections.

Jenness (1999): Federal Hate Crime Legislation. Jenness (1999) examined how federal laws designed to combat hate crime were constructed by the U.S. Congress. At the time, three major pieces of federal hate crime legislation had been enacted within a four-year span: the Hate Crimes Statistics Act (1990), the Violent Crime Control and Law Enforcement Act (1994), and the Hate Crimes Sentencing Enhancement Act (1994). Jenness (1999) studied the developmental processes for each using 43 legislative history documents (totaling 4,140 pages of text). These documents comprised verbatim transcripts from hearings, debates, and committee reports and prints. As Jenness (1999)

described, the collection of legislative history documents represents the work and input of hundreds of government officials, activists, and victims, providing a view of how the substantive content of federal hate crime legislation came to be.

Jeness (1999) undertook a comparative case study, with each document considered as a single 'case.' The contents of each document were first organized based on three analytic dimensions: who made the claims/arguments in the document (i.e., politicians, activists, victims, etc.); the types of claims brought both for and against legislative proposals; and the ways in which status characteristics (in particular, race, religion, ethnicity, and sexual orientation) were, "characterized, described, implicated, and negotiated during the development process" (p. 553). Jenness (1999) determined that the status provisions in federal hate crime legislation were shaped by a combination of interrelated processes. Processes include the mobilization of social movements, beginning with the civil rights, women's rights, and the gay and lesbian movements, which drew attention to inequalities in rights and harms suffered by a variety of groups. In combination with advocacy efforts, government claims-makers also drew attention to the same issues. They made persuasive arguments that recognized the difficulties certain groups face and the need for legislation to respond to these issues, thus paving the way for the institutionalization of hate crime law at the federal level. Arguments were largely in line with the Internal Determinants model.

Soule and Earl (2001): State Hate Crime Legislation. Soule and Earl (2001) used the legislative history records for a different purpose than Jenness (1999). Soule and Earl (2001) used them to determine the type of law(s) each state had (i.e., civil, criminal, or data collection), the year the law was initially enacted, and amendments to original

laws. They determined that several factors play a role in a state's development and adoption process for hate crime legislation.

Some factors work to the benefit of hate crime law adoption. More specifically, the higher a state's per capita income level, the quicker they were to adopt hate crime legislation. If a state is more progressive overall with their policies, then a state was more likely to enact a hate crime law. Last, states with a higher percentage of Democratic legislators were more likely to adopt hate crime legislation. Soule and Earl (2001) posited that this latter factor was due to a tendency for Democrats to act more favorably toward minority group constituents than their Republican counterparts.

Soule and Earl (2001) found that other factors make enactment less likely and/or slower. If a state had previously adopted some form of hate crime legislation, they would be slower to adopt further hate crime legislation. In addition, if this previously enacted legislation excluded certain groups from being a protected class, states were less likely to add them later. Soule and Earl (2001) offered an explanation, saying that the initial hate crime legislation a state adopts may be used as a buffer to avoid full criminalization of hate crime. This would require a more involved response from the criminal legal system by law enforcement and the courts, which may be poorly received by those opposed to hate crime statutes. This argument ties in with another finding: that if a state adopted hate crime legislation, it was not a guarantee that neighboring states would follow. Though their use of legislative history documents was limited, Soule and Earl (2001) found further support that developing and enacting hate crime legislation is a complex process with multiple factors and competing influences involved. Therefore, their findings aligned with both the Internal Determinants and Regional Diffusion models. Together,

work by Jenness (1999) as well as by Soule and Earl (2001) showcased the usefulness of legislative history documents for developing a much more detailed and nuanced picture of how hate crime legislation is formed. The characteristics of these documents are discussed in the detail in the next section.

Legislative Histories

Hate crime law and policy—in particular, the discretion of police, prosecutors, and other criminal justice actors in implementing those laws—underlie how every step of the criminal legal system handles hate crime incidents. Given the different implementation of hate crime laws at discrete jurisdictional levels, and the effects this can have on victims, offenders, and the system, gaining a better understanding of how hate laws are formed will illustrate what constitutes that variance and how differences originated. Legislative history documents provide detailed and unique insight into how such legislation progresses through the policymaking process and can help research move beyond only an analysis of enacted legislation itself.

Legislative histories are compiled by legislatures, legislative librarians, law firm specialists, and other groups for each piece of legislation (McKinney & Sweet, 2019). These collections extend beyond the bill itself, including accompanying amendments and a variety of other documents (U.S. Department of the Interior, n.d.). Legislative histories may contain commentaries, rationales, earlier drafts of bills, committee reports, floor debate transcripts, and press releases (Cannan, 2013; Herman & Gandy, Jr., 2006; McKinney & Sweet, 2019; Slapin & Proksch, 2014; Whisner, 2013). Legislative histories can also contain successful and failed efforts to draft and pass a bill (Cannan, 2013).

Legislative history has traditionally been used by courtroom actors to divine the meaning/intent of statute language (Cannan, 2013; Starr, 1987; Whisner, 2013). Further, researchers have argued that legislative histories can inform legal advocacy efforts through analysis of how legislation was justified, ultimately defined, and whether it is having its intended effect (Hall & Wright, 2008; Whisner, 2013). Legislative history documents have been used to analyze a variety of legislation in this regard, such as federal sentencing guidelines, the ‘future dangerousness’ standard in Texas’ death penalty statute, the Affordable Care Act, and the Digital Millennium Copyright Act.

Stith and Koh (1993) use legislative history documents to recount how federal sentencing guidelines in the U.S. were introduced, developed, and ultimately enacted. They first provided a chronological roadmap visual, which outlined the initial recommendations on how to develop the guidelines, delineated the different development and review stages, and discussed the passage of the federal sentencing guidelines nearly a decade after they were initially drafted (Stith & Koh, 1993). The authors then described each stage of the development process, relying upon both legislative history documents—such as statements/testimony, hearings, and earlier drafts of provisions—and outside context (newspaper articles, legal scholarship, and related statutes and court decisions) to inform their narration of the developmental process of the federal sentencing guidelines.

Through their use of legislative history documents and supporting sources, Stith and Koh (1993) were able to detail the long and complicated process of developing and enacting the federal sentencing guidelines. They noted major political shifts that wavered from the initial intent of the guidelines. While the federal sentencing guidelines were conceived with a more progressive anti-imprisonment/anti-discrimination approach, they

were ultimately enacted as the nation's focus shifted to a more conservative law-and-order crime control measure (Packer, 1968). Stith and Koh (1993) also describe how the U.S. Congress did not address the drawbacks associated with shifting decision-making from independent judges to President-appointed commissioners, whom Stith and Koh (1993) argue were even less responsive to subsequent judicial concerns with the federal sentencing guidelines than the U.S. Congress was.

Citron (2006) took a similar approach to Stith and Koh (1993) in a review of Texas' death penalty statute's 'future dangerousness' standard, a question presented to the jury in death penalty-eligible cases. Citron (2006) provided a descriptive timeline of how this statute and the standard were developed in the early 1970s. To bolster the review of the 'future dangerousness' standard's legislative history, Citron also relied upon related court cases, newspaper articles, and legal scholarship.

Cannan (2013) reviewed the legislative history files for the Affordable Care Act to show how legislative procedures shaped legislative history. Cannan used this example to advocate for more sophisticated analyses of legislative histories, advising that such analyses should be informed by a knowledge of the peculiarities of different legislature's procedures. More specifically, Cannan (2013) indicated that legislative procedure drives *how* legislative histories are compiled and *what* they contain. Legislative procedure is dynamic, as legislators adapt rules and approaches to conducting their business, and as such, legislative histories are developed in differing ways based upon those changes. Cannan (2013) asserts that by understanding the dynamics of legislative procedure, one can improve their analysis of legislative histories by discerning what documents occupy a more ancillary position versus those that are not related or empirically useful.

Herman and Gandy, Jr. (2006) conducted a systematic content analysis of the legislative history documents produced during the 2000 and 2003 U.S. Congressional exemption hearings for the Digital Millennium Copyright Act (DMCA, 1998) to better understand the inner workings of the proceedings. Between the two hearings, the authors initially compiled over 900 documents for their analysis, which were comprised of the following: written comments, replies to those comments, individual testimonials, written replies to post-hearing questions, Notices of Inquiry, question-and-answer sessions, twice-daily opening statements, and final recommendations and rulings.

To better achieve their goal of explaining how the proceedings occurred and what they accomplished, documents shorter than one page in length were excluded from their analysis, which produced a final sample of 466 documents (Herman & Gandy, Jr., 2006). The documents were subsequently entered into QSR N6, a content analysis software program that facilitates a variety of analytic endeavors. Herman and Gandy, Jr. used speaker (i.e., who gave the statement, testimony, commentary, etc.) affiliation and method of participation to add nuance to their analysis. Affiliations included media firms, technology firms, nonprofit advocacy efforts, governments, librarians, attorneys, professors, and those who did not indicate an affiliation (Herman & Gandy, Jr., 2006). The methods of participation included providing comments, replies to comments, giving oral testimony, offering post-hearing comments, and handing down rulings. Herman and Gandy, Jr. (2006) focused on legislative intent in favor of and in opposition to the DMCA, reporting that the guidelines of the DMCA were referenced far more commonly with individuals who identified their affiliation than those who did not. In addition, the

authors noticed that overall, anti-exemption legislative intent was reflected more in the final rulings of the DMCA hearings than the pro-exemption stance.

The studies discussed above represent the scant empirical work that has examined legislation through legislative histories; thus, legislative history has been underexplored and underexamined empirically. This has recently changed, particularly with many legislatures digitizing documents (McKinney & Sweet, 2019; Slapin & Proksch, 2014), making access to the documents (when available) much easier than before. Further, the development of new analytical techniques, thereby allowing computerized content analysis of large collections, has facilitated legislative history analyses (Hall & Wright, 2008; Slapin & Proksch, 2014). Understanding how policy was/is developed will help uncover ways in which policies in jurisdictions with limited (or even no) legislation may be improved, better implemented, or even enacted in the first place. Given the varying content and presence of hate crime legislation across the United States, and that criminal legislation is a catalyst for how the legal system responds to the issue, understanding how hate crime legislation is formed can help with advocating for more inclusive laws. It can also provide strategies for getting better (i.e., expansive) hate crime legislation enacted. Such changes can have ripple effects for victims of hate crime, their communities, and how the legal system responds to and processes hate crime cases. The current dissertation will aid in these efforts and add to the paucity of research that has used legislative history documents for examining hate crime legislation.

CHAPTER III

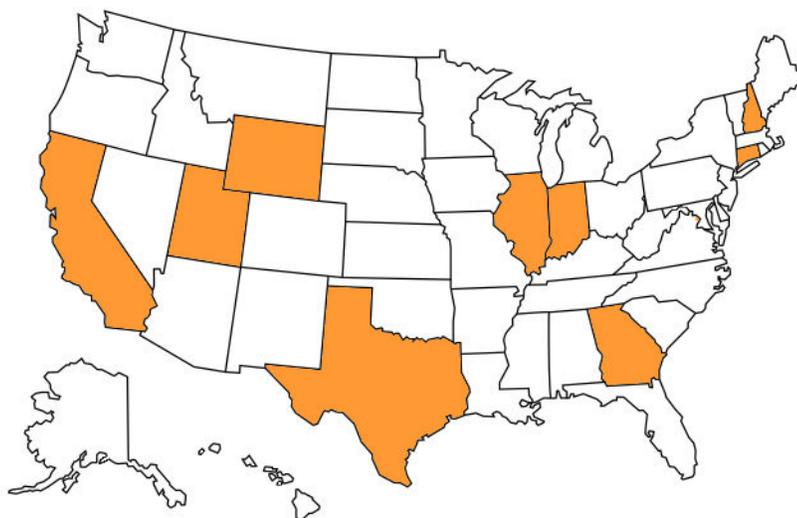
Methodology

Data Source

Data for the current dissertation were drawn from legislative history documents that pertain to nine states' hate crime legislation: California, Connecticut, Georgia, Illinois, Indiana, New Hampshire, Texas, Utah, and Wyoming as well as for Washington, DC.⁸ Figure 2 provides a map of selected states and Washington, DC, for reference. The selection of states to include in the sample was purposive and is described in detail below. The history of hate crime legislation in each state will first be compiled, including when and how they arrived at previous iterations of their hate crime legislation as well as their current hate crime legislation (if any). This will allow for more detailed comparisons between states than looking solely at the current legislation each possesses.

Figure 2

Map of Selected States and Washington, DC



⁸ Washington, DC is a district, not a state. That said, for brevity, I sometimes refer to the sample collectively as “states” rather than including the distinction for Washington, DC.

Selection Criteria

United States Census Bureau Regions

States were purposively selected for analysis based on the consideration of several factors: region of the country, expansiveness of legislation, newness of modifications to existing laws, and any important historical relevance for hate crime legislation. U.S. Census Bureau regions were used to facilitate the selection of states from the Northeast, Midwest, South, and West (U.S. Census Bureau, 2020) to ensure representation from across the country. The U.S. Census Bureau indicates that states were split into larger groups in the early 1900s, creating units that are roughly similar along several dimensions, including historical development, population characteristics, and economic conditions. State groupings then provide a larger geographic framework for analysis (U.S. Census Bureau, 2018). Table 1 provides listings of all states in the four regions as a reference. States selected for analysis are in bold.

Table 1*U.S. Census Bureau Regional Breakdown of States and the District of Columbia*

West 13 states	Midwest 12 states	South 17 states	Northeast 9 states
Alaska	Illinois	Alabama	Connecticut
Arizona	Indiana	Arkansas	Maine
California	Iowa	Delaware	Massachusetts
Colorado	Kansas	District of Columbia	New Hampshire
Hawaii	Michigan	Florida	New Jersey
Idaho	Minnesota	Georgia	New York
Montana	Missouri	Kentucky	Pennsylvania
Nevada	Nebraska	Louisiana	Rhode Island
New Mexico	North Dakota	Maryland	Vermont
Oregon	Ohio	Mississippi	
Utah	South Dakota	North Carolina	
Washington	Wisconsin	Oklahoma	
Wyoming		South Carolina	
		Tennessee	
		Texas	
		Virginia	
		West Virginia	

Further, the inclusion of regional location can account for the central tenet of Regional Diffusion—the potential for states to rely upon the actions of fellow states when determining if they will develop and enact legislation. Prior research has found that states may follow the actions of other states when adopting laws (Berry & Berry, 1990; Butler et al., 2017; Grattet et al., 1998). It may be that proximally located states used similar approaches to creating and enacting their hate crime legislation, which would affirm the main idea of Regional Diffusion. On the other hand, states may choose to not follow suit if they view the actions of other states unfavorably (Soule & Earl, 2001). That is, if state legislatures view the content of neighboring states’ hate crime laws as objectionable, they may be more inclined to avoid those aspects when developing their own legislation. Research suggests neighboring states are more likely to communicate with one another

about policy (Berry & Berry, 1999; Matisoff, 2008; Soule & Zylan, 1997). As such, the inclusion of regional location allows for a test of this idea: do neighboring states (i.e., direct neighbors when applicable or states in the same region) have similar contents in their legislative history documents, and do they exhibit similar approaches to adopting hate crime legislation? Comparisons of states across regions will also be made, as states are not limited to relying upon their close neighbors for guidance on developing legislation (Berry & Berry, 1999; Gilardi, 2010; Gray, 1973; Soule & Earl, 2001).

Expansiveness of Hate Crime Legislation

As noted previously, state hate crime legislation diverges significantly. As such, comparing states with some of the most expansive hate crime legislation may uncover how those states made the decision to have sweeping legislation. Expansiveness of legislation was determined using a tallied score method, with each protected class and other types of legislative provision being worth one ‘point’ (Bills & Vaughn, under review). Wisconsin, for example, has an ‘expansiveness score’ of eight, as they include race, ethnicity/nationality, religion, sexual orientation, and disability as protected classes, and permit civil redress, criminalize institutional vandalism, and extend additional rights to hate crime victims. The maximum score a state can receive is 20, with 12 broad protected class categories and eight other forms of provisions associated with hate crime legislation⁹. This score was calculated for all 50 states and the District of Columbia (see

⁹ Broad protected class categories include: 1) race; 2) ethnicity/nationality; 3) religion; 4) sexual orientation; 5) gender; 6) gender identity; 7) disability; 8) political affiliation; 9) age; 10) homelessness; 11) law enforcement; and 12) all other protected classes (a catch-all for any protected classes included by only one or two states)

Other hate crime-related provisions include: 1) allowance for civil action; 2) mandated data collection; 3) mandated law enforcement training; 4) criminalization of institutional vandalism; 5) criminalization of cross burning; 6) criminalization of interference with religious worship; 7) statutes affording hate crime victims additional rights and resources; and 8) all other hate crime-related provisions (a catch-all for any statutes unique to one or two states)

Table 2). As a reference, an expansiveness score was also calculated for federal hate crime legislation (see Table 2). Washington, DC had the highest expansiveness score in the country, with a score of 16. The average expansiveness score among states is 8.84. On average, states grant protected class status to 5.55 broad protected class categories and have enacted 3.31 other provisions associated with hate crime legislation (e.g., criminalizing institutional vandalism, requiring law enforcement training).

It may be that states with expansive hate crime laws serve as ‘model states,’ influencing the decision for other states to follow. In addition, political and community pressure may have facilitated the development of hate crime legislation, and other model state laws with high expansiveness scores served as a starting point for other states when making changes to their legislation. This explanation may apply to Utah and Georgia. Both states made recent (2019 and 2020, respectively) major changes to their hate crime legislation, and may have relied upon those ‘model states’ when developing their laws.

Analysis of states with the least expansive hate crime legislation should shed light on how their legislation arrived at its limited (or for Wyoming, absent) content, potentially through failed (or a lack of) arguments for inclusion. Further, comparisons can be made between states in the most expansive and least expansive groups to establish any commonalities/patterns. It may be the case that while states in the most- and least-expansive groups have hate crime legislation that is drastically different, some strategies/justifications for enacting portions of those laws—whether certain protected classes or hate crime-related provisions—are similar.

Table 2*Expansiveness Scores for all 50 States and the District of Columbia*

State	U.S. Census Bureau Region	Expansiveness Score	Broad Protected Class Categories Covered¹⁰	Hate Crime- Related Provisions
Federal Legislation		12	7	5
District of Columbia	South	16	11	5
California	West	14	7	7
Illinois	Midwest	14	7	7
Louisiana	South	14	9	5
Texas	South	14	9	5
Utah	West	14	12	2
Connecticut	Northeast	13	7	6
Iowa	Midwest	12	8	4
Minnesota	Midwest	12	8	4
New Mexico	West	12	8	4
Rhode Island	Northeast	12	6	6
New York	Northeast	11	7	4
Vermont	Northeast	11	9	2
Washington	West	11	7	4
Arizona	West	10	6	4
Florida	South	10	6	4
Maine	Northeast	10	7	3
Maryland	South	10	7	3
Massachusetts	Northeast	10	6	4
Nevada	West	10	6	4
New Jersey	Northeast	10	7	3
Oregon	West	10	5	5
Colorado	West	9	5	4
Georgia	South	9	6	3
Hawaii	West	9	7	2

(continued)

¹⁰ States were given one point for each broad protected class category covered, including the following: race; ethnicity/nationality; religion; sexual orientation; gender; gender identity; disability; political affiliation; law enforcement; and ‘other,’ which is a catch-all category for any other protected classes that do not fall into the primary categories of most states. States were given only one point if they had one or more protected classes that fell into the ‘other’ category.

State	U.S. Census Bureau Region	Expansiveness Score	Broad Protected Class Categories Covered ¹¹	Hate Crime-Related Provisions
Kentucky	South	9	6	3
Missouri	Midwest	9	6	3
Nebraska	Midwest	9	7	2
Tennessee	South	9	6	3
Delaware	South	8	6	2
Idaho	West	8	3	5
Michigan	Midwest	8	4	4
South Dakota	Midwest	8	3	5
Wisconsin	Midwest	8	5	3
Mississippi	South	7	6	1
Oklahoma	South	7	4	3
Pennsylvania	Northeast	7	3	4
West Virginia	South	7	5	2
Alabama	South	6	4	2
Montana	West	6	4	2
New Hampshire	Northeast	6	6	0
North Carolina	South	6	3	3
Ohio	Midwest	6	3	3
Virginia	South	6	3	3
Alaska	West	5	5	0
Kansas	Midwest	5	4	1
North Dakota	Midwest	5	4	1
Arkansas	South	4	0	4
South Carolina	South	3	0	3
Indiana	Midwest	2	0	2
Wyoming	West	0	0	0
Average		8.84	5.55	3.31

Newness of Hate Crime Legislation

A third factor involved in the purposive selection of some states was the newness of their legislation. Three of the states selected for analysis made changes of varying

¹¹ States were given one point for each broad protected class category covered, including the following: race; ethnicity/nationality; religion; sexual orientation; gender; gender identity; disability; political affiliation; law enforcement; and ‘other,’ which is a catch-all category for any other protected classes that do not fall into the primary categories of most states. States were given only one point if they had one or more protected classes that fell into the ‘other’ category.

degrees within the past two years (2019-2020) that drew nationwide attention from the media, rights groups, and academics. Georgia and Utah made sweeping changes expanding their legislation, with both receiving praise from the public (Slotkin, 2020; Whitehurst, 2019). Indiana passed hate crime legislation in April 2019, which was lauded by its state legislators and the state's Governor as a major step forward in granting protection to many disadvantaged groups (Anti-Defamation League, 2021; Callahan, 2019). It is worthwhile to note that the Anti-Defamation League, among other advocacy groups, denounced the language of Indiana's legislation, indicating that it is so general and vague that it grants no group assured protected class status and does not criminalize any specific crimes motivated in whole or in part by hate/bias (Mintzer, 2019; see page 127 for the bill text). As such, the Anti-Defamation League continues to not officially recognize Indiana's legislation as a hate crime law (Anti-Defamation League, 2021; Mintzer, 2019). The Justice Department, however, does recognize that Indiana "has hate crime legislation" (United States Department of Justice, n.d.). Finally, Texas added law enforcement as a protected class to its hate crime legislation in 2017. It is controversial (Mason, 2020) since law enforcement is an occupation as opposed to the innateness of being Black, for example. Texas is not alone in making law enforcement a protected class. Kentucky, Louisiana, Mississippi, and Utah also include law enforcement as a protected class in their hate crime laws. Louisiana was the first to do so in 2016, followed by Kentucky and Mississippi (Mason, 2020).

Summary of the Selection of States for Analysis

Collectively, the purposive selection of states was based upon a combination of location in the U.S., the overall expansiveness of legislation score, newness of legislation,

and historical relevance. A purposive sampling approach ensured that the sample would include states with unique distinctions and characteristics based upon the criteria described. The remaining 41 states may have unique historical relevance, such as famous cases and landmark hate crime statutes or court cases. These unique qualities are no less potentially valuable to this dissertation's analysis. Despite the potential uniqueness of these states, they were not included in this dissertation's analysis.

The sample includes the state that passed the first hate crime law in the U.S.—California—and the three states that enacted the most recent (2019-2020) substantial changes to their hate crime laws. Georgia and Utah enacted brand new hate crime legislation, while Indiana completely restructured their hate crime law. Georgia and Utah's changes therefore were substantially different than the direction of Indiana's changes.

The sample also consists of each of the states with the most expansive hate crime legislation in the U.S. Census Bureau's geographic regions: California, Connecticut, Illinois, and Texas. The inclusion of states with the most expansive hate crime laws represent the latter stages of hate crime law reform, and are positioned as potential catalysts of hate crime law reform. These states protect multiple marginalized groups and have more statutes in place to penalize hate crimes, monitor hate crime through data collection, and train law enforcement to better handle hate crime. The states with the most expansive hate crime laws may serve as a benchmark for all other states in their respective U.S. Census Bureau regions and for others across the country whose legislation lags. The selection of these states was therefore critical when considering how other states may adapt or expand their legislation.

Each of the states in the four regions who have (or until very recently, had) the least expansive hate crime laws are part of the sample as well: Georgia, Indiana, New Hampshire, and Utah. The selected states with the least expansive hate crime laws—Indiana and New Hampshire—are those with arguably more work to do to extend legal protection to vulnerable groups and to equip their criminal legal systems to combat hate crime. Georgia and Utah were in the same situation until recently. Each state had sparse hate crime legislation that only criminalized a few behaviors. As noted above, these states have made very recent changes. Georgia and Utah therefore allow for an apt comparison to Indiana and New Hampshire.

Finally, an extra from the West (Wyoming) and South (Washington, DC) regions was selected for analysis due to unique characteristics each possesses. Wyoming has no hate crime legislation, despite the enduring nationwide attention to Matthew Shepard's murder, and the multiple attempts lawmakers have made to enact hate crime legislation. Washington, DC is a district and not a state, and occupies a unique role in the U.S. The District of Columbia also has the most expansive hate crime legislation in the country. Further, Washington, DC's hate crime laws have only been analyzed and compared to state hate crime legislation by one prior study in this area (Bills & Vaughn, under review). This is an oversight considering the expansiveness of the legislation. Ultimately, the nine selected states and Washington, DC stand out from the remaining 41 states and form a strong purposive sample for the reasons given above. A more detailed description of each of the selected states and Washington, DC is below.

California

California possesses one of the most expansive assemblages of hate crime legislation in the West region of the United States. California has an Expansiveness score of 14 for its hate crime legislation, which is tied for the second-highest overall score with four other states. California denotes seven protected classes: 1) race, 2) ethnicity/nationality, 3) religion, 4) sexual orientation, 5) gender, 6) gender identity, and 7) disability. Further, California permits 1) civil redress in hate crime cases, 2) mandates data collection at the state level, 3) requires law enforcement training, 4) includes a victim-related provision (being the only state to offer a brochure specifically designed for victims of hate crime), and 5) criminalizes institutional vandalism, 6) cross burning, and 7) interference with religious worship. California also enacted the first hate crime legislation in the United States in 1978¹². Due to this distinction, California's legislative efforts are unique and extensive, given the numerous expansions it has also made since its initial statute.

Connecticut

Connecticut, which passed its first hate crime legislation in 1990, has the Northeast region's most expansive hate crime legislation (Expansiveness score = 13). This designation is particularly notable given that seven of the nine states in the region have an Expansiveness score of 10 or greater. Connecticut has the following protected classes in its legislation: 1) race, 2) ethnicity/nationality, 3) religion, 4) sexual orientation,

¹² California's 1978 law punished a crime—homicide—committed because of bias toward certain characteristics—race, religion, and nationality—which no prior state law had done. Some laws in other states prohibiting institutional vandalism and cross burning were enacted before 1978. These types of laws, however, do not outline specific biases toward groups as the motive for commission of the crime, or any biases for that matter. As a result, while laws criminalizing institutional vandalism and cross burning do target marginalized groups, they differ from other hate crime laws that either explicitly mention hate crime and/or protected classes.

5) gender, 6) gender identity, and 7) disability. Further, Connecticut allows for 1) civil action to be taken, 2) mandates state-level data collection and 3) hate crime-focused law enforcement training, 4) criminalizes institutional vandalism and 5) cross burning, and 6) has a hate crime diversion program for offenders (which falls into the “all other provisions” category). Connecticut also indicates that ‘persistent’ hate crime offenders can receive further enhanced penalties.

District of Columbia

The District of Columbia was selected for analysis for multiple reasons. Washington, DC has the most expansive hate crime legislation in the entire United States (Expansiveness score = 16). A member of the South region, it has the second most extensive list of broad protected class categories in the country. Washington, DC passed its first hate crime legislation in 1989 and has continued to build upon this initial law. The District of Columbia designates the following groups as protected classes: 1) race, 2) ethnicity/nationality, 3) religion, 4) sexual orientation, 5) gender, 6) gender identity, 7) disability, 8) age, 9) homelessness, 10) political affiliation, and 11) has multiple protected classes that fall into ‘other protected classes’ (i.e., marital status, family responsibilities, personal appearance, and matriculation). Washington, DC also allows for 1) civil redress, 2) mandates district-level data collection, 3) allows for the emotional impact on a victim to be considered during the trial, and 4) criminalizes institutional vandalism and 5) cross burning. Despite being a district and not a state, Washington, DC has advocated for statehood and is an important part of the U.S. landscape. This unique position in the country may uncover a distinct approach or unique considerations that had to be accounted for during the development and adoption of their legislation. Outside of one

study (Bills & Vaughn, under review), Washington, DC's hate crime legislation also has not been empirically compared to state hate crime laws.

Illinois

Illinois has the most expansive hate crime legislation in the Midwest region (Expansiveness score = 14). This also makes it tied for the second-highest Expansiveness score in the country. Illinois was one of the first states to enact hate crime legislation, doing so in 1983. Illinois includes the following groups as protected classes: 1) race, 2) ethnicity/nationality, 3) religion, 4) sexual orientation, 5) gender, 6) disability, and 7) age. Illinois also allows for 1) civil redress, 2) mandates state data collection, 3) requires law enforcement training, 4) allows for the victim's emotional harm from the crime to be considered during sentencing, 5) criminalizes institutional vandalism and 6) cross burning, and 7) has an option for offenders to be enrolled in an educational program discouraging hate crimes involving protected classes in their offense (which falls into the "all other provisions" category).

Indiana

Indiana has the least expansive legislation in the Midwest region. It also has the least expansive hate crime legislation among states with any hate crime legislation. With an Expansiveness score of two, Indiana 1) mandates state hate crime data collection and 2) criminalizes institutional vandalism. This legislation was enacted in 2003. While Indiana amended their legislation in 2019, state legislators worded their legislation so vaguely that it does not designate specific protected classes and does not criminalize specific criminal acts (Anti-Defamation League, 2021; Callahan, 2019; Mintzer, 2019). Indiana's next-door neighbor is Illinois, which has some of the most expansive hate crime

legislation in the nation. This contrast allows for distinctive analyses to be made between the two states.

Georgia

Georgia's June 26, 2020 amendment to their hate crime legislation represents the most recent substantial change a state has made to its hate crime legislation. Prior to the amendment, Georgia had one of the least expansive hate crime laws in both the South region and across the country. Previously, Georgia only criminalized institutional vandalism and cross burning, with two pieces of legislation enacted in 1968 and 1974, respectively. In 2000, Georgia enacted another hate crime statute, this time establishing penalty enhancements for bias crimes, but used wording that was so broad, it did not designate specific protected classes. The Georgia Supreme Court struck down this statute in 2004, as it was deemed unconstitutionally vague (*Botts v. State*, 2004). From 2004 to 2020, Georgia only had its two statutes prohibiting institutional vandalism and cross burning as forms of hate crime legislation.

Currently, Georgia has an Expansiveness score of nine. The state's legislation has six protected classes: 1) race, 2) ethnicity/nationality, 3) religion, 4) sexual orientation, 5) gender identity, and 6) disability. Georgia also 1) mandates state hate crime data collection and continues to 2) criminalize institutional vandalism and 3) cross burning. Georgia's additions to their legislation appeared to have been motivated by Ahmaud Arbery's murder on February 23, 2020 (Slotkin, 2020). Analysis of legislative history documents from Georgia could shed light on how much public attention to Arbery's murder played a role in the adoption of more expansive hate crime legislation.

New Hampshire

New Hampshire has the least expansive hate crime legislation in the Northeast region (Expansiveness score = 6). With the exception of Pennsylvania, which has an Expansiveness score of seven, every other state in the Northeast region has an Expansiveness score of at least 10, including New Hampshire's three direct neighbors (Maine: 10; Massachusetts: 10; Vermont: 11). The state enacted its first hate crime law in 1990. New Hampshire's legislation only includes protected classes: 1) race, 2) ethnicity/nationality, 3) religion, 4) sexual orientation, 5) sex, and 6) gender identity. This contrasts with the expansiveness in the laws of New Hampshire's direct and regional neighbors which include protected classes and a series of other provisions. This incongruity makes a review of New Hampshire's legislation and the comparison to its neighbors intriguing.

Texas

Texas is among the states with the most expansive hate crime legislation (Expansiveness score = 14). Texas has 1) race, 2) ethnicity/nationality, 3) religion, 4) sexual orientation, 5) gender, 6) disability, and 7) age as protected classes, and in 2017 controversially added 8) law enforcement as a protected class with the passage of House Bill 2908 (Mason, 2020). Judges (falling into the 'other protected classes' category) were included as a protected class in the 2017 bill as well, giving Texas nine broad protected class categories. Texas also allows for 1) civil redress, 2) mandates state data collection and 3) law enforcement training, 4) criminalizes institutional vandalism, and 5) may require an offender to attend a program to further their acceptance and tolerance of other people (which falls into the "all other provisions" category).

Texas was also the home of James Byrd, Jr., who was murdered in Jasper, Texas in 1998. He is partially the namesake for the federal Hate Crimes Prevention Act, and is the namesake for Texas' James Byrd, Jr. Hate Crimes Act, passed in 2001. Then-Governor George W. Bush refused to sign this latter piece of legislation. His successor—Rick Perry—also took considerable time to enact the legislation. The legislation passed in 2001 built upon the state's first hate crime law, which was passed in 1993, by adding specific protected classes. Given this tumultuous history in the state with enacting hate crime legislation and the attention the tragic death of James Byrd, Jr. received, Texas' legislative history should be reviewed closely.

Utah

Making a dramatic change to their legislation in April 2019 (Whitehurst, 2019), Utah went from having the least expansive hate crime legislation among states to having one of the most expansive hate crime laws. Previously, Utah only criminalized institutional vandalism, something the state did in 1986. Currently, Utah has the most extensive list of broad protected class categories among states. They are: 1) race, 2) ethnicity/nationality, 3) religion, 4) sexual orientation, 5) gender, 6) gender identity, 7) disability, 8) age, 9) homelessness, 10) political affiliation, 11) law enforcement, and 12) 'other' (i.e., familial status, marital status, matriculation, service in the U.S. Armed Forces, emergency responders, correctional officers, and special function officers). Further, Utah 1) mandates state data collection, and 2) institutional vandalism remains criminalized. This dramatic metamorphosis of Utah's hate crime laws, especially given these changes were made all at once, makes a review of the accompanying legislative history documents worthwhile.

Wyoming

Wyoming is the only state in the United States not to have hate crime legislation. While they have no legislation on the books, legislators in the state have made several attempts to establish it. The most recent attempt was in March 2021 (Associated Press, 2021; Donaghue, 2021). All attempts and their accompanying legislative history will be reviewed during the analysis; thus, it is beneficial to examine legislative history to uncover the debates surrounding the failure to adopt legislation. Wyoming is also where Matthew Shepard was murdered in 1998, four months after James Byrd, Jr. was murdered in Jasper, Texas. The federal government's Hate Crimes Prevention Act is partially named after Shepard. Given the enduring nationwide attention to Matthew Shepard's case and Wyoming's inability to enact hate crime legislation, efforts made to do so should be analyzed.

Data Collection Process

Legislative history records were compiled using Westlaw, an online legal research service that provides access to statutes, bills, case law, case decisions, and other court documents (Thomson Reuters, n.d.), as well as using state archives and legislative websites. Westlaw can be accessed either through an institutional account or through the purchase of access. To collect legislative history, I first navigated each state's individualized search bar. The individualized state search bar feature in Westlaw allows users to search for cases and court rulings, statutes, regulations, secondary sources, briefs, and proposed and enacted legislation and regulations within that state. Westlaw also denotes legislation as "proposed" or "unconstitutional," where applicable, and includes an effective date for each piece of legislation.

Each active piece of hate crime legislation that states had was located using this search feature and was conducted using several search terms. To do this, search terms first included “hate crime” and “bias crime.” In most instances, by searching for “hate crime,” all related statutes (such as allowance for civil redress, police training, data collection, institutional vandalism, cross burning, interference with religious worship, additional victim rights, and anything not falling in these categories) would be present in the search results or embedded in one statute. A state’s hate crime statute, for example, will define the crimes included in the legislation, list the protected classes, and denote other actions that are prohibited, such as institutional vandalism or interfering with religious worship. If other provisions were not identified in the search results, more specific terminology was used in the search feature (e.g., “cross burning,” “institutional vandalism”). Search terms were driven by prior work that examined the terminology of state hate crime statutes (Bills & Vaughn, under review). The statutory code was recorded for each piece of legislation to facilitate easier relocation of the statute; the bill codes for each piece of legislation were also recorded to allow for legislative history documents to be located. When viewing a statute in Westlaw, several menu options are available that provide detail beyond the statute’s wording (see Figure 3).

Figure 3

Menu Options for Statutes in Westlaw

THOMSON REUTERS
WESTLAW Texas Statutes & Cou... hate crime

§ 12.47. Penalty if Offense Committed Because of Bias or Prejudice
TX PENAL § 12.47 Vernon's Texas Statutes and Codes Annotated Penal Code Effective: September 1, 2001 (Approx. 2 pages)

Document Notes of Decisions (11) History (31) Citing References (109) Context & Analysis (19) Powered by KeyCite

Return to list 1 of 50 results Original terms

Vernon's Texas Statutes and Codes Annotated
Penal Code (Refs & Annos)
Title 3. Punishments (Refs & Annos)
Chapter 12. Punishments
Subchapter D. Exceptional Sentences (Refs & Annos)

Unconstitutional or Preempted Limitation Recognized by In re M.P. Tex.App.-San Antonio Dec. 31, 2002
Proposed Legislation

Effective: September 1, 2001
V.T.C.A., Penal Code § 12.47
§ 12.47. Penalty if Offense Committed Because of Bias or Prejudice
Currentness

(a) If an affirmative finding under Article 42.014, Code of Criminal Procedure, is made in the trial of an offense other than a first degree felony or a Class A misdemeanor, the punishment for the offense is increased to the punishment prescribed for the next highest category of offense. If the offense is a Class A misdemeanor, the minimum term of confinement for the offense is increased to 180 days. This section does not apply to the trial of an offense of injury to a disabled individual under § 22.04, if the affirmative finding in the case under Article 42.014, Code of Criminal Procedure, shows that the defendant intentionally selected the victim because the victim was disabled.

(b) The attorney general, if requested to do so by a prosecuting attorney, may assist the prosecuting attorney in the investigation or prosecution of an offense committed because of bias or prejudice. The attorney general shall designate one individual in the division of the attorney general's office that assists in the prosecution of criminal cases to coordinate responses to requests made under this subsection.

Credits
Added by Acts 1993, 73rd Leg., ch. 987, § 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 751, § 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 85, § 1.01, eff. Sept. 1, 2001.

Editors' Notes

Relevant Additional Resources

NOTES OF DECISIONS (11)
In general
Causation
Circumstantial evidence
Intent
Notice
Question of fact
Review
Sufficiency of evidence

For the purposes of this dissertation, information located within the ‘History’ tab was collected and analyzed. Here, further information is also available under six other options: “graphical statute”; “validity”; “versions”; “editor’s and revisor’s notes”; “bill drafts”; and “legislative history materials” (see Figure 4).

Figure 4

History Tab Options for Statutes in Westlaw

§ 12.47. Penalty if Offense Committed Because of Bias or Prejudice
TX PENAL § 12.47 Vernon's Texas Statutes and Codes Annotated Penal Code Effective: September 1, 2001 (Approx. 2 pages)

Document Notes of Decisions (11) History (31) Citing References (109) Context & Analysis (19) Powered by KeyCite

Return to list 1 of 50 results

Vernon's Texas Statutes a
Penal Code (Refs & Ann
Title 3. Punishments
Chapter 12. Pu
Subchapter

History Overview
Graphical Statute
Validity (5)
Versions (2)
Editor's and Revisor's Notes (2)
Bill Drafts (0)
Legislative History Materials (22)

In the legislative history materials, if documents were listed/hyperlinked, they were divided into “reports” and “journals” and by legislative session (see Figure 5).

Figure 5

Listing of Legislative History Documents for Statutes in Westlaw

§ 12.47. Penalty if Offense Committed Because of Bias or Prejudice
 TX PENAL § 12.47 | Vernon's Texas Statutes and Codes Annotated | Penal Code | Effective: September 1, 2001 (Approx. 2 pages)

Document | Notes of Decisions (11) | History (31) | Citing References (109) | Context & Analysis (19) | Powered by KeyCite

KeyCite. Legislative History Materials (22)

Acts 2001, 77th Leg., ch. 85, § 1.01, eff. Sept. 1, 2001

Reports

1. July 18, 2001, Texas Bill Analysis, 2001 Regular Session, House Bill 587, TX B. An., H.B. 587, 7/18/2001
2. Apr. 30, 2001, Texas Bill Analysis, 2001 Regular Session, House Bill 587, TX B. An., H.B. 587, 4/30/2001
3. Apr. 19, 2001, Texas Bill Analysis, 2001 Regular Session, House Bill 587, TX B. An., H.B. 587, 4/19/2001
4. Mar. 13, 2001, Texas Bill Analysis, 2001 Regular Session, House Bill 587, TX B. An., H.B. 587, 3/13/2001
5. Feb. 14, 2001, Texas Bill Analysis, 2001 Regular Session, House Bill 587, TX B. An., H.B. 587, 2/14/2001

Journals

6. May 14, 2001, Texas House Journal, 77th Legislature, Regular Session, 73rd Legislative Day, TX H.R. Jour., 2001 Reg. Sess. No. 73
7. May 11, 2001, Texas House Journal, 77th Legislature, Regular Session, 71st Legislative Day, TX H.R. Jour., 2001 Reg. Sess. No. 71
8. May 11, 2001, Texas Senate Journal, 77th Legislature, Regular Session, 71st Legislative Day, TX S. Jour., 2001 Reg. Sess. No. 71
9. May 10, 2001, Texas Senate Journal, 77th Legislature, Regular Session, 70th Legislative Day, TX S. Jour., 2001 Reg. Sess. No. 70
10. May 10, 2001, Texas House Journal, 77th Legislature, Regular Session, 71st Legislative Day, TX H.R. Jour., 2001 Reg. Sess. No. 71
11. May 07, 2001, Texas House Journal, 77th Legislature, Regular Session 68th Legislative Day, TX H.R. Jour., 2001 Reg. Sess. No. 68
12. May 07, 2001, Texas Senate Journal, 77th Legislature, Regular Session, 67th Legislative Day, TX S. Jour., 2001 Reg. Sess. No. 67
13. May 04, 2001, Texas Senate Journal, 77th Legislature, Regular Session, 66th Legislative Day, TX S. Jour., 2001 Reg. Sess. No. 66
14. Apr. 26, 2001, Texas Senate Journal, 77th Legislature, Regular Session, 60th Legislative Day, TX S. Jour., 2001 Reg. Sess. No. 60
15. Apr. 25, 2001, Texas Senate Journal, 77th Legislature, Regular Session, 59th Legislative Day, TX S. Jour., 2001 Reg. Sess. No. 59
16. Apr. 25, 2001, Texas House Journal, 77th Legislature, Regular Session, 59th Legislative Day, TX H.R. Jour., 2001 Reg. Sess. No. 59
17. Apr. 24, 2001, Texas House Journal, 77th Legislature, Regular Session, 58th Legislative Day, TX H.R. Jour., 2001 Reg. Sess. No. 58
18. Apr. 23, 2001, Texas House Journal, 77th Legislature, Regular Session, 57th Legislative Day, TX H.R. Jour., 2001 Reg. Sess. No. 57
19. Apr. 20, 2001, Texas House Journal, 77th Legislature, Regular Session, 56th Legislative Day, TX H.R. Jour., 2001 Reg. Sess. No. 56
20. Apr. 18, 2001, Texas House Journal, 77th Legislature, Regular Session, 54th Legislative Day, TX H.R. Jour., 2001 Reg. Sess. No. 54

Westlaw served as the starting point in the legislative history document download process. While listed and hyperlinked in Westlaw, not all documents were available to view/download, which was the case for the vast majority of documents for each of the nine states and Washington, DC. To locate legislative history documents not available on Westlaw, I used state archives websites and state legislative websites to locate the legislative history documents that accompany each bill iteration and statute. Each state’s search engine for legislative history was formatted differently, but the core aspects of each were the same. States’ search engines provide legislative history documents to

view/download. These search engines allow users to search for a bill by number, year, topic, or name. I used bill numbers obtained from Westlaw and other pertinent information (i.e., the type of document, such as a journal or report, session number, and year for the state legislative body) to locate the legislative history documents. Searching for legislative history documents on state legislative websites also gave access to legislative history documents not linked on Westlaw, expanding the pool of information for each bill. It turned out that nearly all the legislative history documents compiled for this dissertation had to be downloaded from state legislative websites.

The Wyoming Exception

Locating legislative history documents for Wyoming—given its lack of hate crime legislation but having several failed attempts to enact it—represented a challenge. Westlaw did not have any bill information for Wyoming. Instead, I relied upon Google searches using search terms such as “Wyoming hate crime bill,” “Wyoming hate crime law,” and “Wyoming failed hate crime bill” to locate news articles and other websites that produced the year and bill code for the proposed legislation. The gathered bill codes were used on Wyoming’s state legislative website to locate the legislative history that accompanied those bills. The available legislative history documents resembled those located for other states, such as the bill text, and a chronological list of how the bill progressed through the legislature.

Legislative History Document Archiving Process

Documents for each state were compiled into their own electronic files first to facilitate analysis of each state’s documents on their own. The majority of legislative history documents for each of the nine selected states and Washington, DC were

available to download as PDFs off state legislative websites, and occasionally from Westlaw. Other legislative history documents were available as downloadable Microsoft Word documents. The remaining legislative history documents were only available as text on their respective webpages. In these instances, the text was copied verbatim into a Microsoft Word document. The legislative history documents were also compiled into a universal file, to facilitate interstate analyses.

Analytic Strategy

Analysis of the contents of the legislative history documents was done using content analysis. Research offers several general definitions for content analysis, as content analysis has evolved to include a handful of methodologies that each address specific research needs (Drisko & Maschi, 2016). Collectively, content analysis is a research technique wherein researchers can analyze numerous types of data to draw conclusions about the presence and meaning of concepts and themes that emerge from that data (Holsti, 1968; Krippendorff, 2018; Osgood, 1959; Weber, 1984). Importantly, with content analysis, researchers are not limited to ‘manifest content,’ in other words, what is “overtly, literally present” in the data (Drisko & Maschi, 2016, p. 2). Indeed, content analysis allows researchers to interpret and draw conclusions about ‘latent content,’ which can include anything implicit within the data, such as the context surrounding the data, the impact of a message, or the intent of communication (Berg, 2008; Mayring, 2015).

Content analysis can be used when working with a variety of data types, such as written text (the most common), audio data, and visual data, such as videos or photographs (Krippendorff, 2018). The flexibility of content analysis is further

showcased by its ability to be either inductive or deductive, depending upon the researcher's goals (Stemler, 2000, 2015). In other words, content analysis can be used to either test a theory or idea about the data or to develop a better understanding of what is contained within the data. With qualitative content analysis specifically, researchers should aim to develop specific categories during analysis, and refine those themes as data are reviewed further to enhance conclusions drawn about the data (Drisko & Maschi, 2016; Mayring, 2000; Schreier, 2012).

Given the dearth of research examining hate crime legislative history documents, little is understood about the contents of those documents, particularly for legislation that was passed after the two core studies were conducted (Jenness, 1999; Soule & Earl, 2001). As such, careful, systematic review of these documents allows for the identification of how hate crime legislation was initially proposed, and any approaches or strategies legislators employed for getting it passed. By examining the legislative history documents of multiple states that share one or more common characteristics (in this case, region of the country and expansiveness of legislation), comparisons can be made with the emergent themes and information contained within them. Comparisons can also be made with these documents across states with contrasting characteristics. Content analysis of legislative history documents may uncover an evolved or new understanding of the nature of hate crime law adoption compared to the findings of prior literature.

ATLAS.ti was used to assist in the content analysis of the legislative history documents. ATLAS.ti is a statistical program that facilitates qualitative analysis of various data types, including written text, images, audio, and video, and can accommodate large samples (ATLAS.ti, n.d.). Researchers using this program can

employ a variety of tools that help to identify, organize, and display patterns/themes within the data, which extend beyond what is largely possible when conducting qualitative analysis by hand (i.e., without the use of a computer or software). ATLAS.ti also allows users to perform automated searches of documents, allowing for much quicker identification of commonalities and themes. This software program has been used in a variety of areas in qualitative criminal justice research, including victim decision-making (Cubells & Calsamiglia, 2018), student perceptions of victim believability (Acquaviva, O’Neal, & Clevenger, 2021), forensic interviewers’ experiences of vicarious trauma (McDonald et al., 2017), and medical treatment for criminal justice involved women (Dauria et al., 2020).

For the current study, a line-by-line analysis of legislative history documents was conducted, with notes made describing what was found, allowing for themes to be subsequently identified. ATLAS.ti allows users to place electronic notes within documents, much like ‘sticky notes.’ This notes tool was used to mark portions of legislative history documents during analysis. Documents with related themes were grouped together, allowing for further comparisons to be conducted, potentially eliciting a more detailed explanation of themes and ideas uncovered during analysis. After the first review of the legislative histories, a second review was conducted to sort legislative history documents into any themes that emerged partway through the first review. The second review of the legislative history documents also aided in the refinement of existing themes. Ancillary reviews of specific legislative history documents were conducted to enhance analyses and make further comparisons between states.

CHAPTER IV

Results

This dissertation's analyses of legislative history documents from the nine selected states and Washington, DC are presented below. To reiterate, legislative history documents can contain, but are not limited to, any of the following information for both passed and failed bills: the enacted statute text; prior versions of bills; accompanying amendments to the bill; commentary/rationale about a bill; and discussions between lawmakers (Cannan, 2013; Herman & Gandy, Jr., 2006; McKinney & Sweet, 2019; Slapin & Proksch, 2014; Whisner, 2013). Table 3 provides a breakdown of the number of hate crime statutes¹³, hate crime bills¹⁴, legislative history documents, and total page count for each of the selected states. For most of the selected states, multiple bills have been passed that have amended the state hate crime statute. This moves beyond a snapshot of the legislation to unpack changes over time. In addition, each bill, on average, has numerous legislative history documents chronicling the bill's development.

¹³ "Law," "legislation," and "statute" are used interchangeably throughout the Results and Discussion sections of this dissertation.

¹⁴ Bills are proposed legislation lawmakers are considering. Lawmakers first introduce a bill to their respective chamber of the legislature. For nearly all of the states selected for analysis, this chamber is either the House of Representatives or the Senate. California has an Assembly instead of a House of Representatives. In lieu of both a House of Representatives and a Senate, Washington DC has a single Council. Bills are then reviewed further, debated, and voted upon. If approved by the first chamber, the bill is sent to the other chamber to allow lawmakers to review the bill and vote on it. State bills only become law if they are voted favorably upon by both chambers and are subsequently signed into law by the Governor (or in Washington, DC's case, the Mayor).

Table 3

Number of Hate Crime Statutes, Bills, Legislative History Documents, and Total Page Counts among Selected States

State	Statutes ¹⁵	Legislative History		Total Pages
		Bills	Documents	
California	3	10	138	1,275
Connecticut	6	10	173	1,499
Georgia	1	2	23	166
Illinois	1	7	78	213
Indiana	1	2	23	63
New Hampshire	1	5	52	527
Texas	1	5	67	371
Utah	1	1	10	32
Washington, DC	1	5	42	905
Wyoming	0	11	22	87
TOTAL	16	58	628	5,138

Description of Individual State Analyses

The first phase of the analyses was a review of each individual state's legislative history documents, as a greater understanding of the contents of each state's legislative history documents is needed before making comparisons between states. Each state is given its own section, comprised of four subsections:

¹⁵ Indicates the number of hate crime statutes the state has that designate protected classes and/or penalty enhancements. A state's collection of hate crime statutes can include a variety of statute types (e.g., criminalization of institutional vandalism, mandating hate crime data collection, and affording hate crime victims additional rights). This dissertation, however, is focused solely on statutes that denote protected classes and penalties for hate crimes. These two types of statutes represent the foundation for all of a state's hate crime statutes. They define which crimes are eligible to be classified and punished as hate crimes, who is granted legal protection, what gets recorded by hate crime data collection efforts, inform law enforcement training, and if hate crime victims get specific resources.

- Review of the State’s Current Hate Crime Law
 - Description of the current hate crime law
 - Current hate crime law text
 - Chronological progression of the hate crime law
- Analysis of Each State’s Legislative History Documents
 - Legislative Records
 - Internal Determinants
 - Regional Diffusion
 - Overall conclusions for each state

Review of the State’s Current Hate Crime Law

The first subsection for each state is a succinct discussion of the status of the state’s current hate crime law (i.e., what does the law look like today) that denotes protected classes and/or outlines penalty enhancements for hate crimes. This discussion is followed by the statute text itself, copied verbatim from the state’s penal code. The ensuing subsection includes a table depicting the progression of the law. Within that table is a list of all enacted bills that either established or made changes to that specific law. For example, Connecticut’s § 53a-181i statute was established by the passage of House Bill 5657 in 2004. Two subsequent bills—House Bill 6440 (passed in 2011) and Senate Bill 796 (passed in 2017)—made changes to the law. Any changes a bill made to the law are described in that table. Discussion of each state’s current statute, presentation of the statute text, and a table showing the chronological progression of the statute collectively illustrate where the state’s law currently stands, what it entails, and how that law arrived at its current version.

Analysis of Each State's Legislative History Documents

This understanding of each state's hate crime laws then appraises the last subsection of the individual state analyses: examination of the state's legislative history documents. Within this subsection for each state, a glossary of all legislative history documents found for the state's hate crime law(s) is first presented. The glossary includes a description of each type of legislative history document, along with frequencies for each type of document and a total page count. Following the table is a description of the content analysis of each state's legislative history documents. The analysis is grouped into four sections: Legislative Records, Internal Determinants, Regional Diffusion, and an overall summary of findings for the state. The Legislative Records category contains legislative history documents that only chronicle legislative actions (such as votes on bills) and bill text, and do not have any portions that fall into the Internal Determinants or Regional Diffusion categories. The Internal Determinants and Regional Diffusion categories are included as they represent the two theoretical explanations of policy development this dissertation focuses on. Each of the three categories legislative history documents were sorted into are now described.

The Legislative Records Category. Some legislative history documents are just bill text and/or records of legislative actions taking place (i.e., votes, sending a bill to committee for further examination). Information from legislative history documents that was bill text or records of legislative actions was classified into the Legislative Records category. This type of information did not relate to either Internal Determinants or Regional Diffusion but is still important to acknowledge. Documents sorted into the Legislative Records category show how a bill progresses, how it gets changed during the

development process, and how it is received by lawmakers (exhibited in votes and debate). In other words, information from legislative history documents in the Legislative Records category show what transpired during the legislative development process. Portions of legislative history documents classified as Internal Determinants and Regional Diffusion may illustrate what influenced those legislative steps.

The Internal Determinants Category. This theoretical approach posits that a state's internal factors primarily influence policy adoption. Legislative history documents classified into the Internal Determinants category include information that describe some state-level/state-specific characteristic. For example, the portions of the legislative history documents that are classified as Internal Determinants include references to state hate crime statistics, state laws, or arguments that lawmakers need to act in the best interests of their constituents. During the second review of the legislative history documents, sub-themes among the information classified into the Internal Determinants category emerged. Emergent sub-themes are discussed in detail within each state's individual analysis section, as some are unique to a state. The themes are also discussed in the state-to-state comparison portion of the Results section.

The Regional Diffusion Category. Documents classified into the Regional Diffusion category contained information describing other states in the development and adoption of a state's hate crime legislation. Examples of information placed into the Regional Diffusion category include the following: other states' hate crime laws, court cases involving other states, and other states' hate crime statistics. References to federal laws also fell into the Regional Diffusion category. States may rely upon federal laws and actions to enact a bill. During the second review of the legislative history documents,

sub-themes among the information classified into the Internal Determinants category were developed. Emergent sub-themes are discussed in detail within each state's individual analysis section, as some are unique to a state. The themes are also discussed in the state-to-state comparison portion of the Results section.

Overall Conclusions for Each State. Results from each state were then synthesized to formulate an overall conclusion about the contents of each state's legislative history documents in relation to Internal Determinants and Regional Diffusion. This conclusion includes a 'story' of how each state's hate crime bills were developed, discussed, and, in most cases, enacted. This 'story' also shows how Internal Determinants and Regional Diffusion are (or are not) intertwined in each state's hate crime legislation development process.

California

California passed the first hate crime statute in the United States in 1978. At the time, the statute only denoted penalty enhancements for homicides committed with "special circumstances." Special circumstances meant homicides committed due to the victim's race, religion, or nationality (California Penal Code, 1978). California's hate crime statute has since expanded greatly. Three statutes currently outline California's list of protected classes—with definitions—and penalty enhancements for hate crimes: § 422.55, § 422.56, and § 422.75.

§ 422.55 defines hate crime itself and lists protected classes. The statute has only had one version, enacted with the passage of Senate Bill 1234 (see Table 4).

§ 422.55 “Hate crime” defined

For purposes of this title, and for purposes of all other state law unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

(a) “Hate crime” means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

(1) Disability.

(2) Gender.

(3) Nationality.

(4) Race or ethnicity.

(5) Religion.

(6) Sexual orientation.

(7) Association with a person or group with one or more of these actual or perceived characteristics.

(b) “Hate crime” includes, but is not limited to, a violation of Section 422.6.

Section 422.6

(a) No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States in whole or in part because of one or more of the actual or perceived characteristics of the victim listed in subdivision (a) of Section 422.55.

(b) No person, whether or not acting under color of law, shall knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the Constitution or laws of this state or by the Constitution or laws of the United States, in whole or in part because of one or more of the actual or perceived characteristics of the victim listed in subdivision (a) of Section 422.55.

(c) Any person convicted of violating subdivision (a) or (b) shall be punished by imprisonment in a county jail not to exceed one year, or by a fine not to exceed five thousand dollars (\$5,000), or by both the above imprisonment and fine, and the court shall order the defendant to perform a minimum of community service, not to exceed 400 hours, to be performed over a period not to exceed 350 days, during a time other than his or her hours of employment or school attendance. However, no person may be convicted of violating subdivision (a) based upon speech alone, except upon a showing that the speech itself threatened violence against a specific person or group of persons and that the defendant had the apparent ability to carry out the threat.

(d) Conduct that violates this and any other provision of law, including, but not limited to, an offense described in Article 4.5 (commencing with Section 11410) of Chapter 3 of Title 1 of Part 4, may be charged under all applicable provisions. However, an act or omission punishable in different ways by this section and other provisions of law shall not be punished under more than one

provision, and the penalty to be imposed shall be determined as set forth in Section 654.

Table 4

California's § 422.55 Statute Progression

Statute Version	Bill	Effective Date	Change(s) to Law
Current	Senate Bill 1234	January 1, 2005	Establishes statute, defines hate crime, and lists protected classes: 'race,' 'color,' 'religion,' 'national origin,' 'disability,' 'gender,' and 'sexual orientation'

§ 422.56 provides definitions for the terminology used in § 422.55 to describe how crimes are classified as hate crimes, and to define each of California's protected classes. The statute has had two versions (see Table 5), with the initial version established when Senate Bill 1234 took effect in 2005, and the current version enacted when Assembly Bill 1985 became effective in 2019.

§ 422.56 Definitions for this title

For purposes of this title, the following definitions shall apply:

- (a) "Association with a person or group with these actual or perceived characteristics" includes advocacy for, identification with, or being on the ground owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of those characteristics listed in the definition of "hate crime" under paragraphs (1) to (6), inclusive, of subdivision (a) of Section 422.55.

(b) “Disability” includes mental disability and physical disability as defined in Section 12926 of the Government Code regardless of whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness. This definition is declaratory of existing law.

(c) “Gender” means sex, and includes a person's gender identity and gender expression. “Gender expression” means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

(d) “In whole or in part because of” means that the bias motivation must be a cause in fact of the offense, whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that the crime would not have been committed but for the actual or perceived characteristic. This subdivision does not constitute a change in, but is declaratory of, existing law under *In re M.S.* (1995) 10 Cal.4th 698 and *People v. Superior Court (Aishman)* (1995) 10 Cal.4th 735.

(e) “Nationality” includes citizenship, country of origin, and national origin.

(f) “Race or ethnicity” includes ancestry, color, and ethnic background.

(g) “Religion” includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

(h) “Sexual orientation” means heterosexuality, homosexuality, or bisexuality.

(i) “Victim” includes, but is not limited to, a community center, educational facility, entity, family, group, individual, office, meeting hall, person, place of

worship, private institution, public agency, library, or other victim or intended victim of the offense.

Table 5

California's § 422.56 Statute Progression

Statute Version	Bill	Effective Date	Change(s) to Law
1	Senate Bill 1234	January 1, 2005	Establishes statute, which includes definitions for each of the protected classes
2	Assembly Bill 887	January 1, 2012	Adds 'gender expression' as a protected class and a definition for it: "“Gender expression” means a person’s gender-related appearance and behavior whether or not stereotypically association with the person’s assigned sex at birth.”
Current	Assembly Bill 1985	January 1, 2019	Expands scope of definition for 'disability' by adding: “regardless of whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness. This definition is declaratory of existing law.”

Finally, § 422.75 outlines penalty enhancements for hate crimes. There have been eight versions of the statute (see Table 6), the first coming from the passage of Senate Bill 98 in 1991. Each successive version either added protected classes or made changes to phrasing used in the statute. The most recent version of the law came from the passage of Senate Bill 1234 in 2004, which took effect on January 1, 2005.

§ 422.75 Enhanced penalties for hate crimes

(a) Except in the case of a person punished under Section 422.7, a person who commits a felony that is a hate crime or attempts to commit a felony that is a hate crime, shall receive an additional term of one, two, or three years in the state prison, at the court's discretion.

(b) Except in the case of a person punished under Section 422.7 or subdivision

(a) of this section, any person who commits a felony that is a hate crime, or attempts to commit a felony that is a hate crime, and who voluntarily acted in concert with another person, either personally or by aiding and abetting another person, shall receive an additional two, three, or four years in the state prison, at the court's discretion.

(c) For the purpose of imposing an additional term under subdivision (a) or (b), it shall be a factor in aggravation that the defendant personally used a firearm in the commission of the offense. Nothing in this subdivision shall preclude a court from also imposing a sentence enhancement pursuant to Section 12022.5, 12022.53, or 12022.55, or any other law.

(d) A person who is punished pursuant to this section also shall receive an additional term of one year in the state prison for each prior felony conviction on charges brought and tried separately in which it was found by the trier of fact or admitted by the defendant that the crime was a hate crime. This additional term shall only apply where a sentence enhancement is not imposed pursuant to Section 667 or 667.5.

(e) Any additional term authorized by this section shall not be imposed unless the allegation is charged in the accusatory pleading and admitted by the defendant or found to be true by the trier of fact.

(f) Any additional term imposed pursuant to this section shall be in addition to any other punishment provided by law.

(g) Notwithstanding any other provision of law, the court may strike any additional term imposed by this section if the court determines that there are mitigating circumstances and states on the record the reasons for striking the additional punishment.

Table 6

California's § 422.75 Statute Progression

Statute Version	Bill	Effective Date	Change(s) to Law
1	Senate Bill 98	October 7, 1991	Establishes penalty enhancements for felonies and attempted felonies “committed because of the victim’s race, color, religion, nationality, country of origin, ancestry, disability, or sexual orientation”
2	Senate Bill 1288	July 20, 1992	Adds ‘disability’ as a protected class
3	Senate Bill 1595	September 1, 1994	Adds the following text to sections (a), (b), and (d) after the list of protected classes: “or because he or she perceives that the victim has one or more of those characteristics”
4	Senate Bill 911	October 16, 1995	Adds to penalty enhancements; adds ‘gender’ as a protected class, but only to section (c), which outlines penalties for felonies that are hate crimes

(continued)

Statute Version	Bill	Effective Date	Change(s) to Law
5	Assembly Bill 51	October 7, 1997	Expands punishments for hate crimes, in particular institutional vandalism
6	Assembly Bill 105	September 28, 1998	Adds 'gender' as a protected class to the rest of the statute
7	Assembly Bill 1999	September 28, 1998	Defines 'gender' for the statute as: "'gender' means the victim's actual sex or the defendant's perception of the victim's sex, and includes the defendant's perception of the victim's identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the victim's sex at birth."
Current	Senate Bill 1234	January 1, 2005	Changes " <i>developmentally disabled and mentally ill persons</i> " to " <i>mentally disabled persons</i> "

California Legislative History Document Analysis

California has compiled a large collection of legislative history documents for each of its hate crime bills (see Table 7). That said, legislative history documents for California's older legislation are sparse or are absent except for the statute text. This is the case for California's 1978 homicides with "special circumstances" statute, which was the state's (and country's) first hate crime law. A substantial number of legislative history documents were available for the remainder of the state's bills, collectively.

Table 7*Glossary of California's Legislative History Documents*

Document Type	Description	Total No. of Docs.	Total Page Count
Bill Introduced	Includes a 'digest' (describes where the law currently stands and what the bill will change/add) and the bill text	6	81
Senate/Assembly Committee/Floor Analysis	Can include: <ul style="list-style-type: none"> •the issue at hand •what the law currently addresses •what the bill changes/adds •the bill's fiscal impact •staff evaluation/summary of the bill and potential impact •a list of people/ groups formally in support of/in opposition to the bill •arguments for/against the bill •'analysis' section (a more detailed description of what the bill will do) •'comments' section (bill author's justification for the bill) •a description of any amendments 	51	331
Committee/Floor Votes	Include the final tally and the recommendation based on the vote (i.e., pass)	29	29
Bill Amendment	Bill text showing where additions/deletions have been made on the previous bill version	26	519
Bill Enrolled	The bill as passed by the Assembly and Senate	6	172
Bill Chaptered	The bill as signed by the Governor	6	112
Bill History	A chronological list of legislative actions for the bill	6	9
Final Bill Text	The bill text as passed by the Assembly and Senate	8	22
TOTAL:		138	1,275

Nearly two-thirds (86) of the 137 legislative history documents from California's hate crime statutes fall solely within the Legislative Records category. The Bill Amendment, Bill Enrolled, Bill Chaptered, and Final Bill Text documents only include

the bill text at that stage in California's legislative process. In other words, the legislative history document only has a copy of the bill text and no other text/information, such as a description of why the bill was introduced, or the bill's projected fiscal impact, for example. The Committee¹⁶ Vote and Floor Vote documents each only include the final vote tally and the recommendation for the bill based on the vote (e.g., pass). The Bill Introduced document has a 'digest' section. This section describes where relevant California law (i.e., the state's hate crime laws) currently stands. The 'digest' section also details what the bill changes about the law or adds to it, in addition to having the introductory version of the bill. While all the legislative history documents that fall into the Legislative Records category are useful for understanding how a bill progressed through the development and adoption process, the documents do not provide insight into how lawmakers developed the bill (i.e., what drove them to include certain aspects of the bill or introduce the bill to the legislature in the first place).

The Assembly/Senate Committee and Floor Analysis documents provided information on motives for developing California's hate crime bills and on information that informed the development process. All portions of the analyzed legislative history documents that showed what motivated and informed the development and adoption of California's hate crime bills fell into the Internal Determinants category (see Table 8).

¹⁶ Committees are groups of House or Senate lawmakers (California has an Assembly instead of a House of Representatives, and Washington, DC has a Council instead of House or Senate) who generally work in small groups to review all bills assigned to their committee for review. Committees are topic-focused; for example, many states send hate crime bills to Judiciary/Public Safety Committees (although states use their own terminology to name their committees). Committees review bills, suggest/make amendments, and must decide how to proceed with a bill. Usually, committees vote to recommend the House/Senate to pass a bill as-is, pass a bill with amendments, or to not pass the bill. Committees in some states can opt to take no action on the bill, effectively "killing" the bill. This prevents the bill from progressing any further through the legislative process. This description of committees applies to all descriptions of legislative committees in the sample of states.

There were five different Internal Determinants subcategories: (1) referencing hate crime prevalence in California, (2) the bill will improve society and rights/protections for California citizens, (3) specific arguments made against the bill, (4) the current hate crime statute is fundamentally flawed in some manner, and (5) other uses of California-focused research or data to back up arguments about the bill.

Table 8

Distribution of Internal Determinants and Regional Diffusion Themes in California's Legislative History Documents

Document Type	Internal Determinants Documents	Internal Determinants Portions¹⁷	Regional Diffusion Documents	Regional Diffusion Portions
Assembly Committee Analysis	11	57	0	0
Assembly Floor Analysis	7	34	0	0
Senate Committee Analysis	9	45	0	0
Senate Floor Analysis	7	41	0	0
Total	34	177	0	0

Internal Determinants: Referencing Hate Crime Incidents and Prevalence in California. Various California-specific hate crime statistics were included in the reports for Senate Bill 911 (1995), Assembly Bill 51 (1997), Assembly Bill 887 (2011), and Assembly Bill 1985 (2018). For example, in an Assembly Committee report for Assembly Bill 51, committee members described the increased prevalence of church fires with suspicious origins in California as part of the impetus for drafting the bill. Assembly

¹⁷ Internal Determinants/Regional Diffusion “portions” are phrases, a sentence, or multiple sentences found in a legislative history document that reflect state-specific characteristics/focus (Internal Determinants) or the actions/attributes of other states (Regional Diffusion). For example, a legislative history document containing public testimony is counted as one document. If that document has dialogue from three people discussing how the law will increase public safety for state citizens, the document has three Internal Determinants “portions.”

Bill 51 (1997) was partially designed to increase penalties for institutional vandalism among other expansions to hate crime penalties. In an Assembly Committee Report for Senate Bill 911 (1995), committee members state, “[Senate Bill 911] is in response to several recent incidents and trends that point to serious deficiencies in [California’s] current hate crime laws.”

Five of California’s 10 hate crime bills referenced hate crime incidents in some capacity. Specific hate crime cases that occurred in California were described for three of the five bills. In an Assembly Committee Report for Assembly Bill 1999 (1998), the report described a case in San Francisco that occurred in 1997 (the year prior to the bill being introduced) in which, “a transgender woman was struck by a bus driver solely on the basis of her perceived gender identity.” As a whole, the references to hate crime cases and prevalence—which were all based on specific California cases or statistics (and thereby evidence of Internal Determinants)—provide support for arguments made in favor of amending California’s hate crime laws. This was the case whether the references were specific to certain types of hate crimes, to one particular incident, or to hate crime trends more generally.

Internal Determinants: The Bill will Improve Society and Rights/Protections for California Citizens. The second form of information that falls into the Internal Determinants category includes arguments that, if passed, the bill: will increase safety for all Californians (Assembly Bill 51), will protect citizens from hate-related incidents (Assembly Bill 1985), and that the bill will create a better community for all (Assembly Bill 1985). In addition, arguments made about Assembly Bill 887 (2012) and Assembly Bill 1985 (2019), bills designed to change protected class definitions, presented the

argument that California's hate crime statute will provide equal protection for all citizens. Assembly Bill 887 (2012) would do this by including 'gender expression' (alongside gender identity). Assembly Bill 1985 (2019) would accomplish this goal by expanding the scope of disabilities included in the definitions for the 'disability' protected class. Such arguments appeal to lawmakers' desire to serve their constituents/communities by passing legislation that is for their betterment, improves public safety, and equalizes rights for all citizens. This focus on improving the lives of Californians specifically is reflective of Internal Determinants.

Internal Determinants: Specific Arguments Made Against the Bill. Several one-off arguments were made in opposition to three of California's hate crime bills. For Assembly Bill 51 (1997), which expanded punishments for hate crimes, the American Civil Liberties Union (ACLU) argued that the sentences outlined in the bill were excessive in proportion to the crimes they were attached to. The ACLU also asserted that such increased sentences would not have the desired deterrent effect. Assembly Bill 887 (2011) added gender expression as a protected class for § 422.56 (which includes definitions for terminology used and protected classes outlined in § 422.55). The Capitol Resource Institute (CRI), a California organization that advocates for religious freedom and related rights in the state, gave an official statement denouncing Assembly Bill 887. The CRI argued that expanding the definition of gender would be an affront against more 'traditional' morals/values. In the statement, the CRI stated that the bill is "seeking to create gender confusion in society." Their argument is a reference to California's willingness to formally recognize that gender is non-binary in its hate crime statute, which is divergent to what the CRI advocates for. The CRI's use of 'society' takes this

quote more broadly than speaking directly about Californians but given that it is a bill for the state of California, it can be argued they are referencing Californian society.

Last, two arguments were made against Assembly Bill 1999 (1998), which defined gender more inclusively in California's hate crime statute. Moral arguments were made against the bill in the same vein as the argument made by the CRI for Assembly Bill 887 (2011). In addition, the California Attorneys for Criminal Justice group asserted that passing Assembly Bill 887 will make California's hate crime statute "too extensive" and allows crimes that "are not hate crimes," to be classified as hate crimes. More specifically, the group argued that intimate partner violence and sexual violence cases in California could be eligible to be classified as hate crimes with the new definition for gender found in Assembly Bill 887. Lawmakers and organizations in California felt that Assembly Bill 1999 (1998) and Assembly Bill 887 (2011) would make California's hate crime law too broad and crowd the criminal justice system with additional cases. Each of the bills that were argued against ultimately passed. Arguments were still made, however, that appealed to various competing influences California lawmakers need to be cognizant of and potentially account for when they develop and enact legislation. This is further evidence of the role Internal Determinants factors in policy development and adoption in California.

Internal Determinants: The Current Hate Crime Statute is Fundamentally Flawed in Some Manner. Arguments were also made in the Committee and Floor Report legislative history documents that the California hate crime law, as it was before the bill was passed, is fundamentally flawed in some capacity. More specifically, Committee Reports for Assembly Bill 1999 (1998), Senate Bill 911 (1995), and Senate

Bill 1234 (2005) all note that the law makes prosecution of hate crime cases quite difficult, whether due to language not being explicit enough, or if a protected class was not included in the statute. Existing related law was discussed heavily in Committee Reports for Assembly Bill 887 (2011). More specifically, lawmakers discussing Assembly Bill 887 stated that existing law was incredibly general in its wording. It could be argued that transgender individuals already had legal protection against discrimination and hate crime in California. They went on to say, though, that while the broadness of California's existing law *may* extend legal protection to transgender individuals, Assembly Bill 887 would outright guarantee that protection.

A Committee Report for Assembly Bill 887 (2011) was more general in calling the California hate crime law "flawed," but then moved into citing anti-transgender hate crime statistics in the state and specific cases of anti-transgender hate crime that occurred in California. Arguments that California's hate crime law was flawed all served as preambles to the entire argument committee members or interested parties made about the bills. These claims arguably draw the attention of lawmakers reading them. Providing California-specific evidence after the claims may more effectively argue for the passage of the bill. California-focused arguments show that issues are directly affecting the state, and are not just present elsewhere. The way in which arguments about the shortcomings of California's hate crime statute were used provide more evidence of Internal Determinants at work.

Internal Determinants: Other Uses of California-focused Research or Data to Back up Arguments About the Bill. The last subgroup of Internal Determinants statements used hate crime-related data/research in other ways to provide evidence for arguments made about the bills. The California Assembly and Senate each used research reports to back up their claims about hate crime-related issues in California for Senate Bill 911 (1995), Senate Bill 1234 (2005), and Assembly Bill 1985 (2019). Research reports used by lawmakers came from government reports and investigative journalism conducted by the Los Angeles Times, which focused on hate crime prevalence and specific incidents that occurred in California. Last, Committee Reports for Senate Bill 911 (1995) cited a statistic that “up to 90% of hate crime cases remain unsolved in parts of California,” with low rates of hate crime cases being solved across the state. These other uses of hate crime-related research and data functioned similarly to how hate crime prevalence rates were used in Committee Reports: to provide evidence for arguments made in support of passing hate crime bills in California. They provide further proof of Internal Determinants being a factor in California’s legislative development process.

Wrap-up of Analysis of California’s Legislative History Documents. Many of the legislative history documents accompanying California’s hate crime statutes contained information solely related to the Legislative Records category. Assembly/Senate Committee and Floor Reports proved more fruitful for understanding legislative intent behind each hate crime bill. Citing California-specific hate crime data was a common bit of evidence California lawmakers used to substantiate claims that a bill needed to be enacted to address specific or general hate crime-related issues. Other arguments both in support of and in opposition to hate crime bills were often made in

tandem with references to hate crime data and research. These references included noting that California's hate crime statute was flawed but that the bill at hand would ameliorate the issue(s) described, such as increased prevalence of hate crime in California or the legislation's wording being too vague.

Last, claims that the hate crime bills would increase public safety and rights for Californians were made but only for some of California's hate crime bills. Arguably, however, the goal to improve public safety and increase/equalize rights for Californians is ideally (but arguably not always) at the forefront of California lawmakers' minds so that they can better serve the people they represent. Thus, such goals may not be explicitly mentioned but nonetheless involved. Regardless, California's legislative history documents paint a clear picture that the state, at least in its Legislative Records, is focused on the pulse of the state and the needs of its citizens. California's legislative history documents did not reference to the actions or events occurring out of state (i.e., information that would be classified into the Regional Diffusion category).

Connecticut

Connecticut enacted its first hate crime statute in 1990, criminalizing "intimidation based on bigotry or bias" and including three protected classes: race, ethnicity, and sexual orientation. Connecticut has since greatly expanded its hate crime legislation, adding protected classes, changing language, and expanding penalties for hate crimes. Connecticut currently has six hate crime statutes that denote protected classes, provide definitions for those protected classes, and outline penalty enhancements for hate crimes. The language of the six statutes is below, along with tables showing what each of

Connecticut's hate crime bills added to/changed in the statutes (see Tables 9, 10, 11, and 12).

§ 46a-58 prohibits discrimination against an individual due to various characteristics. The statute also describes and defines the crimes of institutional vandalism, cross burning, and penalties that can be assessed for those behaviors.

§ 46a-58 Deprivation of rights. Desecration of property. Placing of burning cross or noose on property. Penalty. Restitution

(a) It shall be a “*discriminatory practice*” in violation of this section for any person to subject, or cause to be subjected, any other person to the deprivation of any rights, privileges or immunities, secured or protected by the Constitution or laws of this state or of the United States, on account of religion, national origin, alienage, color, race, sex, gender identity or expression, sexual orientation, blindness, mental disability, physical disability or status as a veteran.

(b) Any person who intentionally desecrates any public property, monument or structure, or any religious object, symbol or house of religious worship, or any cemetery, or any private structure not owned by such person, shall be in violation of subsection (a) of this section. For the purposes of this subsection, “desecrate” means to mar, deface or damage as a demonstration of irreverence or contempt.

(c) Any person who places a burning cross or a simulation thereof on any public property, or on any private property without the written consent of the owner, and with intent to intimidate or harass any other person or group of persons, shall be in violation of subsection (a) of this section.

(d) Any person who places a noose or a simulation thereof on any public property, or on any private property without the written consent of the owner, and with intent to intimidate or harass any other person on account of religion, national origin, alienage, color, race, sex, gender identity or expression, sexual orientation, blindness, mental disability, physical disability or status as a veteran, shall be in violation of subsection (a) of this section.

(e) (1) Except as provided in subdivision (2) of this subsection, any person who violates any provision of this section shall be guilty of a class A misdemeanor and shall be fined not less than one thousand dollars, except that if property is damaged as a consequence of such violation in an amount in excess of one thousand dollars, such person shall be guilty of a class D felony and shall be fined not less than one thousand dollars.

(2) Any person who violates the provisions of this section by intentionally desecrating a house of religious worship (A) shall be guilty of a class D felony and shall be fined not less than one thousand dollars if property is damaged as a consequence of such violation in an amount up to and including ten thousand dollars, and (B) shall be guilty of a class C felony and shall be fined not less than three thousand dollars if the property damaged as a consequence of such violation is in an amount in excess of ten thousand dollars.

(3) The minimum amount of any fine imposed by the provisions of this section may not be remitted or reduced by the court unless the court states on the record its reasons for remitting or reducing such fine.

(4) The court may order restitution for any victim of a violation of this section pursuant to subsection (c) of section 53a-28.

Table 9

Connecticut's § 46a-58 Statute Progression

Statute Version	Bill	Effective Date	Change(s) to Law
1	House Bill 5710	October 1, 2000	Establishes “discriminatory practice” crime type with larger group of protected classes: ‘religion,’ ‘national origin,’ ‘alienage,’ ‘color,’ ‘race,’ ‘sex,’ and ‘blindness or physical disability’
2	Senate Bill 1109	October 1, 2007	Adds ‘sexual orientation’ to the list of protected classes for “discriminatory practice” portion of the statute
3	House Bill 6599	October 1, 2011	Adds ‘gender identity or expression’ to the list of protected classes in the “discriminatory practice” portion of the statute
4	Senate Bill 1502	July 1, 2015	Adds ‘mental disability’ to the list of protected classes in the “discriminatory practice” portion of the statute
Current	House Bill 5743	October 1, 2017	Expands the penalties for the crimes covered by the statute

§ 53a-40a outlines how penalty enhancements for “persistent” hate crime offenders are levied in Connecticut. “Persistent” here means someone who has been convicted of a hate crime at least twice. Below is the statute text.

§ 53a-40a Persistent offenders of crimes involving bigotry or bias. Authorized sentences

(a) A persistent offender of crimes involving bigotry or bias is a person who (1) stands convicted of a violation of section 46a-58, 53-37a, 53a-181j, 53a-

181k or 53a-181l, and (2) has been, prior to the commission of the present crime, convicted of a violation of section 46a-58, 53-37a, 53a-181j, 53a-181k or 53a-181l or section 53a-181b in effect prior to October 1, 2000.

(b) When any person has been found to be a persistent offender of crimes involving bigotry or bias, the court shall: (1) In lieu of imposing the sentence authorized for the crime under section 53a-35a if the crime is a felony, impose the sentence of imprisonment authorized by said section for the next more serious degree of felony, or (2) in lieu of imposing the sentence authorized for the crime under section 53a-36 if the crime is a misdemeanor, impose the sentence of imprisonment authorized by said section for the next more serious degree of misdemeanor, except that if the crime is a class A misdemeanor the court shall impose the sentence of imprisonment for a class D felony as authorized by section 53a-35a.

Table 10

Connecticut's § 53a-40a Statute Progression

Statute Version	Bill	Effective Date	Change(s) to Law
1	House Bill 5978	October 1, 1990	Establishes “intimidation based on bigotry or bias committed when a person maliciously, and with specific intent to intimidate or harass another person because of the actual or perceived race, ethnicity, or sexual orientation of such other person”; allows court to consider further enhanced penalties for those “found to be a persistent offender of crimes involving bigotry or bias”
Current	House Bill 5710	October 1, 2000	Replaces “his” with “such person’s” language in the statute

§ 53a-181i outlines Connecticut's protected classes and provides definitions for them. The statute reads as follows:

§ 53a-181i Intimidation based on bigotry or bias: Definitions

For the purposes of sections 53a-181j to 53a-181l, inclusive:

- (1) "Disability" means physical disability, mental disability or intellectual disability;
- (2) "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's assigned sex at birth;
- (3) "Mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders";
- (4) "Intellectual disability" has the same meaning as provided in section 1-1g; and
- (5) "Physical disability" means any chronic physical handicap, infirmity or impairment, whether congenital or resulting from bodily injury, organic processes or changes or from illness, including, but not limited to, blindness, epilepsy, deafness or being hard of hearing or reliance on a wheelchair or other remedial appliance or device.

Table 11*Connecticut's § 53a-181i Statute Progression*

Statute Version	Bill	Effective Date	Change(s) to Law
1	House Bill 5657	October 1, 2004	Establishes definitions for 'disability,' 'gender identity or expression,' 'mental disability,' 'mental retardation,' and 'physical disability'
2	House Bill 6440	October 1, 2011	Changes "mental retardation" to "intellectual disability"
Current	Senate Bill 796	October 1, 2017	Adds "hard of hearing" to definition for 'physical disability'

§ 53a-181j, k, and l all denote penalties for hate crimes, depending upon the felony classification (i.e., Class C) base offense committed. The text for each statute is found below.

§ 53a-181j Intimidation based on bigotry or bias in the first degree: Class C felony

(a) A person is guilty of intimidation based on bigotry or bias in the first degree when such person maliciously, and with specific intent to intimidate or harass another person because of the actual or perceived race, religion, ethnicity, disability, sex, sexual orientation or gender identity or expression of such other person, causes physical injury to such other person or to a third person.

(b) Intimidation based on bigotry or bias in the first degree is a class C felony, for which three thousand dollars of the fine imposed may not be remitted or reduced by the court unless the court states on the record its reasons for remitting or reducing such fine.

§ 53a-181k Intimidation based on bigotry or bias in the second degree: Class D
felony

(a) A person is guilty of intimidation based on bigotry or bias in the second degree when such person maliciously, and with specific intent to intimidate or harass another person or group of persons because of the actual or perceived race, religion, ethnicity, disability, sex, sexual orientation or gender identity or expression of such other person or group of persons, does any of the following:

(1) Causes physical contact with such other person or group of persons, (2) damages, destroys or defaces any real or personal property of such other person or group of persons, or (3) threatens, by word or act, to do an act described in subdivision (1) or (2) of this subsection, if there is reasonable cause to believe that an act described in subdivision (1) or (2) of this subsection will occur.

(b) Intimidation based on bigotry or bias in the second degree is a class D felony, for which one thousand dollars of the fine imposed may not be remitted or reduced by the court unless the court states on the record its reasons for remitting or reducing such fine.

§ 53a-181l Intimidation based on bigotry or bias in the third degree: Class E
felony

(a) A person is guilty of intimidation based on bigotry or bias in the third degree when such person, with specific intent to intimidate or harass another person or group of persons because of the actual or perceived race, religion, ethnicity, disability, sex, sexual orientation or gender identity or expression of such other

person or persons: (1) Damages, destroys or defaces any real or personal property, or (2) threatens, by word or act, to do an act described in subdivision (1) of this subsection or advocates or urges another person to do an act described in subdivision (1) of this subsection, if there is reasonable cause to believe that an act described in said subdivision will occur.

(b) Intimidation based on bigotry or bias in the third degree is a class E felony, for which one thousand dollars of the fine imposed may not be remitted or reduced by the court unless the court states on the record its reasons for remitting or reducing such fine.

Table 12

Connecticut's § 53a-181j, k, and l Statute Progression

Statute Version	Bill	Effective Date	Change(s) to Law
1	House Bill 5710	October 1, 2000	Establishes “intimidation based on bigotry or bias committed when a person maliciously, and with specific intent to intimidate or harass another person because of the actual or perceived race, ethnicity, or sexual orientation of such other person” with different degrees of crimes
2	House Bill 5657	October 1, 2004	Provides definitions for the following protected classes: ‘disability,’ ‘gender identity or expression,’ ‘mental disability,’ ‘mental retardation,’ and ‘physical disability’
3	House Bill 5743	October 1, 2017	Expands the scope of crimes covered by the statute
Current	Senate Bill 1091	July 1, 2020	Added “motivated in whole or substantial part” language to the statute before listing the protected classes

Connecticut Legislative History Document Analysis

Connecticut has a substantial amount of legislative history documents for its hate crime bills (see Table 13). This is no surprise given the number of statutes Connecticut currently has that denote protected classes and enhanced penalties for hate crimes. A sizeable portion of Connecticut's legislative history documents fall squarely into the Legislative Records category, as the documents only contain copies of bill text or records of legislative actions taking place. The documents that are only classified into the Legislative Records category include the following: Bill Introduction, Vote Tally Sheets, Joint Favorable/Joint Favorable Substitute, Fiscal Notes, File Number documents, Bill Amendments, Final Bill Text, and Bill History.

Table 13

Glossary of Connecticut's Legislative History Documents

Document Type	Description	Total No. of Docs.	Total Page Count
Bill Introduction	Includes the bill text and a 'statement of purpose' (justification for the bill)	9	96
Vote Tally Sheets	Voting records and recommendation based on the vote (i.e., pass, fail, joint favorable substitute)	38	50
Joint Favorable/Joint Favorable Substitute	A committee motion to give a favorable report to a bill or a new version of the bill	11	307

(continued)

Document Type	Description	Total No. of Docs.	Total Page Count
Joint Favorable Report	List the: <ul style="list-style-type: none"> •bill title and sponsors •responses from administration/agencies (e.g., senators, representatives, government workers) describing their opinions/recommendations on the bill •nature and source(s) of support/opposition for the bill (e.g., government positions, advocacy groups) 	9	32
Public Hearing Testimony	Testimony given in favor of and in opposition to bills during public hearings	37	81
Fiscal Note	Short statement of the impact the bill will have monetarily at the state, municipal, and state agency levels; includes an explanation of the fiscal impact estimates	9	13
File Number Documents	Include an indication of the committee vote(s) and their recommendations (e.g., pass, joint favorable substitute), and bill text with any changes marked	13	422
Bill Analysis	Includes a bulleted summary of the bill, an elaborated description of what the bill will do, background on the statute of the law currently, and describes any committee actions	12	74
Bill Amendments	Include only the listed edits to the bill	16	220
Final Bill Text	The bill text as passed	10	195
Bill History	A chronological list of legislative actions for the bill	9	9
TOTAL:		173	1,499

To begin, a number of Connecticut's legislative history documents were classified into the Internal Determinants category (see Table 14). Connecticut's Joint Favorable Report (akin to Committee Report documents other states have) and Public Hearing Testimony documents both contained numerous statements that were classified in the Internal Determinants category. These portions of the legislative history documents were further divided into one of four groups: 1) moral arguments for and against the bill, 2)

message the bill sends to would-be offenders and Connecticuters, 3) Connecticut's law is lacking, and 4) hate crime data and cases in Connecticut. Each are discussed below.

Table 14

Distribution of Internal Determinants and Regional Diffusion in Connecticut's

Legislative History Documents

Document Type	Internal Determinants Documents*	Internal Determinants Portions	Regional Diffusion Documents*	Regional Diffusion Portions
Joint Favorable Report	6	60	6	6
Bill Analysis	1	0	1	2
Public Hearing Testimony	20	20	0	0
Total	27	80	7	8

*-Some legislative history documents contained portions that were classified as Internal Determinants and also included portions classified as Regional Diffusion, so there is some overlap between these two frequencies.

Internal Determinants: Moral Arguments for and Against the Bill. Several moral arguments were made for and against Connecticut's hate crime bills. Many of the statements found in Connecticut's legislative history documents that were given in support of the bills centered around equality, protection, and respect for citizens. As described in testimony given for House Bill 5657 (2004), hate crimes and developing hate crime law "actually represent a larger struggle for the basic human rights of freedom, human dignity, and justice." This speaker from the Gender Public Advocacy Coalition begins their statement about House Bill 5657 broadly but focuses back on Connecticut. The speaker continues by saying that the bill combats "stereotypes and violence directed at transgender and disabled people [that] prevent those people from being full and productive citizens of the state of Connecticut." The speaker claims that

House Bill 5657 (2004) will directly benefit transgender individuals and persons with disabilities who are citizens of Connecticut, indicative of Internal Determinants.

Testimony given in support of House Bill 5743 (2017) illustrates the Connecticut Legislature's strong desire to address issues of equality, protection, and respect for the citizens they serve. For example, one Senator stated that, "we will stop at nothing to protect [our constituents'] rights to live peacefully in Connecticut without being subjected to intimidation, threats, assault, or fear based on hate or bigotry." A similar statement was found for House Bill 5657 (2004), where the bill was described as a "necessary tool in combatting bigotry and keeping people safe." While the reference to 'people' is more general, the argument here is that Connecticut's bill will keep those in the state safe, still indicative of Internal Determinants. Others concurred with this sentiment, stating that Connecticut lawmakers must "protect the right of those living [in Connecticut] being free from hate crimes," and that, "Connecticut has a diverse population who must all feel welcome here."

Lawmakers and those who gave testimony for House Bill 6640 (2011) and Senate Bill 796 (2017) both recognized the need to use respectful and up-to-date terminology to describe persons with disabilities. For example, testimony for House Bill 6640 (2011) stated that terms "and other derivatives of the r-word are now considered insulting and pejorative, especially by the people who have intellectual disabilities." In a similar comment, one person stated that, "the current use of non-person first language is offensive to those in the disabled community and those that care about being respectful to others." While these two comments speak of individuals with disabilities more broadly, each speaker is referring to the need to change the language of Connecticut's statute

specifically. Related, the Governor of Connecticut, speaking in favor of House Bill 6599 (2011), which added gender identity or expression as a protected class, indicated he has long supported such legislation and that the Connecticut House’s Judiciary Committee should maintain “sensitivity to the needs of every human being” by approving the bill. Testimony given for Senate Bill 1091 (2021) indicates that the bill will, “provide an important chance to modernize and prune *our* [emphasis added] criminal statutes.”

Among the legislative history documents compiled for Connecticut’s hate crime statutes, only one—House Bill 6599 (2011)—had impassioned opposition to the bill. Multiple citizens spoke about their concerns over the inclusion of gender identity or expression in Connecticut’s hate crime statute. Four Connecticut citizens testified that they were worried that “sexual predators” will enter single-sex restrooms (in particular, those marked for females) and then subsequently assault women and children. Three people felt that the bill, “ignores science, biology, medicine, and common sense,” and that the bill, “would require society to conform to this sickness! [emphasis in original].” The citizens voicing these concerns about House Bill 6599 (2011) specifically did not substantiate their claims with data or specific cases of such assaults taking place, however, or how the bill ignores science/medicine.

Internal Determinants: Message the Bill Sends to Would-be Offenders and Connecticuters. For three of Connecticut’s hate crime bills, legislative history documents included statements showing that lawmakers believe that passing the bill will send a message to the citizens of Connecticut. Such statements reflect the lawmakers’ desire to deter would-be hate crime offenders. For example, in testimony given for House Bill 5657 (2004), a lawmaker stated that “hate crime laws also remind those who commit

illegal acts out of prejudice that our society deprecates their behavior and that it will not be tolerated.” A Senator stated that House Bill 5743 (2017) would send a message “to potential perpetrators that we will punish them as strongly as anywhere in the country.” Other testimony for House Bill 5743 and testimony for House Bill 6599 (2011) indicate that passing the bill shows that the state, “does not tolerate hate crimes in Connecticut.”

Internal Determinants: Connecticut Law is Lacking. A third set of portions of Connecticut’s legislative history documents that fell into the Internal Determinants category make reference to areas of Connecticut’s hate crime statute that are lacking, with the overarching message being that, “Connecticut therefore needs to recognize and legislate formal mechanisms to address hate crimes based on fear, bias, intimidation, or threats” (from a statement given about House Bill 5657). Another individual testified about House Bill 5657 (2004), saying that Connecticut is absent of “any legal protections for people with disabilities despite such people being the most susceptible to hate and violence.” At the time, Connecticut did not have specific legal recourse for discrimination or hate crimes committed against individuals with disabilities. Similar concerns (though not about the state lacking protections for individuals with disabilities) were raised for Senate Bill 1109 (2007) and House Bill 6599 (2011), about expanding legal protections to sexual minorities and transgender individuals, respectively.

Internal Determinants: Hate Crime Data and Cases in Connecticut. Last, numerous references were made to hate crime statistics for Connecticut and to specific hate crime cases that occurred there, found in testimony for House Bill 5657 (2004), Senate Bill 1109 (2007), House Bill 6599 (2011), and House Bill 5743 (2017). Specifically, a lawmaker stated in testimony for House Bill 5657 and House Bill 6599,

respectively, that, “data suggest hate crimes based upon [bias toward] disability or gender identity or expression are on the rise,” and that “transgender citizens often face discrimination in the workplace, housing, and public accommodations.” The lawmaker was referencing data collected by the Connecticut Commission on Human Rights and Opportunities. For the latter, the lawmaker’s testimony also cites data from the Connecticut branch of the American Civil Liberties Union, who indicate they get repeated calls about discrimination and hate toward transgender individuals. Recent hate crimes that occurred in Connecticut seemed to be the impetus for the development of House Bill 5743 (2017). The Joint Favorable Report document for the bill indicates that Connecticut Senators brought “this matter to the attention of the committee, stating that it is completely unacceptable that in recent months Connecticut has seen many incidents of intimidation and threatening based on bigotry or bias.” These references to hate crime data and cases in Connecticut specifically provide evidence of Internal Determinants.

Regional Diffusion. While few in number, several portions of Connecticut’s legislative history documents were classified in the Regional Diffusion category (see Table 14). Reports for two of Connecticut’s hate crime bills—House Bill 5657 (2004) and House Bill 6599 (2011)—refer to the laws existing in other states. Multiple people gave testimony for House Bill 5657 (2004) stating that, “over half of states have legislation that protects citizens with disabilities from crimes based on fear, bias, intimidation, or threats,” and that, “Connecticut needs to catch up with other states” in this regard. In a Joint Favorable Report for House Bill 6599, lawmakers mention that “to date, 13 states have statewide prohibitions on gender identity discrimination, including Connecticut’s neighbors, Maine, Vermont, and Rhode Island.” The report also discusses

the history of the legislation in those states and related legislation found in 100 other local jurisdictions. This is a prime example of the Regional Diffusion model, especially the explicit mention of Connecticut's neighbors. A Joint Favorable Report for House Bill 6440 (2011) stated that the bill will "change 'mental retardation' to 'intellectual disability' to reflect changes in federal law." Testimony for the bill later references the recently passed federal law again, also an example of Regional Diffusion.

Wrap-up of Analysis of Connecticut's Legislative History Documents.

Collectively, Connecticut's legislative history documents provided a glimpse into the information lawmakers worked with when developing hate crime bills, which included testimony given, moral arguments, and Connecticut-specific hate crime statistics.

Whether included in Joint Favorable Reports or in testimony given by lawmakers or citizens, arguments were given that appealed to people's moral values. In some cases, those arguments were either subsequently substantiated with state-level hate crime statistics and reference to individual cases, or those statistics and hate crime cases were mentioned beforehand. Opponents of House Bill 6599 (2011)—who argued the bill goes against "biology, medicine, and common sense" and feared sexual predators would assault people in restrooms—did not substantiate their claims with statistics or research.

It also appears that Connecticut lawmakers were cognizant of the legislative actions of their neighboring states and of trends in federal law, indicative of Regional Diffusion's presence. That said, Internal Determinants seems to have played a larger role in Connecticut's legislative adoption process.

Georgia

Georgia enacted its first hate crime statute in 2000 (see Table 15). However, this law was struck down by the Georgia Supreme Court in *Botts v. State* (2004). The Georgia Supreme Court ruled that the state's hate crime statute was "unconstitutionally vague." More specifically, the Georgia Supreme Court indicated that a statute is generally considered vague if "persons of common intelligence must necessarily guess at its meaning and differ as to its application." The court ruling went on to say that Georgia's hate crime statute did not provide "specific context in which a person's bias or prejudice may apply in order to narrow the construction of these concepts." Georgia's original hate crime statute did not denote specific protected classes, but instead described bias crimes as crimes committed because the defendant intentionally selected their victim "because of bias or prejudice." As a result of this ruling and Georgia lawmakers failing to introduce a new hate crime bill, Georgia went without another hate crime statute until 2020.

House Bill 426 was first introduced to the Georgia House of Representatives in February 2019. After the Georgia House passed the bill on March 7, 2019, House Bill 426's progression through the legislative process stalled for 15 months. This lengthy gap is partially attributable to the 2019 Georgia legislative session ending on April 2, 2019, and delays to the 2020 Georgia legislative session caused by COVID-19. Finally, on June 19, 2020, a Georgia Senate Committee voted on House Bill 426. House Bill 426 was passed on June 26, 2020, amidst widespread nationwide protests following the murder of Ahmaud Arbery on February 23, 2020, and the murder of George Floyd on May 25, 2020. Given House Bill 426's inclusion of specific protected classes and mandated data collection of hate crimes by law enforcement agencies, the bill was well-received by the

public (Slotkin, 2020). Given the timeline of when the bill was passed and the national protests, it appears House Bill 426 may be a response to the protests concerning racial injustice.

Currently, Georgia's hate crime statute that designates protected classes and penalty enhancements is:

§ 17-10-17 Enhanced sentence where defendant intentionally selected victim or property as object of offense because of bias or prejudice

(a) As used in this Code section, the term "designated misdemeanor" means:

- (1) Simple assault as defined in Code Section 16-5-20;
- (2) Simple battery as defined in Code Section 16-5-23;
- (3) Battery as defined in Code Section 16-5-23.1;
- (4) Criminal trespass as defined in Code Section 16-7-21; and
- (5) Misdemeanor theft by taking as defined in Code Section 16-8-2.

(b) Subject to the notice requirement provided in Code Section 17-10-18 and in enhancement of the penalty imposed, if the trier of fact determines beyond a reasonable doubt that the defendant intentionally selected any victim or group of victims or any property as the object of the offense because of such victim's or group of victims' actual or perceived race, color, religion, national origin, sex, sexual orientation, gender, mental disability, or physical disability, the judge imposing sentence shall:

- (1) If the offense for which the defendant was convicted is a designated misdemeanor, impose a sentence of imprisonment for a period of not less than six nor more than 12 months, and a fine not to exceed \$5,000.00; or

(2) If the offense for which the defendant was convicted is a felony, impose a sentence of imprisonment for a period of not less than two years, and a fine not to exceed \$5,000.00.

(c) The judge shall state when he or she imposes the sentence the amount of the increase of the sentence based on the application of subsection (b) of this Code section.

Table 15

Georgia's § 17-10-17 Statute Progression

Statute Version	Bill	Effective Date	Change(s) to Law
1	Senate Bill 390	July 1, 2001; Ruled Unconstitutional by Georgia Supreme Court in <i>Botts v. State</i> (2004)	Establishes statute, but with no protected classes, just has: "intentionally selected any victim or any property of the victim as the object of the offense because of bias or prejudice"
Current	House Bill 426	July 1, 2020	Re-established law, adds the following protected classes: 'race,' 'color,' 'religion,' 'national origin,' 'sex,' 'sexual orientation,' 'gender,' 'mental disability,' and 'physical disability'

Georgia Legislative History Document Analysis

While gathering legislative history documents, I discovered that Georgia's legislature is notorious for maintaining few legislative history records (Georgia Archives, 2021; University of Georgia, n.d.). This limits the ability to divine legislative intent and other motivating/hindering factors that Georgia lawmakers contend with during the legislative development and adoption process. Legislative history documents are completely absent from digital archives for Senate Bill 390 (2000), and most of the

legislative history documents Georgia has for House Bill 426 are just chronicles of legislative actions taking place or are simply the bill text, placing them in the Legislative Records group (see Table 16).

Table 16

Glossary of Georgia's Legislative History Documents

Document Type	Description	Total No. of Docs.	Total Page Count
Bill Introduction	Bill text as introduced	1	2
House Debate Postponed Notice	Notice that the House debate on the bill was postponed until the next legislative day	2	4
Vote Records	Voting records and recommendation based on the vote (i.e., pass, fail)	4	7
House Daily Report	Includes a bill summary, who authored the bill, and a list of committee/House/Senate actions	6	119
Senate Weekly Report	A short description of each bill the Senate acted upon that week	2	19
Bill Reading	A record of the House or Senate reading the bill	4	9
Bill Text	The bill text as passed	2	2
Governor's Message	A written message from the Governor and other legislators describing the passage of the bill	1	1
<i>Botts v. State</i> (2004)	Georgia Supreme Court case that overturned previous hate crime law	1	3
TOTAL:		23	166

One legislative history document, though, contained information classified into the Internal Determinants category: a joint message from Georgia's Governor and Lieutenant Governor regarding the passage of House Bill 426 that was published on June 29, 2020 (see Table 17).

Table 17

Distribution of Internal Determinants and Regional Diffusion in Georgia's Legislative History Documents

Document Type	Internal Determinants Documents	Internal Determinants Portions	Regional Diffusion Documents	Regional Diffusion Portions
Governor's Message	1	6	0	0
Total	1	6	0	0

In the short document (around one-third of a single page), both individuals give a statement about the new hate crime statute. Governor Brian Kemp indicates that the bill will, “enhance public safety and ensure that justice is served for all Georgians, regardless of race, gender, religion, nationality, or sexual orientation,” a reference to the protected classes Georgia’s hate crime statute denotes. He goes on to say that “today, we reaffirmed our desire to put progress ahead of politics. While this legislation does not right every wrong, it is an important step, and we will continue to do our part as state leaders to ensure that Georgia is a place where all people can live, learn, and prosper.” Governor Kemp’s comments allude to House Bill 426 being at least a partial salve to the unrest and protest Georgia (and the nation) were seeing before and during the time House Bill 426 was progressing through the legislative process. House Bill 426 punishes behavior motivated by bias/prejudice toward different protected classes, something not possible in Georgia at the time Ahmaud Arbery was murdered in February 2020.

While not a definitive indication, it can be argued that the statements from each of the government officials provide some evidence that state factors were on the minds of legislators when developing House Bill 426. This is reflective of the Internal Determinants model of legislative adoption. More specifically, these internal factors and

their influence are reflected by the Governor and Lieutenant Governor stating the desire to not be divided as a state by politics, and the “General Assembly’s collaborative effort,” respectively. In addition, Governor Kemp describes House Bill 426 as “enhanc[ing] public safety [in Georgia],” while the Lieutenant Governor stated that House Bill 426 “sends a strong statement about *our* [emphasis added] values.” The Governor arguably alludes to the murder of Ahmaud Arbery and well-documented protests concerning racial injustice occurring in the state by clarifying that while House Bill 426 was “an important, necessary step forward for Georgia, [...] this legislation does not right every wrong.” Drawing attention to state protests is indicative of Internal Determinants.

It does not appear to be a coincidence that House Bill 426 was passed in June 2020. Ahmaud Arbery was murdered in Georgia just four months prior. Protests over racial injustice were still ongoing during this time, with Ahmaud Arbery’s death still at the forefront (Etter, 2020; Ghebremedhin & Carrega, 2020). Protests in Georgia were also fueled by the murder of George Floyd on May 25, 2020 (Cisneros, 2020; Redmon, Bluestein, & Deere, 2020), which may have also had an influence on the passage of House Bill 426. Without explicit mention of either case in Georgia’s legislative history documents, though, this remains speculation.

Illinois

Illinois was one of the first states to pass a hate crime statute, doing so in 1983. With the first version of the statute, Illinois used “ethnic intimidation” as opposed to “hate crime” or “bias crime” (see Table 18). The first version of the statute also included race, color, creed, religion, and national origin as protected classes. “Ethnic intimidation” was swapped out for “hate crime” with Illinois’ second hate crime statute, that arose from

the passage of Senate Bill 2267 in 1991. With each successive bill passed, Illinois added additional protected classes and text to the statute to expand the scope of crimes eligible to be hate crimes. This was accomplished both with explicit listing of crimes and through the addition of “actual or perceived” and “regardless of the existence of any other motivating factor or factors” text.

Illinois’ hate crime statute, § 5/12-7.1, outlines protected classes, lists crimes eligible to be classified as hate crimes, what type of felony the hate crimes are, and definitions for some terms. It currently reads as follows:

§ 5/12-7.1 Hate Crime

- (a) A person commits hate crime when, by reason of the actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin of another individual or group of individuals, regardless of the existence of any other motivating factor or factors, he or she commits assault, battery, aggravated assault, intimidation, stalking, cyberstalking, misdemeanor theft, criminal trespass to residence, misdemeanor criminal damage to property, criminal trespass to vehicle, criminal trespass to real property, mob action, disorderly conduct, transmission of obscene messages, harassment by telephone, or harassment through electronic communications as these crimes are defined in Sections 12-1, 12-2, 12-3(a), 12-7.3, 12-7.5, 16-1, 19-4, 21-1, 21-2, 21-3, 25-1, 26-1, 26.5-1, 26.5-2, paragraphs (a)(1), (a)(2), and (a)(3) of Section 12-6, and paragraphs (a)(2) and (a)(5) of Section 26.5-3 of this Code, respectively.
- (b) Except as provided in subsection (b-5), hate crime is a Class 4 felony for a first offense and a Class 2 felony for a second or subsequent offense.

(b-5) Hate crime is a Class 3 felony for a first offense and a Class 2 felony for a second or subsequent offense if committed:

(1) in, or upon the exterior or grounds of, a church, synagogue, mosque, or other building, structure, or place identified or associated with a particular religion or used for religious worship or other religious purpose;

(2) in a cemetery, mortuary, or other facility used for the purpose of burial or memorializing the dead;

(3) in a school or other educational facility, including an administrative facility or public or private dormitory facility of or associated with the school or other educational facility;

(4) in a public park or an ethnic or religious community center;

(5) on the real property comprising any location specified in clauses (1) through (4) of this subsection (b-5); or

(6) on a public way within 1,000 feet of the real property comprising any location specified in clauses (1) through (4) of this subsection (b-5).

(d) “Sexual orientation” has the meaning ascribed to it in paragraph (O-1) of Section 1-103 of the Illinois Human Rights Act.

(O-1) Sexual orientation. “Sexual orientation” means actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity, whether or not traditionally associated with the person's designated sex at birth. “Sexual orientation” does not include a physical or sexual attraction to a minor by an adult.

Table 18*Illinois' § 5/12-7.1 Statute Progression*

Statute Version	Bill	Effective Date	Change(s) to Law
1	House Bill 2391	January 1, 1983	Establishes “ethnic intimidation” statute and lists the following protected classes: ‘race,’ ‘color,’ ‘creed,’ ‘religion,’ and ‘national origin’
2	Senate Bill 2267	January 1, 1991	Changes “ethnic intimidation” to “hate crime”; adds ‘ancestry,’ ‘sexual orientation’ [defined as heterosexuality, homosexuality, or bisexuality], and ‘physical or mental disability’ as protected classes; adds more crimes eligible to be classified as hate crimes
3	House Bill 2065	January 1, 1992	Adds ‘gender’ as a protected class
4	House Bill 1356	August 9, 1993	Adds “actual or perceived” text to statute
5	House Bill 136	January 1, 2003	Adds the following text at the end of the hate crime definition portion of statute: “regardless of the existence of any other motivating factor or factors”; changes some penalties for hate crimes
6	House Bill 3930	January 1, 2016	Expands the definition of ‘sexual orientation,’ including what the ‘sexual orientation’ protected class includes: “actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity, whether or not traditionally associated with the person's designated sex at birth. "Sexual orientation" does not include a physical or sexual attraction to a minor by an adult.”
Current	House Bill 3711	July 1, 2017	Adds “or she” language to statute after “he”; adds more crimes eligible to be classified as hate crimes; expands penalties for hate crimes

Illinois Legislative History Document Analysis

While Illinois maintains various legislative history documents for its legislative sessions (see Table 19), all documents are transcripts from legislative sessions. As is the case with other states, some of Illinois' legislative history documents are solely chronicles of a legislative action taking place, which classifies them in the Legislative Records category. More specifically, legislative history documents for the first reading of bills in each chamber are just a snippet of a transcript of the legislative meeting that day. Bills are read and then sent to a committee for further consideration during the 'first bill reading' step of Illinois' legislative process. For example, a transcript for House Bill 1356 (1993) for the bill's first reading is written as: "First Reading of Bill. House Bill 1356, offered by Representative Schakowsky, a Bill for an Act to amend the Criminal Code. First Reading of the Bill." This same phrasing is then repeated for each bill immediately after this section of the transcript. Each of the records for the first bill reading was classified as Legislative Records.

Documents indicating a bill was sent to a committee and notifications that the Illinois House or Senate have passed a bill are also just records of these legislative actions taking place. Committee approvals of bills are also just a record of their recommendation for the bill (e.g., do pass, do not pass). Roll Call Vote documents are records of votes taken in the House and Senate, and include the outcome of the vote (i.e., pass, fail). The Final Bill Text documents are solely the bill text as passed by the Illinois House and Senate. Not all of Illinois' legislative history documents fall solely into the Legislative Records category, however. The Third Bill Reading documents, though provided information classified into the Internal Determinants category (see Table 20).

Portions of legislative history documents that showcased Internal Determinants fell into three categories: 1) referencing Illinois hate crime cases and data, 2) message the bill sends to would-be offenders and Illinoisans, and 3) mentioning supporters and opposers to bills. These portions are reviewed below.

Table 19

Glossary of Illinois' Legislative History Documents

Document Type	Description	Total No. of Docs.	Total Page Count
First Bill Reading	Only a record that the bill was read	11	14
Second Bill Reading	Record showing that the bill was read, and may also contain amendments to the bill, which are read aloud to the House/Senate and discussed	13	30
Third Bill Reading	Includes the bill text, amendment text, and any debate/discussion between lawmakers, along with a vote on the bill (sometimes includes a tally for the vote, but always get the decision on the bill [i.e., pass, fail])	13	57
Bill Sent to Committee	Only a record that the bill was sent to a committee for consideration	9	10
Committee Approval of Bill	Only a record that the committee issued a decision on the bill (i.e., do pass)	13	55
Notification House/Senate Passed Bill	Only a record that the House or Senate passed the bill	4	4
Roll Call Vote	Voting records and recommendation based on the vote (i.e., pass, fail)	7	9
Final Bill Text	Bill text as passed by the House and Senate	8	34
TOTAL:		78	213

Table 20

Distribution of Internal Determinants and Regional Diffusion in Illinois' Legislative

History Documents

Document Type	Internal Determinants Documents*	Internal Determinants Portions	Regional Diffusion Documents*	Regional Diffusion Portions
Third Bill Reading	4	16	4	5
Total	4	16	4	5

*-Some legislative history documents contained portions that were classified as Internal Determinants and also included portions classified as Regional Diffusion, so there is some overlap between these two frequencies.

Internal Determinants: Referencing Illinois Hate Crime Cases and Data.

Members of the Illinois House and Senate routinely mentioned recent local cases of hate crime. In discussions for House Bill 2391 (1982), which established Illinois' first hate crime statute, lawmakers described instances of crimes involving anti-Semitism and racial bias. Lawmakers also described "gay bashing" in discussion on Senate Bill 2267 (1990). Last, Illinois lawmakers also noted increased prevalence of cyberstalking and sexting committed due to bias toward a protected class, referenced in transcripts for House Bill 3711 (2017).

Hate crime incidents occurring in Illinois were also referenced more broadly. In other words, lawmakers described an increase in hate-related incidents as opposed to mentioning a specific type of hate crime. This is evidenced in House/Senate Floor Transcripts for House Bill 2391 (1983) ("deal with [bias-motivated incidents] in *our* [emphasis added] society which are becoming, unfortunately, much too prevalent"), House Bill 3711 (2017) ("recent spike in hate-related incidents in Illinois"), and Senate Bill 2267 (1990) (A Senator described how the Chicago Police Department contacted him

to discuss a recent slew of hate crime cases the police department was dealing with). All of these references to Illinois hate crime data and cases are state-specific, reflective of Internal Determinants.

Internal Determinants: Message the Bill Sends to Would-be Offenders and Illinoisans. References to hate crime cases occurring in Illinois were made to indicate a state-level problem that was getting worse, and, in the case of bias-motivated cyberstalking and sexting, a problem that was evolving. Such arguments were made in conjunction with arguments that the bills being considered would “signal that hate will not be tolerated in Illinois” (from discussion on House Bill 3711 in 2017). Another lawmaker, speaking about House Bill 2391 (1983), said the bill will, “protect the freedoms that everyone has to live and worship in freedom.” These arguments speak to the benefit the two hate crime bills have for Illinoisans, indicative of the presence of Internal Determinants.

Internal Determinants: Mentioning Supporters and Opposers to Bills.

Lawmakers in Illinois also referenced groups and individuals who support the hate crime bills being considered to show evidence of state-level public support, and in one instance, opposition to the bills. In House/Senate floor discussion transcripts for both Senate Bill 2267 (1990) and House Bill 3711 (2017), lawmakers listed supporters. In addition, in discussions over Senate Bill 2267, lawmakers described how then-current state political candidates (e.g., Republican Illinois Attorney General candidate) supported the bill. Such references to support for the bill are representative of Internal Determinants. Describing the level of support/opposition was used to show other lawmakers a state-level societal characteristic (support for the bill) as a reminder that they should act in the interests of

their constituents. One Senator, however, in discussions over Senate Bill 2267 (1990), called upon his fellow Senators to vote ‘no’ on the bill (which added sexual orientation as a protected class) so as to do right by their constituents, whom he described as an “overwhelming majority of right-thinking people” who do not support homosexuality. This too is an example of Internal Determinants.

Regional Diffusion. Snippets of Illinois House/Senate transcripts also fell into the Regional Diffusion category (see Table 20). The external references were made to laws from more distant neighbors and the U.S. federal government. Lawmakers also described hate crime cases in California, Minnesota, Pennsylvania, and even a hate crime incident in France. Illinois lawmakers also referenced the Anti-Defamation League’s Model Hate Crime Statute that the Anti-Defamation League developed in 1981 to assist states in creating their own hate crime statute. The lawmaker mentioned the Anti-Defamation League’s Model Hate Crime Statute to argue for the passage of House Bill 1356 (1993). House Bill 1356 added the “actual or perceived” language to Illinois’ hate crime statute, matching the Anti-Defamation League’s Model Statute, and extended the scope of eligibility for a crime to be considered a hate crime. An Illinois Senator used Maine’s and New Hampshire’s (two states that have voted for a Democratic candidate in each presidential election since 2004) hate crime laws to show how Illinois’ hate crime statute would function if House Bill 3711 (2017) was passed. A lawmaker also referenced the United States’ newly signed Hate Crimes Statistics Act (1990) as part of an argument in favor of passing Senate Bill 2267 in 1990.

Wrap-up of Analysis of Illinois’ Legislative History Documents. Collectively, references to specific Illinois hate crime cases, broad Illinois hate crime statistics, and

arguments that hate crime bills send a message condoning hate crime, reflect the Internal Determinants models. Lawmakers mentioned state-level characteristics (state crime statistics, along with public and state political candidate support for the bills) and made moral appeals that represent statewide societal opinions/views either in favor of or in opposition to the hate crime bills. Lawmakers used state-level characteristics—the primary influence on policy adoption according to the Internal Determinants model—as a means for either arguing in support of, or less frequently, in opposition to hate crime bills being debated.

Some portions of Illinois’ legislative history documents fell into the Regional Diffusion category. Lawmakers referenced laws in Maine and New Hampshire as examples of how Illinois’ hate crime statute would function if House Bill 3711 (2017) were passed. While Maine and New Hampshire are not Illinois’ direct or even regional neighbors, they do align in presidential voting patterns with Illinois (i.e., voting Democrat). Illinois lawmakers referencing their laws illustrates that states do look to how other states adopted legislation. Illinois lawmakers also mentioned federal hate crime law when arguing for the passage of hate crime bills in Illinois.

Indiana

Indiana passed its first bias crime statute in 2003 (see Table 21), which defined “bias crimes,” including a list of protected classes (color, creed, disability, national origin, race, religion, and sexual orientation) and mandated data collection on bias crimes. The statute, however, does not specify particular crimes that can be considered ‘bias crimes.’ Further, the statute does not include penalty enhancements for ‘bias crimes,’ effectively making the law toothless for combatting hate crime in the state.

Sixteen years later, in 2019, Indiana passed Senate Bill 198. The new hate crime statute does not denote protected classes and instead the state opted for broad language which provides no groups specific protection under the statute (see below). An Indiana Senate committee had previously included a set of expressly mentioned protected classes, but those were stripped as the bill progressed through its legislative process. Indiana's current hate crime statute reads as follows:

§ 10-13-3-1 "Bias Crime"

(a) In determining what sentence to impose for a crime, the court may consider the following aggravating circumstances:

(12) The person committed the offense with bias due to the victim's or the group's real or perceived characteristic, trait, belief, practice, association, or other attribute the court chooses to consider, including but not limited to an attribute described in IC 10-13-3-1.

Table 21*Indiana's § 10-13-3-1 Statute Progression*

Statute Version	Bill	Effective Date	Change(s) to Law
1	Senate Bill 257	July 1, 2003	Establishes a statute that defines 'bias crimes,' lists the following protected classes: 'color,' 'creed,' 'disability,' 'national origin,' 'race,' 'religion,' and 'sexual orientation.' Statute does not, however, denote crimes that can be classified as 'bias crimes,' and lists no penalty enhancements for 'bias crimes'
Current	Senate Bill 198	July 1, 2019	Re-formats statute by indicating types of crimes eligible to be 'bias crimes' and describes penalty enhancements for 'bias crimes' generally, but does not list specific protected classes

Indiana Legislative History Document Analysis

As with Georgia, it was discovered during data collection that Indiana legislative history is known to be sparse (Indiana University, 2019). This is also likely the case because Indiana has only introduced two hate crime bills. Nearly half of Indiana's 23 legislative history documents—the Bill Introduction, Bill Amendment, Bill Engrossed, and Bill Enrolled documents—are either just the bill text and/or amended portions or versions of the bill (see Table 22). These documents are solely classified in the Legislative Records category.

Table 22*Glossary of Indiana's Legislative History Documents*

Document Type	Description	Total No. of Docs.	Total Page Count
Bill Introduction	Includes a 'digest' (short synopsis of the bill) and the bill text	2	7
Filed Committee Report	Indicates the committee's recommendation on the bill (i.e., 'do pass')	4	4
Bill Amendment	Includes either just the edited portions of the bill or the entire bill with the amended portion(s) marked	4	15
Bill Engrossed	Includes a 'digest' (short synopsis of the bill) and the bill text	3	18
Bill Enrolled	Includes a 'digest' (short synopsis of the bill) and the bill text	2	7
Roll Call Vote	Voting records and recommendation based on the vote (i.e., pass, fail)	4	4
Fiscal Impact Statement	Includes the bill author, sponsor, and status of the bill, describes the funding affected by the bill, provides a summary of the bill, and lists any financial impact for different levels of jurisdictions	2	5
Bill History	A chronological list of legislative actions for the bill	2	3
TOTAL:		23	63

Filed Committee Reports only indicate the committee's recommendation on the bill (i.e., 'do pass'), along with a tally of the committee's vote on the bill. Filed Committee Reports documents, then, only belong in the Legislative Records category. Roll Call Vote documents are similar in that they give a vote tally and list the names of lawmakers and how they voted. Fiscal Impact Statements, like other selected states' Fiscal Impact Reports/Statements, describe funding that would be affected should the bill pass. Indiana's Fiscal Impact Statements also describe the projected funding effects for state and local jurisdictions. While the Fiscal Impact Statement document for Senate Bill

198 (2019) cites hate crime statistics compiled for 2017, the frequencies are used just to calculate projected costs for enacting Senate Bill 198, though, rather than to argue for the passage of the statute. The final type of document, the Bill History, is a chronological record of all legislative actions taken for each of Indiana's two bills. Collectively, all of Indiana's legislative history documents fall into the Legislative Records category, limiting the ability to review legislative intent for Indiana's two hate crime bills.

New Hampshire

New Hampshire enacted its first hate crime statute in 1990 with the passage of House Bill 1299. New Hampshire has subsequently passed four other hate crime bills. Those four bills add definitions for sexual orientation, expand punishments for protected classes, and add gender identity as a protected class (see Table 23). New Hampshire's current hate crime statute reads as follows:

§ 651:6(f) Extended Term of Imprisonment

I. A convicted person may be sentenced according to paragraph III if the jury also finds beyond a reasonable doubt that such person:

- (a) Based on the circumstances for which he or she is to be sentenced, has knowingly devoted himself or herself to criminal activity as a major source of livelihood;
- (b) Has been subjected to a court-ordered psychiatric examination on the basis of which the jury finds that such person is a serious danger to others due to a gravely abnormal mental condition;
- (c) Has manifested exceptional cruelty or depravity in inflicting death or serious bodily injury on the victim of the crime;

- (d) Has committed an offense involving the use of force against a person with the intention of taking advantage of the victim's age or physical disability;
- (e) Has committed or attempted to commit any of the crimes defined in RSA 631 or 632-A against a person under 13 years of age;
- (f) Was substantially motivated to commit the crime because of hostility towards the victim's religion, race, creed, sexual orientation as defined in RSA 21:49, national origin, sex, or gender identity as defined in RSA 21:53

Table 23*New Hampshire's § 651:6(f) Statute Progression*

Statute Version	Bill	Effective Date	Change(s) to Law
1	House Bill 1299	January 1, 1991	Establishes hate crime statute, lists the following protected classes: 'religion,' 'race,' 'creed,' 'sexual orientation,' 'national origin,' and 'sex'
2	House Bill 421	January 1, 1998	Defines 'sexual orientation' (as "heterosexuality, homosexuality, or bisexuality"), but the New Hampshire Legislature explicitly indicates it does not legally/formally condone the "behavior"/"lifestyle"
3	House Bill 277	January 1, 2004	Expands punishments for hate crimes
4	Senate Bill 207	January 1, 2007	Does not extended protected class status but does add enhanced penalties for "offenses committed against an individual with the intention of taking advantage of the victim's age or physical disability"
Current	House Bill 608	October 15, 2019	Adds 'gender identity' as a protected class

New Hampshire Legislative History Document Analysis

New Hampshire has a large collection of legislative history documents for its hate crime bills (see Table 24). Legislative history documents for New Hampshire’s initial hate crime bill—House Bill 1299—however, are limited to just documentation of the bill’s legislative history and the final bill text. For the remaining four hate crime bills, more legislative history documents are available.

Table 24

Glossary of New Hampshire’s Legislative History Documents

Document Type	Description	Total No. of Docs.	Total Page Count
Bill Introduction	Includes the bill text plus the fiscal impact of the bill	5	28
Bill Amendment	Includes just the amended portion of the bill	10	34
List of Speakers	Names of speakers that attend the public hearing, their contact information, and checkmarks showing if they are speaking for or against the bill	5	11
Hearing Minutes	List of speakers supporting and opposing the bill in the order in which they signed up	7	94
Testimony	Includes speaker transcripts, articles they wrote, and letters they wrote, all of which address the bill	4	306
Voting Sheets	Voting records and recommendation based on the vote (i.e., pass, fail)	4	10
Committee Report	Shows the committee’s decision on the bill (i.e., pass) and has a statement of intent (bill’s intent/aim)	6	21
Final Bill Text	Bill text as enacted into law	5	17
Bill Enrolled	Bill text as passed by the House and Senate	1	1
Bill History	A chronological list of legislative actions for the bill	5	5
TOTAL:		52	527

A little over half (29) of New Hampshire's legislative history documents were only classified in the Legislative Records category. The group of documents classified into the Legislative Records category only contained the bill text, amended portions of the bill, voting records, or were a chronological list of legislative actions taken for the bill. Legislative history documents containing the listed information above were the Bill Introduction, Bill Amendment, Voting Sheets, Final Bill Text, Bill Enrolled, and Bill History documents. The List of Speakers documents are only sign-up sheets for interested parties to sign up to speak on the bill, along with a checkmark indicating whether they were speaking in support of or in opposition to the bill.

Legislative history documents from public hearings the New Hampshire House/Senate held for bills (Hearing Minutes and Testimony documents) contained information that was classified into the Internal Determinants category (see Table 25). The parts of New Hampshire's legislative history documents that were classified into the Internal Determinants category fell into one of five subgroups: 1) local supporters and opposers list, 2) moral arguments about the bill, 3) mention of specific hate crime and discrimination cases in New Hampshire, 4) message the bill sends to would-be offenders and New Hampshireites, and 5) constitutionality of New Hampshire's current hate crime legislation.

Table 25

Distribution of Internal Determinants and Regional Diffusion in New Hampshire's Legislative History Documents

Document Type	Internal Determinants Documents*	Internal Determinants Portions	Regional Diffusion Documents*	Regional Diffusion Portions
Hearing Minutes	4	27	3	3
Committee Report	3	3	1	1
Testimony	1	23	0	0
Total	8	53	4	4

*-Some legislative history documents contained portions that were classified as Internal Determinants and also included portions classified as Regional Diffusion, so there is some overlap between these two frequencies.

Internal Determinants: Local Supporters and Opposers List. Three of New Hampshire's bills—House Bill 421 (1997), Senate Bill 207 (2006), and House Bill 608 (2019)—included a legislative history document containing minutes from public hearings on the bill. Within each of the Public Hearing documents was a list of those formally in support of and in opposition to the bill. New Hampshire citizens, religious groups, and other organizations in the state all formally indicated their position on the bill by registering with the House/Senate prior to the public hearing taking place. While just lists of supporters and opposers, the Public Hearing documents provide lawmakers a frame of reference for how some of their constituents feel about the bills, similar to lists of supporters and opposers in Illinois, for example.

Internal Determinants: Moral Arguments About the Bill. Two of New Hampshire's hate crime bills had polarized positions in public hearings regarding the addition of sexual orientation and gender identity as protected classes: House Bill 421 (1998) and House Bill 608 (2019), respectively. As described by a New Hampshire

Representative in the Hearing Minutes document for House Bill 421, “[New Hampshire] is confronted with a moral issue here.” Indeed, those in support of and in opposition to each bill focused their testimony on morals generally, but supporters and opposers to the bills focused on different facets. For House Bill 421 (1998), supporters of adding sexual orientation as a protected class stated that the “issue is a matter of fairness and justice,” that “all of *our* [emphasis added] people should have the right to a decent job, housing, and public accommodations,” be granted “dignity, [and] a fair chance,” and that, if the bill does not pass, New Hampshire will continue to treat sexual minorities as “second class citizens.” Another supporter of House Bill 421 (1998) referenced New Hampshire’s “Live Free or Die” state motto, asserting that all New Hampshire citizens should have the same freedoms and safety as their peers. The quotes above show that lawmakers and other speakers are focused on how hate crime bills will impact New Hampshirites, indicative of Internal Determinants.

Two New Hampshire Representatives spoke in opposition to House Bill 421 (1998), focusing on the religious morals they and some citizens had. Each Representative described their Catholic faith and its then-fervent opposition to homosexuality. The lawmakers also referenced the Catholic (and more broadly, religious) faith of New Hampshire citizens they spoke with about the bill. The Representatives also stated that they were speaking on behalf of the “moral majority” of their constituents, and that passing the bill would be an affront to the “will of the people.” A citizen who spoke at the public hearing in opposition to House Bill 421 (1998) indicated that if New Hampshire were to include sexual orientation as a protected class, it would open the door for fringe, sexually deviant groups to obtain protected class status in New Hampshire as well,

“including NAMBLA and necrophiliacs,” among other such groups. This citizen felt that inclusion of sexual orientation as a protected class would cause societal morals in New Hampshire to degrade to the point where sexually deviant groups are included as protected classes too. The citizen also stated that House Bill 421 poses “threats to freedom of religion, speech, and association.”

House Bill 608 (2019) was described as “an important bill to the transgender community and the general public [of New Hampshire],” and one that lawmakers developed based upon focus groups they conducted with citizens. While less brash than the citizen speaking against House Bill 421 (1998), one citizen who opposed House Bill 608 (2019) asked the legislature if they expect taxpayers to pay for the changes brought by the bill’s intention to grant transgender individuals equal rights. The same citizen stated later in their testimony that House Bill 608 “violates religious beliefs and [the beliefs of] those who don’t want to fund cross-sex hormones for children and adults.” The quotes above show that the state-level impact of bills—particularly for New Hampshire citizens—was a concern for the citizens and lawmakers speaking about the bill alike, a strong example of Internal Determinants.

Internal Determinants: Specific Hate Crime and Discrimination Cases in New Hampshire. In testimony given during public hearings for House Bill 421 (1998), Senate Bill 207 (2006), and House Bill 608 (2019), New Hampshire citizens and lawmakers referred to specific hate crime cases that occurred in the state. Sometimes, citizens shared their own personal experiences with hate crime. Instances of discrimination were also shared during the public hearings, as the three bills also addressed discrimination against the sexual minority community and individuals with

disabilities. Lawmakers read statements some New Hampshire citizens shared with them about experiences of hate crime and discrimination. Lawmakers indicated that the individuals who submitted the statements did not feel comfortable sharing their stories in a public setting. This was especially the case for sexual minorities who wanted to share their experiences for the House Bill 421 (1998) public hearing. In this case, multiple citizens were fearful of being “outed” or attacked and expressed this in the statements they shared with lawmakers. These references to specific hate crime cases in New Hampshire served to show lawmakers that hate crime is a problem in New Hampshire. This state-specific category embodies Internal Determinants.

Internal Determinants: Message the Bill Sends to Would-be Offenders and New Hampshireites. The last category of New Hampshire’s legislative history documents that fell into the Internal Determinants category were two statements that indicated a broad message that the passage of the bill would make. For House Bill 421 (1998), New Hampshire added sexual orientation as a protected class to its hate crime statute. The New Hampshire Legislature, however, qualified what this addition meant in terms of the state’s official stance on non-heteronormative behaviors/“lifestyles.” In the ‘statement of intent’ section of House Bill 421’s Committee Report, lawmakers wrote, “the definition of sexual orientation does not render lawful any conduct prohibited by the criminal laws of New Hampshire.” In other words, while the New Hampshire Legislature voted to add sexual orientation as a protected class, the state avoided officially supporting sexual minorities and how they live their lives. This allowed New Hampshire to continue criminalizing same-sex sexual activity and avoid granting sexual minorities other legal

rights. This aspect of House Bill 421 (1998) was fiercely discussed in the public hearing held for the bill.

The other example for this subgroup comes from the Committee Report for Senate Bill 207 (2006). Senate Bill 207 added enhanced penalties for “offenses committed against an individual with the intention of taking advantage of the victim’s age or physical disability.” Lawmakers stated that “this legislation sends a clear message that New Hampshire will deal harshly with those who attempt to prey on our vulnerable neighbors.” This message, in comparison to the qualifier lawmakers attached to House Bill 421 (1998), was more positive toward New Hampshire residents and in many ways ensured greater protection. New Hampshire, by and large, was willing to outright support transgender individuals by not attaching a qualifying statement to House Bill 609 (2019). Collectively, messages the bills send focused on the impact of the bill at the state level, reflecting Internal Determinants.

Internal Determinants: Constitutionality of New Hampshire’s Hate Crime Legislation. A final Internal Determinants theme emerged from New Hampshire’s legislative history documents. This theme included comments from lawmakers that New Hampshire’s law was unconstitutional, and thus should be amended. A New Hampshire lawmaker indicated that New Hampshire needed to update its hate crime statute to become constitutional before the state faced a legal challenge due to statutory language in the bill. More specifically, the lawmaker indicated New Hampshire needed to change the standard of proof the state used for hate crime cases. House Bill 277 (2003) would address this need by making the standard of proof “beyond a reasonable doubt.” This fix addressed the shortcoming in New Hampshire’s law, illustrative of Internal Determinants.

Regional Diffusion. Three portions of New Hampshire’s legislative history documents were classified in the Regional Diffusion category (see Table 25). Two, originating from House Bill 277 (2003), were nearly identical references to a then-recent U.S. Supreme Court (SCOTUS) case, *Apprendi v. New Jersey* (2000). The case ruling effectively made New Hampshire’s hate crime statute unconstitutional, although New Hampshire’s statute was not an actual part of the SCOTUS case. At the time, New Hampshire’s hate crime statute, like New Jersey’s, did not use “beyond a reasonable doubt” as the jury’s burden of proof to issue an extended sentence. Instead, a judge decided if an extended sentence was warranted for a hate crime case. Lawmakers in New Hampshire indicated that *Apprendi v. New Jersey* (2000) is “the court ruling that sparked this legislation.” New Hampshire lawmakers also said that House Bill 277 (2003) will fix the issues in New Hampshire’s legislation that matched the issues found in New Jersey’s hate crime statute. A lawmaker in the Hearing Minutes document for House Bill 608 (2019) indicated that other state legislation has added ‘gender identity’ as a protected class, and that New Hampshire should follow suit and add it as well. This example aligns with the tenets of Regional Diffusion, which argue that states observe the legislative actions of other states and follow their lead if they agree with the legislation.

Wrap-up of Analysis of New Hampshire’s Legislative History Documents.

Many of New Hampshire’s legislative history documents were solely or partially classified into the Legislative Records category. New Hampshire’s legislative history documents, in particular the documents from the public hearings for the bills, contained a variety of aspects that are representative of the Internal Determinants category. Lawmakers and citizens alike made compelling arguments for the inclusion of various

protected classes, doing so through impassioned moral appeals, both in favor of and in opposition to the bills. Arguments in support of bills indicated that all New Hampshire residents deserve equality and dignity. Alternatively, opposing arguments cited the religious convictions of New Hampshire residents and how their beliefs do not allow them to support adding sexual orientation as a protected class. Some citizens also worried that sexual predators would take advantage of additional legal rights for transgender individuals and attack New Hampshire citizens in restrooms.

While the bills all passed, it appears that the concerns surrounding New Hampshire including sexual orientation as a protected class led to lawmakers including the qualifying statement attached to House Bill 421 (“the definition of sexual orientation does not render lawful any conduct prohibited by the criminal laws of New Hampshire”). In other words, lawmakers seemed to appeal to opponents of House Bill 421 (1998) by explicitly stating that passage of the bill does not connote New Hampshire condoning the “behaviors”/“lifestyles” of sexual minorities. References were also made to specific hate crime cases that occurred in New Hampshire, to show that hate crimes are not just a problem faced elsewhere but are in fact occurring in New Hampshire. Finally, while few in number, references to the legislation of other states and to a U.S. Supreme Court case were made, representative of Regional Diffusion. Lawmakers described hate crime laws in other states and the SCOTUS case to show how hate crime bills would function if passed, and what necessary change had to be made to New Hampshire’s hate crime law.

Texas

Texas has had a hate crime statute since 1993, but its content has changed multiple times as new bills were passed (see Table 26). At the time this dissertation was written, the Texas hate crime statute is as follows:

§ 42.014 Finding That Offense Was Committed Because of Bias or Prejudice

- (a) In the trial of an offense under Title 5, Penal Code, or Section 28.02, 28.03, or 28.08, Penal Code, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment of the case if at the guilt or innocence phase of the trial, the judge or the jury, whichever is the trier of fact, determines beyond a reasonable doubt that the defendant intentionally selected the person against whom the offense was committed, or intentionally selected the person's property that was damaged or affected as a result of the offense, because of the defendant's bias or prejudice against a group identified by race, color, disability, religion, national origin or ancestry, age, gender, or sexual preference or by status as a peace officer or judge.
- (b) The sentencing judge may, as a condition of punishment, require attendance in an educational program to further tolerance and acceptance of others.
- (c) In this article, "sexual preference" has the following meaning only: a preference for heterosexuality, homosexuality, or bisexuality.

Table 26*Texas' § 42.014 Statute Progression*

Statute Version	Bill	Effective Date	Change(s) to Law
1	Senate Bill 456	September 1, 1993	Establishes hate crime statute which includes penalty enhancements and has the following text describing what is considered a hate crime: "the defendant intentionally selected the victim primarily because of the defendant's bias or prejudice against a group"; no specific protected classes listed
2	Senate Bill 15	September 1, 1995	Changes penalties for hate crimes
3	House Bill 1333	September 1, 1997	Changes penalties for hate crimes
4	House Bill 587	September 1, 2001	Bill adds protected classes, which include the following: 'race,' 'color,' 'disability,' 'religion,' 'national origin or ancestry,' 'age,' 'gender,' and 'sexual preference'; defines 'sexual preference' (as "heterosexuality, homosexuality, or bisexuality")
Current	House Bill 2908	September 1, 2017	Adds 'status as a peace officer' and 'judge' as protected classes

Texas's first hate crime statute, enacted in 1993 with the passage of Senate Bill 456, included penalty enhancements for bias crimes, but no protected classes. The Texas Senate included protected classes in their version of Senate Bill 456 (race, color, ethnicity, religion, national origin, and sexual orientation), but the Texas House of Representatives removed them, a change the Texas Senate ultimately agreed to. Instead, the initial statute and subsequent two versions (originating from the passage of Senate Bill 15 in 1995 and House Bill 1333 in 1997) include the language: "bias or prejudice against a group." In 2001, this vague language was replaced with specific protected

classes by House Bill 587 (a.k.a. the James Byrd, Jr. Hate Crimes Act). A terminology change was made with this version of Texas’ hate crime statute: “sexual preference” was used in the final version of the statute, in place of “sexual orientation,” the original phrasing. “Sexual preference” is a controversial phrase as it infers that sexual orientation is a choice rather than an innate characteristic. Despite the controversy, “sexual preference” remains in the current statute, and Texas remains the only state to describe sexual orientation in this manner. After enacting House Bill 587 in 2001, it was 16 years before Texas made any further amendments to its hate crime statute. Texas added peace officers and judges as protected classes with the enactment of House Bill 2908 (2017). This change followed three other Southern states (Kentucky, Louisiana, and Mississippi) who added law enforcement as a protected class between 2016 and 2017.

Texas Legislative History Document Analysis

The majority of Texas’ legislative history documents fall into the Legislative Records group. The majority of the documents (44 of the 67 documents) are simply the bill text or amendments to the bill and include no other information (see Table 27).

Table 27

Glossary of Texas’ Legislative History Documents

Document Type	Description	Total No. of Docs.	Total Page Count
Bill Introduction	Includes the bill text	5	39
Bill Engrossed	Includes the bill text with any amendments	5	43
Bill Enrolled	Includes the bill text with any amendments	5	65
Bill Amendment	Includes the bill text with any amendments, or is just the amendment by itself	16	27
Committee Report	Includes the bill text with any amendments	13	114
Fiscal Notes	A breakdown of the fiscal impact of the bill	5	5

(continued)

Document Type	Description	Total No. of Docs.	Total Page Count
Committee Report Analysis	Includes: <ul style="list-style-type: none"> • background on the bill • the bill’s purpose • a section-by-section analysis of the bill • a comparison of the original bill to the substitute (i.e., amended version) • a summary of committee action on the bill 	11	46
House Research Organization Analysis	Lists: <ul style="list-style-type: none"> • the name of the committee and how they voted on the bill • a list of witnesses at the public hearing • a ‘digest’ (a description of what the current bill will do) • a ‘supporters say’ and an ‘opponents say’ section (arguments made for and against the bill) • a ‘notes’ section (actions of the committee substitute on the bill) 	2	19
Bill History	A chronological list of legislative actions for the bill	5	13
TOTAL:		67	371

The documents that solely fall into the Legislative Records group are full text versions of the bills when they were introduced, ‘engrossed’ (i.e., bill has been passed by the chamber in which it originated), ‘enrolled’ (i.e., the bill has been passed by both chambers), and amended. Further, Committee Report documents solely include the bill text with any amendments marked, which differs from the committee reports prepared by legislative committees in the other states selected for analysis. The Fiscal Notes prepared by the Legislative Budget Board only include a breakdown of the projected fiscal impact of the bill for which they were drafted. Last, the Bill History documents, as with all other states, are a timeline of legislative actions taken on the bill, from its introduction to its

passage (or failure), with further detail included about committees (i.e., which committee the bill was sent to) and votes. All of these legislative history documents (Committee Reports, Fiscal Notes, and Bill Histories) fall only into the Legislative Records category. Other legislative history documents include information that falls into two Internal Determinants themes: 1) specific Texas hate crime cases and statistics, and 2) arguments against bills (see Table 28).

Table 28

Distribution of Internal Determinants and Regional Diffusion in Texas' Legislative History Documents

Document Type	Internal Determinants Documents*	Internal Determinants Portions	Regional Diffusion Documents*	Regional Diffusion Portions
Committee Report Analysis	4	6	2	2
House Research Organization Analysis	2	3	1	1
Total	6	9	3	3

*-Some legislative history documents contained portions that were classified as Internal Determinants and also included portions classified as Regional Diffusion, so there is some overlap between these two frequencies.

Internal Determinants: Specific Texas Hate Crime Cases and Hate Crime

Statistics. Committee Report Bill Analysis (which are a separate document to the Committee Reports) and House Research Organization Analysis documents describe what the bill will accomplish (i.e., a summary of the entire bill), committee actions on the bill (e.g., amendments made, votes), and have the bill text. These are all aspects that fall into the Legislative Records group. The analysis documents also include references to state-level characteristics. For example, a Committee Report for Senate Bill 456 (1993) describes recent local hate crime cases, including one that involved two 'skinheads' in

Fort Worth. A Committee Report Bill Analysis document for House Bill 587 (2001) cited hate crime statistics prepared by the Texas Department of Public Safety for their “*Crime in Texas 1997: The Texas Crime Report*” document as impetus for making amendments to the state’s hate crime statute. Further, two Committee Reports for House Bill 2908 (2017) mention the murder of five police officers in Dallas in 2016 as an impetus for adding peace officers as a protected class to Texas’ hate crime statute. These references in the Committee Reports are representative of the influence of individual state characteristics being used to make compelling arguments for amending hate crime legislation, reflective of the Internal Determinants model.

Internal Determinants: Arguments Against Bills. For Texas’ hate crime bills, Internal Determinants factors were also referenced in arguments made against hate crime bills that centered on moral aspects. Lawmakers asserted that House Bill 1333 (1997)—which expanded penalties for hate crimes—would create increased burden for Texas criminal justice actors, in particular county courts throughout the state. For House Bill 587 (2001), individuals spoke in opposition to adding sexual orientation as a protected class. They noted that by adding sexual orientation as a protected class, Texas would be, “officially condoning homosexuality.” It may be the case that arguments against adding sexual orientation as a protected class led to Texas using the term “sexual preference” instead. That phrasing is reflective of the opinion that sexual orientation is a choice rather than an innate characteristic, allowing Texas to circumvent fully condoning homosexuality.

Opponents of adding peace officers and judges as a protected class with House Bill 2908 (2017) described a potential slippery slope if the two groups were granted

protected class statute, arguing that other public servants may also be made protected groups by Texas lawmakers. Those opponents to House Bill 2908 also argued that Texas already had enhanced penalties for murder of a peace officer, and for certain crimes committed against public servants. Therefore, adding further enhanced penalties was not worthwhile. Arguably, the arguments made about the use of sexual orientation instead of “sexual preference” and against adding peace officers and judges as protected classes were ineffectual as each bill became law. Regardless, these arguments focused on Texas-specific characteristics, aligning with Internal Determinants.

Regional Diffusion. Legislative history documents containing information that falls into the Regional Diffusion category was less common than information classified as Internal Determinants for the state of Texas (see Table 28). In a House Research Organization Bill Analysis document for House Bill 587 (2001), the committee discusses *Wisconsin v. Mitchell* (1993) and *Apprendi v. New Jersey* (2000), two U.S. Supreme Court challenges to Wisconsin’s and New Jersey’s hate crime statutes, respectively. Both SCOTUS cases were referenced due to the relevancy of their case decisions to Texas’ hate crime statute. Like New Hampshire, Texas at the time did not use “beyond a reasonable doubt” as its standard of proof for hate crime cases. The *Wisconsin v. Mitchell* SCOTUS decision was also a landmark case for hate crime laws across the country, as it upheld the constitutionality of enhanced penalties for hate crimes. Within that same report, national hate crime statistics from the National Criminal Justice Reference Service were cited in recognition of an increasing number of hate crime cases occurring at the time House Bill 587 (2001) was being considered. Outside of these two references to national-level statistics or SCOTUS cases involving other states’ hate crime statutes, the

actions of other states—which Regional Diffusion is centered on—were not referenced in Texas’ legislative history documents.

Wrap-up of Analysis of Texas’ Legislative History Documents. While many of the legislative history documents for Texas’ hate crime bills were records and further information about legislative processes undertaken for each bill, not all documents fell solely into the Legislative Records category. The Bill Analysis documents contained insight into some of the arguments and positions individuals have concerning a bill. Arguments mostly fell into the Internal Determinants category, as they referenced Texas hate crime statistics, specific Texas hate crime cases, moral arguments, and burden on local (i.e., county level) officials to process hate crime cases and conduct data collection. All are representative of state-level characteristics and factors, which are the focus of Internal Determinants.

Some references were made to New Jersey’s and Wisconsin’s hate crime laws, and how Texas should amend its own law to accommodate similar issues that led to the U.S. Supreme Court cases involving New Jersey’s and Wisconsin’s laws. Such references more closely reflect the Regional Diffusion category. While neither New Jersey nor Wisconsin are direct or even regional neighbors with Texas, the SCOTUS cases gained national attention, which is reflected here in references to each case that those decisions played a role in how Texas amended its hate crime statute.

Utah

Utah was one of the few remaining states without a hate crime statute that denoted specific protected classes and established penalty enhancements for hate crimes when it passed its current hate crime statute on April 2, 2019 (see Table 29). With the passage of

Senate Bill 103 to establish their current hate crime statute, Utah's legislation includes the most expansive list of broad protected class categories (12) in the United States, surpassing Washington, DC, which has 11. That law is as follows:

§ 76-3-203.14 Victim targeting penalty enhancements—Penalties

(1) As used in this section "personal attribute" means:

(a) age; (b) ancestry; (c) disability; (d) ethnicity; (e) familial status; (f) gender identity; (g) homelessness; (h) marital status; (i) matriculation; (j) national origin; (k) political expression; (l) race; (m) religion; (n) sex; (o) sexual orientation; (p) service in the U.S. Armed Forces; (q) status as an emergency responder, as defined in Section 53-2b-102; or (r) status as a law enforcement officer, correctional officer, special function officer, or any other peace officer, as defined in Title 53, Chapter 13, Peace Officer Classifications.

(2) A defendant is subject to enhanced penalties under Subsection (3) if the defendant intentionally selects:

(a) the victim of the criminal offense because of the defendant's belief or perception regarding the victim's personal attribute or a personal attribute of another individual or group of individuals with whom the victim has a relationship; or

(b) the property damaged or otherwise affected by the criminal offense because of the defendant's belief or perception regarding the property owner's, possessor's, or occupant's personal attribute or a personal attribute of another individual or group of individuals with whom the property owner, possessor, or occupant has a relationship.

(3)(a) If the trier of fact finds beyond a reasonable doubt that a defendant committed a criminal offense and selected the victim or property damaged or otherwise affected by the criminal offense in the manner described in Subsection (2), the defendant is subject to an enhanced penalty for the criminal offense as follows:

(i) a class C misdemeanor is a class B misdemeanor;

(ii) a class B misdemeanor is a class A misdemeanor;

(iii) a class A misdemeanor is a third degree felony;

(iv) a third degree felony is a third degree felony punishable by an indeterminate term of imprisonment for not less than one year nor more than five years; and

(v) a second degree felony is a second degree felony punishable by an indeterminate term of imprisonment for not less than two years nor more than 15 years.

(b) If the trier of fact finds beyond a reasonable doubt that a defendant committed a criminal offense that is a first degree felony and selected the victim or property damaged or otherwise affected by the criminal offense in the manner described in Subsection (2), the sentencing judge or the Board of Pardons and Parole shall consider the defendant's selection of the victim or property as an aggravating factor.

(4) This section does not:

(a) apply if:

(i) the penalty for the criminal offense is increased or enhanced under another provision of state law; or

- (ii) the personal attribute of the victim or property owner, possessor, or occupant is an element of a criminal offense under another provision of state law;
 - (b) prevent the court from imposing alternative sanctions as the court finds appropriate;
 - (c) affect or limit any individual's constitutional right to the lawful expression of free speech or other recognized rights secured by the Utah Constitution or the laws of the state, or by the United States Constitution or the laws of the United States; or
 - (d) create a special or protected class for any purpose other than a criminal penalty enhancement under this section.
- (5)(a) If a final decision of a court of competent jurisdiction holds invalid any provision of this section or the application of any provision of this section to any person or circumstance, the remaining provisions of this section remain effective without the invalidated provision or application.
- (b) The provisions of this section are severable.

Table 29*Utah's § 76-3-203.14 Statute Progression*

Statute Version	Bill	Effective Date	Change(s) to Law
Current	Senate Bill 103	May 14, 2019	Establishes hate crime law, which includes the following protected classes: 'age,' 'ancestry,' 'disability,' 'ethnicity,' 'familial status,' 'gender identity,' 'homelessness,' 'marital status,' 'matriculation,' 'national origin,' 'political expression,' 'race,' 'religion,' 'sex,' 'sexual orientation,' 'service in the U.S. Armed Forces,' 'status as an emergency responder,' 'status as a law enforcement officer,' '[status as a] correctional officer,' '[status as a] special function officer,] and '[status as] any other peace officer'

Utah Legislative History Document Analysis

Ten legislative history documents accompany Utah's Senate Bill 103 (see Table 30). For the Bill Introduction, the Bill Amendment, and Bill Enrolled legislative history documents, the information included falls squarely in the Legislative Records category, as only the bill text, a description of the bill, and the effect of the bill on existing legislation are included. The Committee Hearing, Senate Bill Comparison, and Bill History documents also only fall into the Legislative Records category.

Table 30*Glossary of Utah's Legislative History Documents*

Document Type	Description	Total No. of Docs.	Total Page Count
Bill Introduction	Includes a short description of the bill, a 'highlighted provisions' section (general description of each provision in the bill), describes which Utah Code sections will be affected by the bill, and includes the bill text	1	4
Bill Amendment	Includes a short description of the bill, a 'highlighted provisions' section (general description of each provision in the bill), describes which Utah Code sections will be affected by the bill, and includes the bill text with amendments marked	4	7
Committee Meeting	Includes an attendance log for the committee, shows a motion and vote on the bill, and indicates if people spoke in favor of and in opposition to the bill during the committee meeting	1	6
Committee Hearing	Includes an attendance log for the committee, shows a motion and vote on the bill, and indicates if people spoke in favor of and in opposition to the bill during the committee meeting	1	4
Bill Enrolled	Includes a short description of the bill, a 'highlighted provisions' section (general description of each provision in the bill), describes which Utah Code sections will be affected by the bill, and includes the bill text as passed by the House and Senate	1	4
Senate Bill Comparison	Shows what bill text was kept from its original version, what was added and deleted after the bill was introduced	1	5
Bill History	A chronological list of legislative actions for the bill	1	2
TOTAL:		10	32

Table 31*Distribution of Internal Determinants and Regional Diffusion in Utah's Legislative**History Documents*

Document Type	Internal Determinants Documents*	Internal Determinants Portions	Regional Diffusion Documents*	Regional Diffusion Portions
Committee Meeting	1	5	1	3
Total	1	5	1	3

*- One of Utah's legislative history documents contained portions that were classified as Internal Determinants and also included portions classified as Regional Diffusion, so there is overlap between these two frequencies.

Internal Determinants. The Committee Meeting document had portions of information classified in the Internal Determinants category (see Table 31). The entirety of the information for the Internal Determinants category came from a letter written by the United Jewish Federation of Utah addressed to lawmakers in the state, speaking in support of Senate Bill 103. It was the only external legislative history document for Utah (i.e., was not something lawmakers created). It describes a hate crime incident that occurred in Salt Lake City. The authors of the letter mention the hate crime case to argue that Utah prosecutors are currently unable to charge the offender with a hate crime. The referenced incident and argument made about Utah's inability to prosecute hate crimes refers to a state-level characteristic (the absence of a hate crime statute), reflective of Internal Determinants. The United Jewish Federation of Utah also noted the significant (64%) public support for enacting Senate Bill 103, also reflective of relying upon a state-level characteristic (in this case, public opinion) to argue for the passage of Senate Bill 103.

Further, the authors of the letter argue that passage of Senate Bill 103 “would dispel any misunderstanding and affirm that Utah is absolutely no place for hate.” Given that Utah was one of the few states with no hate crime statute that denoted specific protected classes and did not have established penalty enhancements for hate crimes, Utah had a reputation for being a state that tolerated and condoned hate crimes. This was a reputation the letter and news articles (Stevens, 2019; Whitehurst, 2019) alluded to and outright stated. This argument falls into the Internal Determinants category as this would allow the state to no longer have the state-level characteristic of having no legal means to specifically respond to hate crime incidents.

Regional Diffusion. The United Jewish Federation of Utah’s letter also included three portions that are classified in the Regional Diffusion category (see Table 31). The first was a description of a hate crime incident that occurred in Pittsburgh, Pennsylvania involving the shooting of 11 Jewish individuals. This case was described in tandem with the Salt Lake City hate crime incident to argue that Utah’s lack of hate crime legislation made it impossible to charge offenders with a hate crime. The letter referenced hate crime statutes found in other states. More specifically, the letter indicated that many states have adopted the Anti-Defamation League’s Model Hate Crime Statute (with individualized tweaks made) and that other states’ laws have been found to be constitutional and enforceable. By referencing the legislative actions of other states—albeit not specifically mentioning Utah’s neighboring states, or any other states by name—the letter argues that Utah should follow suit and pass Senate Bill 103 to establish the state’s own hate crime statute. This is reflective of the tenets of Regional Diffusion. Collectively, the arguments made a compelling argument for the passage of Senate Bill 103 (2019).

Wrap-up of Analysis of Utah’s Legislative History Documents. While Utah has few legislative history documents accompanying its hate crime bill, insight could still be gleaned about the state’s legislative adoption process from what was available. The letter from the United Jewish Federation of Utah, which was disseminated to Utah lawmakers, contained a handful of Internal Determinants and Regional Diffusion portions. The letter referenced a local hate crime case, arguments that Utah’s hate crime law is lacking (due to its absence), and description of the message Senate Bill 103 (2019) would send about hate crime reflect a number of the Internal Determinants themes observed in other states’ legislative history documents. The letter also had three examples of Regional Diffusion: mention of a hate crime case in Pennsylvania, that other states’ hate crime laws are constitutional and enforceable, and that other states have used the Anti-Defamation League’s Model Hate Crime Statute, also align with themes present for other states.

Washington, DC

Washington, DC, being both the nation’s capital and occupying a district rather than a state role, place it in a unique position in the United States and for examining its legislative process and history. Washington, DC enacted its first hate crime law in 1990, and has gone through four additional versions of the statute (see Table 32) to reach its current version (below). Washington, DC has one of the most expansive lists of broad protected class categories (11) in the country, only surpassed by Utah (which has 12). Since enacting its initial statute, Washington, DC has passed several additional hate crime bills. The bills changed how the disability protected class is described, added

homelessness as a protected class, and added wording that does not require crimes to be solely motivated by prejudice to make them eligible to be classified as a hate crime.

§ 22-3701 Definitions

For the purposes of this chapter, the term:

(1) “Attorney General” means the Attorney General for the District of Columbia.

(1A) “Bias-related crime” means a designated act that demonstrates an accused's prejudice based on the actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibility, homelessness, disability, matriculation, or political affiliation of a victim of the subject designated act. A designated act need not solely be based on or because of an accused's prejudice.

(2) “Designated act” means a criminal act, including arson, assault, burglary, injury to property, kidnapping, manslaughter, murder, rape, robbery, theft, or unlawful entry, and attempting, aiding, abetting, advising, inciting, conniving, or conspiring to commit arson, assault, burglary, injury to property, kidnapping, manslaughter, murder, rape, robbery, theft, or unlawful entry.

(3) “Gender identity or expression” shall have the same meaning as provided in § 2-1401.02(12A).

(4) “Homelessness” means:

(A) The status or circumstance of an individual who lacks a fixed, regular, and adequate nighttime residence; or

(B) The status or circumstance of an individual who has a primary nighttime residence that is:

- (i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including welfare motels, hotels, congregate shelters, and transitional housing for the mentally ill;
 - (ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or
 - (iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.
- (5) “Person” means any individual, firm, corporation, partnership, cooperative, association, or any other organization, legal entity, or group of individuals however organized; provided, that for the purposes of a civil action brought against an individual pursuant to § 22-3705, the term “person” shall not include an individual who is 17 years of age or younger.

Table 32*Washington DC's § 22-3701 Statute Progression*

Statute Version	Bill	Effective Date	Change(s) to Law
1	B8-0168	May 8, 1990	Establishes 'bias-related crime' statute as "a designated act that demonstrates an accused's prejudice based on the actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibility, physical handicap, matriculation, or political affiliation"
2	B16-0664	April 24, 2007	Changes "handicap" to "disability"
3	B17-0330	June 25, 2008	Adds 'gender identity or expression' as a protected class
4	B18-0151	December 10, 2009	Adds 'homelessness' as a protected class
Current	B23-0409	May 15, 2021	Change "physical disability" to "disability"; adds "a designated act need not solely be based on or because of an accused's prejudice" text to the end of the list of protected classes

Legislative History Document Analysis

Washington, DC maintains an assortment of legislative history documents (see Table 33), with more being available for more recent bills, in particular Bill 23-0409 (2020). Unfortunately, legislative history documents were incredibly sparse for Bill 8-0168 (1990); only the signed act text was available¹⁸. As has been the case with other states, a portion of Washington, DC's legislative history documents fall squarely into the Legislative Records category. Some of the documents sorted into this category only contain the bill text (Bill Introduction, Bill Reading, Bill Enrolled, and Signed Act) or are

¹⁸ Bills passed by the Washington, DC Council are called 'acts'

just records of legislative process steps taking place, such as Voting Records or Fiscal Impact Statement documents.

Table 33

Glossary of Washington, DC's Legislative History Documents

Document Type	Description	Total No. of Docs.	Total Page Count
Bill Introduction	Includes only the bill text	4	70
Bill Reading	Includes only the bill text	5	158
Bill Enrolled	Includes only the bill text	3	37
Bill Amendment	Amended bill text is separated out, also includes the rationale for the amendment, and the fiscal impact of the amendment	1	4
Committee/Council Vote	Voting records and recommendation based on the vote (i.e., do pass, fail)	13	13
Committee Report	Indicates the committee's recommendation for the bill (i.e., do pass), and includes: a statement of purpose and effect of the bill; legislative history of the bill thus far in a timeline format; a 'committee reasoning' section (justification for the bill); a section-by-section analysis and impact on existing law section; a summary of the public hearing (sometimes a transcript of it); a fiscal impact section; a statement on the position of the executive branch; a review of committee actions; and the bill text	4	165
Public Hearing Notice	Provides the bill name, details for the hearing (i.e., date/time), justification for the bill, and a request for testimony to be given on the bill	1	2
Public Hearing Record	Includes a copy of a list of public witnesses who attended the hearing, the public hearing notice, the agenda for the hearing, and written copies of all testimony given	2	331
Fiscal Impact Statement	Conclusion on what to do about the fiscal needs of the bill, also includes background information on the bill and a description of the impact of the financial plan for the bill	1	3

(continued)

Document Type	Description	Total No. of Docs.	Total Page Count
Bill Sent to Committee	A notification letter indicating the bill was sent to a committee for further consideration	1	1
Letter from the Mayor of Washington, DC	Includes the Washington, DC Mayor's opinion on the bill and any input they have for the bill's development	2	16
Signed Act	The bill as signed into law	5	105
TOTAL:		42	905

Portions of Washington, DC's legislative history documents for its hate crime statute fell into one of six subcategories that collectively reference district-level characteristics or aspects of Washington, DC, all belonging in the Internal Determinants category (see Table 34). These portions of the legislative history documents exemplify the role that Internal Determinants have on the legislative development and adoption process in Washington, DC. The subcategories are: 1) how the bill will better equip the District of Columbia's criminal legal system to combat hate crime, 2) District citizens' concerns with the bill, 3) how the bill will increase equality and protection/safety for Washington, DC citizens, 4) reference to Washington, DC hate crime statistics and research; 5) message the bill sends to potential offenders and District citizens condemning hate crimes, and 6) testimony from District citizens describing hate crime-related concerns. Each are discussed below with examples given for each subcategory.

Table 34

Distribution of Internal Determinants and Regional Diffusion in Washington, DC's

Legislative History Documents

Document Type	Internal Determinants Documents*	Internal Determinants Portions	Regional Diffusion Documents*	Regional Diffusion Portions
Bill Amendment	1	2	0	0
Letter from Mayor	2	3	0	0
Public Hearing Record	1	14	1	1
Committee Report	4	35	4	10
Public Hearing Notice	1	3	0	0
Total	9	57	5	11

*-Some legislative history documents contained portions that were classified as Internal Determinants and also included portions classified as Regional Diffusion, so there is some overlap between these two frequencies.

Internal Determinants: How the Bill will Better Equip the District of Columbia's Criminal Legal System to Combat Hate Crime. Portions of Committee Report legislative history documents for Bill 18-0151 (2009) and Bill 23-0409 (2020) explicitly mentioned that the bill would assist the criminal legal system in Washington, DC with combatting hate crime. In the Committee Report for Bill 18-0151 (2009), lawmakers state that the bill will give the "law enforcement community tools [...] to be better equipped to perform their roles in fighting and reducing crime," and that the "bill empowers individuals and [the] government to study and combat [anti-homeless] violence." Two such statements were made in the Committee Report for Bill 23-0409 (2020). In that report, lawmakers argue that the bill helps the criminal legal system "respond to the perpetration of hate crimes using a variety of legislative tools," and that while the District of Columbia currently struggles to prosecute hate crimes, the bill will work to address these shortcomings. All four statements made describing how the bill

will improve the District's response to hate crime are general, as the Committee Reports use these statements as introductions to a more specific set of actions that will be taken to accomplish the broad goals of the bills. They embody Internal Determinants as the states are only Washington, DC-focused.

Internal Determinants: District Citizens' Concerns with the Bill. Washington, DC's legislative history documents do not include much in the way of testimony or other statements showing concerns or arguments against any of the District's hate crime bills. Two portions of Washington, DC's legislative history documents raise concerns with Bill 23-0409 (2020), the District's most recent hate crime bill. In the Bill Amendment document for Bill 23-0409, lawmakers wrote that the removal of the word "discrimination" from a portion of the bill allows Washington, DC's Office of the Attorney General and Office of Human Rights to take time to determine how to handle their relationship in approaching and prosecuting bias-related incidents. This removal was done in response to a letter from the Mayor of Washington, DC, which was sent to Washington, DC's Council (the District's equivalent to a House of Representatives and Senate). In the letter, the Mayor states the bill gives the Office of the Attorney General too grand of power to deem actions and crimes as 'discrimination' compared to what is currently allowed by the District's Human Rights Act. The Mayor continued this argument by stating that the bill,

"would vest plenary authority in the Office of the Attorney General to pursue ostensibly limitless actions that extend far beyond the types of criminal conduct that [the District's] Bias-Related Crimes Act is intended to cover."

In simpler terms, the Mayor was concerned that by enacting Bill 23-0409 (2020) in its current form, the Office of the Attorney General would be granted absolute and arguably boundless authority to prosecute cases of discrimination and bias-motivated crimes. This newfound authority would breach the margins to prosecute such cases established by the District’s Bias-Related Crimes Act. This apprehension is centered around how Bill 23-0409 (2020) would impact the district, evidence of Internal Determinants at work. While concerns over Washington, DC’s hate crime bills were rarely noted in the District’s legislative history documents, the issues raised show a unique aspect to Washington, DC’s legislative process: that the Mayor occupies a similar role to state Governors in sharing opinions on bills and signing them into law if they so choose¹⁹.

Internal Determinants: Increase Equality and Protection/Safety for Washington, DC Citizens. Committee Reports for Bill 16-0664 (2006), Bill 18-0151 (2009), and Bill 23-0409 (2020), along with a Bill Amendment document and a Public Hearing Record document for Bill 23-0409 all include statements that the bills will increase equality and/or protection and safety for citizens in Washington, DC. Bill 16-0664 was focused on updating, “offensive language referring to persons with disabilities” and, “replac[ing] it with respectful language that puts people first and their disabilities second.” The Committee Report for Bill 16-0664 (2006) goes on to describe how the “outdated language [of the District’s then-current hate crime statute] has set a standard

¹⁹ Interestingly, if the District’s Mayor signs a bill into law, it is then sent to U.S. Congress (both the House of Representatives and the Senate) for a 30-day review period before the bill takes effect. This review process, however, was never mentioned in the legislative history documents for any of Washington, DC’s hate crime bills. The information can be found on Council of the District of Columbia’s website (DC Council, n.d.).

for disrespect in the District of Columbia.” In the Committee Report for Bill 18-0151 (2009), lawmakers describe that adding homelessness as a protected class helps to “promote general order” in the District. Last, for Bill 23-0409 (2020) in the Public Hearing Record document, lawmakers describe the bill as “help[ing] further the goal of equality and justice for our community.” As with arguments made about the goals of hate crime bills, statements indicating that the proposed hate crime bills will increase equality and safety were made in the “Purpose and Effect” and “Background and Need” sections of the Committee Reports. Their emphasis on the potential impact of bills on District citizens aligns with Internal Determinants. The statements set up arguments in favor of passing the bill and were then substantiated using hate crime statistics in Washington, DC and by citing hate crime research reports.

Internal Determinants: Reference to Washington, DC Hate Crime Statistics and Research. Hate crime data and research were almost entirely only referenced in the legislative history documents for Bill 23-0409 (2020), although a Committee Report for Bill 18-0151 (2009) also cites hate crime statistics. The Committee Report for Bill 18-0151 indicates that testimony given at the public hearing for the bill referenced “harsh statistics on the violence suffered by the District’s homeless population.” The testimony and reiteration of the statistics in the Committee Report show that hate crime data played a role in successfully arguing for the inclusion of homelessness as a protected class, which Bill 18-0151 accomplished. Hate crime data and research reports were mentioned in both the Committee Report and the Public Hearing Record for Bill 23-0409. Both documents referenced a *Washington Post* article which found that, “hate crime prosecutions were at their lowest point in at least a decade.”

The Committee Report for Bill 23-0409 (2020) also made numerous references to hate crime statistics compiled for Washington, DC and described numerous specific hate crime cases that occurred in the District. The description of the hate crime cases also included detailed descriptions of the crimes suffered by two individuals who are the namesake of Bill 23-0409: The Bella Evangelina and Tony Hunter Panic Defense Prohibition and Hate Crimes Response Act of 2020. The use of district-level hate crime statistics and reference to hate crimes that occurred specifically in the District of Columbia—both reflective of Internal Determinants—provided quantitative and local evidence that hate crimes remain a problem in Washington, DC, but one the proposed hate crime bills would address.

Internal Determinants: Messages the Bill Sends to Potential Offenders and District Citizens Condemning Hate Crimes. Beyond the legislative changes made to Washington, DC’s hate crime statute that each of the bills made, legislative history documents accompanying Bill 18-0151 (2009) and Bill 23-0409 (2020) describe how lawmakers viewed the bill as sending a message to the District of Columbia that hate crime will not be tolerated by the criminal legal system. In the Committee Report for Bill 18-0151, lawmakers state one of the two primary purposes of the bill is to “condemn violence toward the District’s homeless,” and later reiterate this purpose by saying that the bill “sends a strong message that hate crimes against the homeless will result in very tangible consequences.” This statement was then followed by references to anti-homeless hate crime (and crime in general) in Washington, DC, and statements indicating that lawmakers recognize the importance of granting protections to the District’s homeless citizens.

In one of the letters the Mayor of Washington, DC sent to the District’s Council concerning Bill 23-0409 (2020), the Mayor recognizes the “hard and conscientious work” that the Council underwent with developing the bill and addressing her initial concerns with the bill (discussed in the ‘Concerns with the Bill’ section previously). The Mayor then stated the new version of the bill “recognizes that our DC values do not tolerate any attempt/imply that LGBTQ lives are worth less than others.” The messages hate crime bills would send, as described by Washington, DC lawmakers, are evidence of Internal Determinants, as the lawmakers view the bills as benefiting District citizens.

Internal Determinants: Testimony from District Citizens Describing Hate Crime-related Concerns. The last set of statements and portions of Washington, DC’s legislative history documents that fell into the Internal Determinants category includes testimony describing hate crime-related concerns. The Committee Report for Bill 23-0409 (2020) cited research by the American Psychological Association which discussed the impact hate crimes can have on both victims and the communities to which the victims belong (e.g., the sexual minority community). This reference to research on the impact of hate crime on victims and communities served to show the seriousness of hate crime—including specifically for Washington, DC citizens—and the need for Bill 23-0409 to be passed to protect Washington, DC residents. This district-specific focus aligns with Internal Determinants. Testimony for Bill 23-0409 (2020) also described a “sense of fear and uncertainty [felt] within the sexual minority community in DC,” in reference to the very low prosecution rate of hate crimes in the District, and to the number of anti-sexual minority hate crimes that have occurred in Washington, DC. These district-specific factors—Washington, DC citizen fear, low prosecution rate of hate crimes in

Washington, DC, and district-level hate crime prevalence—reflect Internal Determinants. Other testimony spoke to the need for the bill to be passed so that citizens could feel safe in their communities and across Washington, DC, and so that citizens—in particular, sexual minorities—can regain confidence in the District’s criminal legal system once again.

Regional Diffusion. Portions of legislative history documents from Bill 16-0664 (2006) and Bill 23-0409 (2020) fell into the Regional Diffusion category (see Table 34). Those portions of the legislative history documents included discussion of current national trends, and reference to current legislation in other states and a law at the federal level. Also, like Texas and Utah, whose legislative history documents included aspects classified in the Regional Diffusion category, references made to other states were not solely from direct or even regional neighbors. In Bill 16-0664’s (2006) Committee Report, lawmakers note that ““People First Language” bills across the country have been greeted with overwhelming bipartisan support from state legislatures.” Lawmakers go on to say that “13 states have current or pending laws, policies, or positions in support of using People First Language.”²⁰ Both statements provided evidence that other states across the U.S. were in the process of or had enacted legislation that also swapped offensive and outdated terminology used to describe persons with disabilities for better terminology. With Bill 23-0409 (2020), lawmakers discussed similar federal and state hate crime laws to what the bill would change about Washington, DC’s hate crime statute. In addition, one argument was given against the passage of Bill 23-0409. The

²⁰ These 13 states were not referenced directly by name in the document. Thus, further analysis of this quote to determine if direct/regional neighbors were specifically mentioned (which would have further supported Regional Diffusion) could not be conducted.

Public Defender Service for the District of Columbia felt the law was too restrictive in blocking the use of various ‘panic defenses,’ and Washington, DC should instead model this portion of the bill after a similar federal bill. Based upon these examples, it is evident Washington, DC lawmakers were aware of the goings-on across the country, which arguably influenced the development of bills, indicative of Regional Diffusion.

Wrap-up of Analysis of Washington, DC’s Legislative History Documents.

Washington, DC’s legislative history documents included numerous references to Internal Determinants factors as well as some references to Regional Diffusion. The former included rounded arguments that began by describing broad goals for the bill, such as increasing public safety or equality amongst citizens in Washington, DC. In Committee Reports or testimony, lawmakers or interested parties quite often used hate crime statistics and specific hate crime cases from Washington, DC. Lawmakers and interested parties did this to show the need for the bill that went beyond general goals of increasing public safety and equality for Washington, DC residents. Concerns about or arguments against the bills were rarely found in the District’s legislative history documents. Such arguments did show that the impact of the bills was carefully considered and played some role in shaping the bills prior to their enactment. This was also the case for arguments made in favor of the bills. The actions of other states and the federal government were referenced a few times as a means for pushing for the passage of bills, evidence of Regional Diffusion. These references, however, were intertwined in structured arguments made that included district-level characteristics and considerations classified in the Internal Determinants category.

Wyoming

At the time this dissertation was written, Wyoming remains the only state in the U.S. that does not have any type of hate crime law. Lawmakers in the state, however, have proffered four variations of hate crime legislation across 11 bills and 26 years (1995-2021, see Table 35).

Table 35

Wyoming's Hate Crime Bill Progression

Attempt	Bill	Introduction Date	Law Contents
1	House Bill 180	1-12-1995	Enhanced penalty for crimes committed “in whole or in part because of the actor’s belief or perception regarding the race, religion, color, disability, sexual orientation, national origin or ancestry” of the person affected by the crime, “whether or not the actor’s belief or perception was correct”
2	House Bill 193	1-16-1997	Enhanced penalty for crimes committed “in whole or in part because of the actor’s belief or perception regarding the race, religion, color, disability, sexual orientation, national origin or ancestry” of the person affected by the crime, “whether or not the actor’s belief or perception was correct”
3	Senate File 123	1-21-1997	Enhanced penalty for crimes committed “in whole or in part because of the actor’s belief or perception regarding the race, religion, color, disability, sexual orientation, national origin or ancestry” of the person affected by the crime, “whether or not the actor’s belief or perception was correct”

(continued)

Attempt	Bill	Introduction Date	Law Contents
4	Senate File 34	2-2-1998	Enhanced penalty for crimes committed “in whole or in part because of the actor’s belief or perception regarding the race, religion, color, disability, sexual orientation, national origin or ancestry” of the person affected by the crime, “whether or not the actor’s belief or perception was correct”
5	House Bill 117	1-11-1999	Develops a ‘bias-motivated crimes’ statute, defining them as “a crime in which the defendant selected the victim because of the defendant’s belief or perception regarding the race, religion, color, disability, sexual orientation, national origin or ancestry of the victim, whether or not the defendant’s belief or perception was correct”
6	Senate File 84	1-13-1999	Enhanced penalty for crimes committed “in whole or in part because of the actor’s belief or perception regarding the race, religion, color, disability, sexual orientation, national origin or ancestry” of the person affected by the crime, “whether or not the actor’s belief or perception was correct”
7	Senate File 91	1-13-1999	Enhanced penalty for crimes committed “in whole or in part because of the actor’s belief or perception regarding the race, religion, color, disability, sexual orientation, national origin or ancestry” of the person affected by the crime, “whether or not the actor’s belief or perception was correct”
8	House Bill 206	1-15-1999	Develops a ‘bias-motivated crimes’ statute, defining them as “a crime in which the defendant selected the victim because of the defendant’s bias or prejudice against a group to which the victim belongs or is perceived by the defendant to belong”

(continued)

Attempt	Bill	Introduction Date	Law Contents
9	Senate File 61	2-12-2000	Enhanced penalty for crimes committed “in whole or in part because of the actor’s belief or perception regarding the race, religion, color, disability, sexual orientation, national origin or ancestry” of the person affected by the crime, “whether or not the actor’s belief or perception was correct”
10	House Bill 109	2-9-2016	Sentencing enhancements for ‘bias motivated crimes,’ which are crimes wherein “the defendant intentionally committed the violent felony in whole or in substantial part because of the victim’s actual or perceived race, religion, color, sex, sexual orientation, gender identity or national origin”
11	House Bill 218	3-3-2021	Develops a ‘bias motivated crimes’ statute, defining them as a crime wherein “the person intentionally selects a person or property to be affected by the commission of a crime in whole or in part because of actual or perceived race, color, ethnicity, religion, national origin, sexual orientation, sex, gender, gender identity or expression, or physical, intellectual or developmental disability of the person affected, regardless of whether the belief or perception of the person committing the crime was correct”; adds mandated data collection, allowance for civil action, and mandated law enforcement training

Sentence Enhancement with Protected Classes Hate Crime Bills

The most common type of hate crime bill introduced in Wyoming is a sentencing enhancement statute for crimes committed,

in whole or in part because of the actor’s belief or perception regarding the race, religion, color, disability, sexual orientation, national origin, or ancestry [of the

person affected by the crime], whether or not the actor's belief or perception was correct.

This bill format was first introduced in 1995 with House Bill 180, and a verbatim copy of the bill language was later introduced to the Wyoming House/Senate six more times (in 1997, twice; 1998; 1999, twice; and 2000).

'Bias-Motivated Crimes' Hate Crime Bills

The remaining four forms of hate crime bills in Wyoming are variations on a 'bias-motivated crimes' statute. The first—House Bill 117 (1999)—described hate crimes as crimes, “in which the defendant selected the victim because of the defendant's belief or perception” regarding several protected classes. House Bill 206—also introduced in 1999—was very similar to House Bill 117 but designated no specific protected classes. House Bill 109 (2016) did designate protected classes but differs from all other hate crime bills Wyoming lawmakers developed. It only denoted sentence enhancements for violent felonies committed due to bias or prejudice against one or more protected classes, rather than all crimes. Wyoming's most recent hate crime bill—House Bill 218 (2021)—included a more expansive list of protected classes than House Bill 206 (1999). House Bill 218 (2021) also included sections mandating hate crime data collection, law enforcement training on hate crime, and allowance for civil action to be taken in hate crime cases.

Where Wyoming Hate Crime Bills Faltered

Failed Introductory Votes. Each of the 11 hate crime bills Wyoming introduced have faltered at one of four early steps in the state's legislative process. Three of the bills—Senate File 34 (1998), Senate File 61 (2000), and House Bill 109 (2016)—were

introduced to the Wyoming House/Senate but failed their introductory vote. Wyoming requires bills to receive at least a two-thirds vote in approval of the bill for it to be sent to a committee for further consideration, the next step in the state’s legislative process.

Bill “Died in Committee” or was “Indefinitely Postponed”. Six of the remaining eight bills passed their introductory vote. Three—Senate File 84 (1999), Senate File 91 (1999), and House Bill 218 (2021)—‘died in committee,’ as the committee issued no official recommendation for the bill (i.e., “pass,” “pass with amendments,” “do not pass”). For an additional three—House Bill 117 (1997), Senate File 123 (1997), and House Bill 206 (1999)—the committee ‘indefinitely postponed’ consideration of the bill, meaning the bill cannot be considered during the remainder of the legislative session unless it is reintroduced as a new bill.

Bill “Died on General File”. The final two bills—House Bill 180 (1995) and House Bill 193 (1997)—were returned from the committee with a favorable recommendation to pass the bill, but the bills ‘died on general file,’ meaning the Wyoming House of Representatives failed to progress the two bills during the legislative session.

Wyoming Legislative History Document Analysis

As with Georgia, Indiana, and Utah, Wyoming publishes very little in the way of legislative information, including legislative history documents. For all 11 hate crime bills Wyoming has attempted to enact, only two documents were available for each: the bill text and a bill history list (see Table 36). This heavily limits the ability to determine if Internal Determinants or Regional Diffusion are influential for Wyoming’s legislative development process and gives little insight into how legislation is developed.

Table 36*Glossary of Wyoming's Legislative History Documents*

Document Type	Description	Total No. of Docs.	Total Page Count
Bill Text	Includes a short description of the bill, a checklist of any House or Senate action on the bill, the bill text, a description of committee action on the bill, and a fiscal impact statement	11	76
Bill History	A chronological list of legislative actions for the bill	11	11
TOTAL:		22	87

Bill Text Legislative History Documents. Thus, for the 22 legislative history documents Wyoming has, all were placed in the Legislative Records category. The Bill Text documents begin with a short description of what the bill will do. For example, for House Bill 206 (1999), the following is the introductory description of the bill:

An ACT relating to crimes and offenses; specifying bias as an aggravating factor to be considered in sentencing; enhancing penalties for certain crimes committed against certain people or property; and providing for an effective date.

Next, a table shows all Wyoming House and/or Senate actions on the bill, with the legislative process listed out, and date and checkmark spaces provided. For example, for Senate File 91, this table indicates the bill was introduced on January 14, 1999, that the bill was read for the first time and was referred to a committee. It then shows that the bill “died in committee” on February 5, 1999. After this table, the Bill Text documents for each of Wyoming’s bills include the full bill text. Last, the documents have a “fiscal note” section, with each including the following sentence: “the fiscal impact is indeterminable due to an unknown number of cases.” Unlike other states’ fiscal

analyses/statements, the documents indicate that Wyoming lawmakers were unsure of the scope of hate crime in the state. The ‘fiscal note’ section also showed that Wyoming lawmakers and other involved officials pursued further information to calculate the projected financial impact of each of the hate crime bills it introduced.

Bill History Legislative History Documents. The Bill History documents provide a timeline of legislative actions taken. The documents provide the same information found in the tables of House/Senate actions in the Bill Text documents. The Bill History documents also include any votes and slightly more detail for each step of the legislative process, but that detail remains sparse. Given that no information is available concerning the intent/reasoning of Wyoming legislators for introducing and voting on these hate crime bills, only the progression of the bills and any votes taken provide insight into how the bills were received. A supplemental Google search for news articles did not reveal any further details.

Legislative Votes for Wyoming’s Hate Crime Bills. Based solely upon vote tallies of the three bills that failed their introductory vote, Senate File 61 (2000) (12 ayes, 18 nays; needed 20 ayes to proceed) and House Bill 109 (2016) (10 ayes, 49 nays, 1 excused; needed 33 ayes to proceed) were more poorly received than Senate File 34 (1998) (16 ayes, 12 nays, 2 excused; needed 20 ayes to proceed). Senate File 61 (2000) had the same bill text as Senate File 34 (1998) but saw less support in its introductory vote. House Bill 109 (2016) was written differently than those two Senate Files. House Bill 109 (2016) only criminalized bias-motivated violent felonies (a much narrower array of crimes eligible to be classified as hate crimes), which may explain the more tepid response seen in the introductory vote. The fates of the six bills that were sent to

committee but never proceeded are fairly similar. The committees that three bills—Senate File 84 (1999), Senate File 91 (1999), and House Bill 218 (2021)—were sent to opted to issue no recommendation for the bill (i.e., ‘died in committee’). The committees the other three bills—House Bill 117 (1997), Senate File 123 (1997), and House Bill 206 (1999)—were sent to ended the ability to consider the bills in their current form as well with their ‘indefinitely postponed’ recommendation. While these six bills may have been better received during their introduction to the Wyoming House/Senate, some factor(s) may have kept the committees from allowing the bills to progress. This cannot be determined without more detailed legislative history documents.

The remaining two bills, House Bill 180 (1995) and House Bill 193 (1997) proceeded the furthest through Wyoming’s legislative process compared to the other nine. Interestingly, House Bill 180 and House Bill 193 were the first two Wyoming introduced. These two Bills predated Matthew Shepard’s horrific murder in 1998, which continues to draw nationwide attention. Ultimately, House Bill 180 (1995) and House Bill 193 (1997) were never fully debated or considered by the Wyoming House or Senate. In Wyoming’s legislative process, only the bill title is read aloud during the first reading of the bill and the second reading of the bill, which takes place after the bill is returned from the committee. The bill in full (meaning the bill text) is only read during the ‘third reading’ stage of Wyoming’s legislative process, where more debate about the bill’s contents can take place than during the previous two ‘reading’ stages. Given that all 11 bills never made it to this point, it is arguable that there was some fundamental flaw or obstacle prohibiting the bills from progressing through the legislative process any further.

Wrap-Up of Analysis of Wyoming’s Legislative History Documents. Without additional information from the legislative history documents, however, a more detailed explanation of the state’s inability to pass a hate crime statute remains conjecture. This is unfortunate given that Wyoming continues to not have any hate crime legislation in place, despite the well-known and publicized murder of Matthew Shepard in October 1998. In addition, there are many other reported and unreported hate crimes that have been committed in Wyoming before and since Matthew Shepard’s case (an average of 56.2 hate crimes reported in Wyoming for the UCR between 2015-2019; UCR, n.d.). Further, a lack of greater insight into *why* the bills failed in the early stages of Wyoming’s legislative process makes individualized recommendations for a better strategy to pass a hate crime law more difficult to develop.

Overall Themes

The previous sections describing the analysis results for all nine states and Washington, DC show that each state contained unique information in its legislative history documents. Multiple Internal Determinants and Regional Diffusion themes emerged from the states’ legislative history documents, which served to form a ‘story’ of how each state developed their hate crime legislation, and then what factors influenced that development. Several overall trends emerged for the information classified in the Internal Determinants category (see Table 37). These will now be discussed. Following this discussion, the broader Regional Diffusion themes will be unpacked.

Internal Determinants

Table 37

Broad Internal Determinants Themes Uncovered in the Legislative History Documents from the Nine Selected States and Washington, DC

Broad Internal Determinants Theme	No. of States	States
State-level Hate Crime Statistics and Specific Hate Crime Cases	7	California, Connecticut, Illinois, New Hampshire, Texas, Utah, Washington, DC
Bill Improves Public Safety and Citizen Rights	6	California, Connecticut, Georgia, Illinois, New Hampshire, Washington, DC
Message the Bill Sends About Hate Crime to Would-be Offenders and State Citizens	6	Connecticut, Illinois, New Hampshire, Texas, Utah, Washington, DC
Moral Arguments About the Bill	5	California, Connecticut, New Hampshire, Texas, Washington, DC
Current Hate Crime Statute is Flawed	3	California, Connecticut, Utah
List of Local Bill Supporters and Opposers	3	Illinois, New Hampshire, Utah
No Internal Determinants Themes	2	Indiana, Wyoming

Table 38 (discussed below) shows an overall distribution of Internal Determinants and Regional Diffusion in each of the nine selected states' and Washington, DC's legislative history documents. It shows that while both Internal Determinants and Regional Diffusion are present across states' legislative history documents, references to state-specific factors (which reflect Internal Determinants) are more common.

Table 38

Distribution of Internal Determinants and Regional Diffusion Among the Nine States’ and Washington, DC’s Legislative History Documents

State	Internal Determinants Documents*	Internal Determinants Portions	Regional Diffusion Documents*	Regional Diffusion Portions
California	34	177	0	0
Connecticut	27	80	7	8
Georgia	1	6	0	0
Illinois	4	16	4	5
Indiana	0	0	0	0
New Hampshire	8	53	4	4
Texas	6	9	3	3
Utah	1	5	1	3
Washington, DC	9	57	5	11
Wyoming	0	0	0	0
Total	90	403	24	34

*-Some legislative history documents contained portions classified as Internal Determinants and also included portions classified as Regional Diffusion, so there is some overlap between these two frequencies.

Internal Determinants: State-Level Hate Crime Data and Cases

Legislative history documents from seven states (California, Connecticut, Illinois, New Hampshire, Texas, Utah, and Washington, DC) referenced state-level hate crime statistics and/or specific hate crime cases that occurred in their state. Lawmakers used state-level hate crime statistics—either specifically, such as describing the number of hate crimes that had occurred over a certain time period, or generally, such as stating a “recent spike in hate-related incidents in Illinois, ” to describe what prompted the bill’s development. Regardless of the type of reference to hate crime statistics, the use of data helped to quantify the issue of hate crime, bolstering claims that hate crime bills needed to be passed. Specific hate crime cases served a similar purpose to the use of hate crime statistics (to provide evidence that hate crimes are occurring), but also worked to

humanize the issue by describing individual people who were victimized. Lawmakers and citizens alike recounted specific hate crime cases in testimony given for bill hearings, either speaking about their own experiences or speaking on the behalf of someone else.

Internal Determinants: Bill Improves Public Safety and Citizen's Rights

Six states (California, Connecticut, Georgia, Illinois, New Hampshire, and Washington, DC) indicated that if their hate crime bills passed, the bills would improve/equalize citizen's rights and/or increase protections/safety for citizens within that jurisdiction. Many of these claims came from legislative history documents of hate crime bills adding either sexual orientation or gender identity or expression as protected classes. Lawmakers and citizens who gave testimony for such bills indicated that passing the bills would afford sexual minorities legal protection if they became victims of hate crime and equalize their rights against discrimination with those of other citizens. In legislative history documents from Georgia and Washington, DC, hate crime bills were described as improving public safety by enhancing penalties for hate crimes, deterring potential offenders.

Internal Determinants: Message the Bill Sends About Hate Crime to Would-be Offenders and State Citizens

Lawmakers and citizens alike in six states (Connecticut, Illinois, New Hampshire, Texas, Utah, and Washington, DC) described the message their bills will send about hate crime to would-be hate crime offenders and state citizens if the bills are passed. These messages focused on the deterrent effect the bill was viewed as having, and that the bills told citizens—and especially would-be offenders—that hate crimes would not be tolerated in the state and would be punished severely. This overlaps to a degree with the

previous theme: arguments made that hate crime bills will increase public safety for citizens. These two types of claims were often made by individuals speaking in favor of passing hate crime bills. Statements classified into the ‘message the bill sends about hate crime to would-be offenders and state citizens’ theme were more general about what the bill would accomplish. Other, more unique messages were also identified by lawmakers and citizens for hate crime bills. For example, in New Hampshire, a citizen who spoke in favor of adding sexual orientation as a protected class indicated that if the bill was not enacted, it would be indicative of New Hampshire wanting to continue treating sexual minorities as “second-class citizens.”

Internal Determinants: Moral Arguments About the Bill

Moral arguments for and against bills were found in the legislative history documents of five states (California, Connecticut, New Hampshire, Texas, and Washington, DC). Such arguments were raised by both lawmakers and citizens. Many of the arguments either overlapped or were directly tied to statements about the message that the bill would send about hate crime. Therefore, the two themes may not be mutually exclusive. For example, the American Civil Liberties Union described the penalty enhancements in California’s Assembly Bill 51 (1997) as too harsh for the crimes to which they pertained, and that the bill would not achieve the desired deterrent effect message lawmakers envisioned. Testimony for New Hampshire’s and Texas’ hate crime bills that added sexual orientation as a protected class also showcased this overlap between the use of moral arguments and discussion about the message a bill sends about hate crime. Individuals speaking about both bills indicated worry that the bills would signify the state’s official acceptance of what the speakers described as an ‘immoral

lifestyle’ (which was described in relation to religious beliefs) and one that a majority of citizens in the state did not consider acceptable.

Not all the moral arguments made about bills were in opposition to the bill. Such arguments were sometimes paired with discussion about the message the bill would send about hate crime. In Connecticut, for example, one individual described enacting hate crime laws as “actually represent[ing] a larger struggle for the basic human rights of freedom, human dignity, and justice.” Collectively, moral arguments given for and against hate crime bills were arguably used to appeal to lawmakers’ core beliefs. These arguments let lawmakers know that the public supports/opposes the bill, and to begin arguments for bills that are then built upon with hate crime statistics/specific hate crime cases. Arguments made against hate crime bills tended to not include any reference to hate crime statistics or specific hate crime cases.

Internal Determinants: Current Hate Crime Statute is Flawed

Legislative history documents in California, Connecticut, and Utah argued that the current state statute was flawed in some manner. Each of the references to the state’s then-current hate crime statute mentioned some aspect of the law that was either missing or ineffective. The flaw described in one of Connecticut’s legislative history documents was that a specific protected class—disability—was not granted protection under the state’s hate crime statute. Legislative history documents from bills in both California and Utah describe the state’s hate crime statute as making prosecution of hate crimes either incredibly cumbersome or, in Utah’s case, impossible. For all three states, descriptions of the flaws of the current state hate crime statute served as a jumping-off point for their

arguments in favor of passing hate crime bills. Lawmakers would then next outline how the current bill would address the shortcomings of the current statute.

Internal Determinants: List of Local Bill Supporters and Opposers

Three states (Illinois, New Hampshire, and Utah) provided lists of individual citizens who were officially (i.e., on a list included in the legislative history documents) in support of or in opposition to a hate crime bill. While the lists of those in support of and in opposition to a hate crime bill do not provide detailed testimony to comb through, for example, the lists give lawmakers some indication of who supports and opposes the bill. This could include local (i.e., state-level) organizations and associations.

No Internal Determinants Themes

Last, two states' legislative history documents did not contain any portions that were classified into the Internal Determinants category: Indiana and Wyoming. All information in the legislative history documents for Indiana and Wyoming—which were already sparse—fell into the Legislative Records category.

Overall Trends- Regional Diffusion

Several themes emerged from examining statements/portions of legislative history documents that were classified into the Regional Diffusion category (see Table 39). Many of the themes, however, were found in only one or two states. This is likely given the limited amount of information deemed to be part of the Regional Diffusion group.

Table 39

Broad Regional Diffusion Themes Uncovered in the Legislative History Documents from the Nine Selected States and Washington, DC

Broad Regional Diffusion Theme	No. of States	States
Hate Crime Laws in Other States	6	Connecticut, Illinois, New Hampshire, Utah, Washington, DC
Hate Crime Statistics and Incidents in Other States	3	Illinois, Utah, Washington, DC
Federal Level Hate Crime Legislation	2	Illinois, Washington, DC
Anti-Defamation League Model Hate Crime Statute	2	Illinois, Utah
U.S. Supreme Court Cases	2	New Hampshire, Texas
Hate Crime Statistics at the Federal Level	1	Texas
No Regional Diffusion Themes	4	California, Georgia, Indiana, Wyoming

Regional Diffusion: Hate Crime Laws in Other States

The most common portion of legislative history documents that fell into the Regional Diffusion category was any reference to hate crime laws in other states. Such references were found in legislative history documents in six states (Connecticut, Illinois, New Hampshire, Utah, and Washington, DC). With one reference to the hate crime laws of Connecticut's direct neighbors—directly in line with the central tenet of Regional Diffusion—as an exception, all references to hate crime laws of other states did not pertain to the laws of that state's direct neighbors. For example, an Illinois senator mentioned Maine's and New Hampshire's hate crime laws as references for how Illinois could structure their hate crime bill. One of Utah's legislative history documents referred to the constitutionality and enforceability of other states' hate crime bills but did not identify states by name. Existing hate crime laws in other states were used as a reference,

guide, or model for formatting the content of the hate crime bill, or to argue that the state needs to follow the actions of the other states and adopt the same/a similar hate crime bill.

Regional Diffusion: Hate Crime Statistics and Cases in Other States

Three states used hate crime statistics from outside their own state as evidence of hate crimes occurring. These statistics were something lawmakers used to substantiate their claims that hate crimes are an issue their state needs to address. Illinois and Utah lawmakers referenced specific hate crime cases that occurred in other states as examples of the broad reach and effect of hate crimes beyond the within-state hate crime cases also mentioned in legislative history documents. Somewhat related, Washington, DC referenced nationwide trends to adopting ‘people-first language’ in legislation and policies alike as part of the impetus for Bill 16-0664 (2007). This Bill changed “handicap” to “disability” in its hate crime legislation and amended other “outdated and offensive” language in its statutes more broadly. This may be a reflection of Washington DC’s district, not state, status.

Regional Diffusion: Federal Hate Crime Legislation

Related to referencing the hate crime statutes found in other states were instances of Illinois and Washington, DC who mentioned existing federal hate crime legislation. For both states, federal legislation was mentioned as a guide for creating the hate crime bills they were developing at the time. For example, Illinois lawmakers mentioned the then-newly established Hate Crimes Statistics Act that then-President George Bush signed into law in 1990 as an impetus for enacting Senate Bill 2267 that same year.

Regional Diffusion: Anti-Defamation League's Model Hate Crime Statute

Illinois also referenced the Anti-Defamation League's Model Hate Crime Statute. The Anti-Defamation League wrote and published the statute in 1981 as a tool for states to use to develop their own hate crime statutes. A legislative history document from Utah also cited the Anti-Defamation League's Model Hate Crime Statute as a guide for developing Utah's hate crime statute. This shows part of the impact these Model Statute has had on the development of legislation.

Regional Diffusion: U.S. Supreme Court Cases

Both New Hampshire and Texas cited United States Supreme Court cases in some of their legislative history documents. New Hampshire lawmakers mentioned that the *Apprendi v. New Jersey* (2000) case decision not only deemed New Jersey's hate crime statute unconstitutional, but their own hate crime statute would be unconstitutional as well (though the SCOTUS did not explicitly mention either states' hate crime laws in its written opinion). New Hampshire lawmakers went on to note that they introduced House Bill 277 (2004) to specifically address the issues with their hate crime statute: that the state used a 'preponderance of the evidence' standard for establishing that an offender committed a crime due to bias/prejudice, rather than a 'beyond a reasonable doubt' standard. Texas referenced *Wisconsin v. Mitchell* (1993) and *Apprendi v. New Jersey* (2000) for the same reason New Hampshire lawmakers did, that Texas' hate crime statute at the time "likely would not pass constitutional muster," given its 'preponderance of the evidence' standard, rather than a 'beyond a reasonable doubt' standard. It is evident then that *Apprendi v. New Jersey* and *Wisconsin v. Mitchell* had an impact beyond New Jersey's and Wisconsin's statute.

Regional Diffusion: Hate Crime Statistics at the Federal Level

Just one state—Texas—mentioned nationwide hate crime statistics. In the House Research Organization Analysis document for House Bill 587 (2001), Texas lawmakers used data compiled by the National Criminal Justice Reference Service to illustrate the scope of hate crime across the U.S. This was part of an argument in favor of passing House Bill 587, which ultimately gave Texas a list of specific protected classes.

No Regional Diffusion Themes

Legislative history documents in California, Georgia, Indiana, and Wyoming did not include any information that fell into the Regional Diffusion category. Georgia, Indiana, and Wyoming all have scant legislative history documents accompanying their hate crime bills. The absence of information in the Regional Diffusion category is arguably less surprising than it is for California, which has extensive legislative history documents for its hate crime bills. As mentioned in the individual analysis section for California above (beginning on page 71), all portions of California's legislative history documents that did not fall into the Legislative Records category fell into the Internal Determinants group. This is arguably reflective of California homing in solely on the characteristics and needs of its state rather than what other states or the federal government are doing regarding hate crime. This is at least according to the information included in the state's legislative history documents. In addition, California is politically progressive, and was a pioneer in establishing the country's first hate crime law in 1978. California has some of the most expansive hate crime legislation in the United States, and arguably has little need for minding the actions and hate crime laws of other states or the federal government.

Overall Patterns/Themes

While each state's approach to adopting hate crime bills has its nuances, states overlap in multiple regards in the type of information present in their legislative history documents, as reflected in the previous sections. As a result of this overlap, a general strategy to developing and adopting a hate crime bill emerged, mostly using information classified in the Internal Determinants category. Nevertheless, Regional Diffusion information was also considered. Lawmakers and citizens speaking about hate crime bills often began their statements by using moral arguments to indicate whether a bill should be enacted or not. These moral arguments were often closely tied to citizens of the state. Speakers then used one or more of the following approaches to back up this initial argument about the bill: cite state-level hate crime statistics (the most common); describe individual hate crime cases that occurred in the state; outline specifics about how the current state law is flawed; and/or identify how some groups of people do not have the same level of legal protection as other groups. These approaches are all evidence of Internal Determinants.

After identifying the problem(s) the state is currently facing regarding hate crime, lawmakers/citizens assure that while the state law may be flawed and/or hate crimes are on the rise, the current bill will address the problem(s) the state is facing. Again, this is still reflective of Internal Determinants. Speakers then identify the specifics of how the bill will tackle the problem(s). These specifics include extending equal rights to all state citizens, deterring would-be offenders with sentence enhancements for hate crimes, and improving protections for specific groups and citizens within the state overall. These improved protections were usually through the addition of specific protected classes

and/or changing the wording of statutes to make more crimes eligible to be classified as hate crimes.

Lawmakers/citizens may also mention similar legislation in other states, the Anti-Defamation League's Model Hate Crime Statute, or the federal government's legislation for three reasons. Reference to these three types of laws aligns with the Regional Determinants Model as it extends beyond the scope of the state. These include 1) to show that a related version of their hate crime bill has worked elsewhere and can work in their state too; 2) that their state needs to 'get with the times' and enact the bill; 3) or as a reference point for developing their state's hate crime bill. Last, speakers describe the message the bill sends about hate crime to the public and would-be offenders to round out their claims. These messages may be that lawmakers recognize the hate crime-related issues affecting the citizens they serve; that the state and society will not tolerate hate crimes and will strongly punish offenders; and/or that citizens will enjoy equal rights and legal protections under the bill, increasing public safety. This last step may merge pieces of the Internal Determinants and Regional Diffusion models.

To reiterate, this general strategy for arguing for the passage of a hate crime bill is not exactly what each of the nine states and Washington, DC does to enact a hate crime bill. Further, no information beyond bill text and records of legislative actions taking place (both encompassing what was classified into the Legislative Records category) was found in the legislative history documents for Indiana and Wyoming. As a result, the general strategy outlined above may not be applicable to these two states. Georgia and Utah only had one legislative history document that included information that was classified in the Internal Determinants or Regional Diffusion groups. As a result, little

could be gleaned about the legislative adoption process in either state. Similar to states without any detailed legislative history documents, the general strategy may not wholly align with how Georgia and Utah develop their legislation. That said, the general strategy outlined above for advocating for passage of a hate crime bill represents general patterns/themes seen in the Internal Determinants and Regional Diffusion information identified in legislative history documents.

Within-Region Comparisons of States' Legislative History Documents

The next phase of the analyses is now presented: within-region state-to-state comparisons of legislative history documents. This phase of the analyses is split into four sections—West, Midwest, South, and Northeast—which come from the U.S. Census Bureau's four geographic regions of the country. Comparisons of states within each region allow for any commonalities in the contents of the legislative history documents to be uncovered. This phase of the analyses allows for any broad overall themes in each region to be described.

U.S. Census Bureau regions were used to select states from each region for analysis to approximate some degree of representativeness of the sample. Further, this selection criteria allows for comparisons of states within and between regions to determine if similarities exist between states and their regional neighbors/distant states, which would reflect a Regional Diffusion process. According to what is documented in selected states' legislative history documents, states do not appear to heavily rely upon the actions of other states to inform their legislative adoption process. This is evidenced by the disproportionate amount of information from all selected states' legislative history documents that was categorized as Internal Determinants versus Regional Diffusion (see

Table 38). There may be similarities, however, in strategies states used to develop and enact their hate crime bills, reflective of a less overt Regional Diffusion process taking place. This might also be evident by mentioning “other states” and not naming specific states directly. It is important to acknowledge that four states—Georgia, Indiana, Utah, and Wyoming—have sparse legislative history documents. Thus, within-region comparisons in the West, South, and Midwest regions were limited to a degree, as there was less information to be compared between states. That said, there were multiple similarities in themes uncovered in the legislative history documents (see Table 37). Legislative history documents and themes uncovered for each of the selected states within the West, Midwest, South, and Northeast regions are compared in the sections that follow.

West Region

California, Utah, and Wyoming are part of the U.S. Census Bureau’s West region. Collectively, the three states represent both ends of the hate crime statute expansiveness spectrum; California and Utah have some of the most expansive hate crime laws in the country, while Wyoming is the only state with no hate crime legislation. Utah is also one of two states that made a substantial change to their hate crime legislation within the last two years (2019-2020). Wyoming’s legislative history documents, which only provided official record of bill text and legislative actions, match portions of California’s and Utah’s legislative history documents which do the same thing. Only one of Utah’s 10 legislative history documents contained information that was not classified in the Legislative Records category: a letter addressed to lawmakers in the state from the United Jewish Federation of Utah, speaking in support of Senate Bill 103. Information included

in the letter matched some of the themes observed in California's legislative history documents: arguments made in favor of the bills in California and Utah both mentioned specific 'local' (i.e., state-level) hate crime incidents. This was done as a way to bolster their claims that the current statute was lacking.

Hate crime statutes were described as flawed multiple times by California lawmakers. Arguments that California's hate crime law was flawed centered around gaps in protection for different groups (e.g., transgender individuals). Individuals making those arguments went on to say that those groups were subjected to numerous hate crimes, several of which were described in detail in bill hearing testimony. The United Jewish Federation of Utah's letter indicated that Utah's (lack of) hate crime legislation made it impossible to pursue hate crime charges in a then-recent hate-motivated crime that occurred in Salt Lake City. This was done to show the flaw in Utah's hate crime statute. The testimony given that cited specific hate crime incidents and argued that the state's current hate crime statute was flawed went on to describe Utah's new bill as a way to address both the hate crimes occurring and to fix the legislative gaps. Outside of these overlaps between California and Utah, other information and themes among the West region states did not align. The dearth of legislative history documents in Utah and Wyoming made any further West region comparisons difficult.

Midwest Region

Two states from the U.S. Census Bureau's Midwest region were selected for analysis in this dissertation: Illinois and Indiana. The two states form a dichotomy of hate crime legislation: Illinois has some of the most expansive legislation in the country, while Indiana has the least expansive hate crime statute among states with a hate crime law.

Illinois and Indiana are also direct neighbors, making a comparison of their legislative history documents unique among states selected for analysis.

Unfortunately, Indiana maintains little in the way of legislative history, including for its hate crime bills. All legislative history documents accompanying Indiana's two hate crime bills were classified in the Legislative Records category. Indiana's legislative history documents only contained the bill text, records of legislative actions taking place, or were a chronological list of legislative actions taken for the bill. Many of Illinois' legislative history documents—which, with the exception of the Final Bill Text documents, were transcripts from the House or Senate—also fell only into the Legislative Records category. Those documents also only contained records of legislative actions taking place, such as bill readings and votes.

That said, Illinois' legislative history documents also contained discussions between lawmakers, who shared information and presented arguments for and against bills. These documents included information that fell into either the Internal Determinants or Regional Diffusion categories. This information was lacking for Indiana. As a result of Indiana's legislative history documents only containing Legislative Records information, more in-depth comparisons between Illinois' and Indiana's legislative processes could not be carried out.

South Region

Georgia, Texas, and Washington, DC all are in the U.S. Census Bureau's South region. Texas and Washington, DC—both having some of the most expansive hate crime statutes in the country—have had hate crime legislation on the books since the early 1990s. Texas and Washington, DC also have relatively stable hate crime law histories.

Each have only made additions to their hate crime statutes. Georgia's hate crime statute history has been rockier. Like Texas's first hate crime statute, Georgia's first hate crime statute (enacted in 2000) did not denote specific protected classes. Due to this significant shortcoming, it was ruled unconstitutional just four years later by the Georgia Supreme Court in *Botts v. State* (2004). During the 16-year gap between the *Botts* decision and Georgia passing House Bill 426 in late June 2020, Georgia only criminalized institutional vandalism and cross burning.

Georgia's legislative history documents are heavily limited. This is partially the case given that Georgia has only enacted two hate crime bills. Georgia, though, is also notorious for having little in the way of legislative history documents in general (Georgia Archives, 2021; University of Georgia, n.d.). As a result, comparisons of legislative history documents between Georgia, Texas, and Washington, DC are limited. That said, there were some commonalities in the legislative history documents between the two states and Washington, DC. In a statement from Georgia's Governor and Lieutenant Governor, both government officials mention that Georgia's House Bill 426 (2020) will increase public safety for all citizens. The lawmakers also stated that the bill should alleviate some of the Georgia public's growing anger and unrest toward racial injustice in the state. Legislative history documents from Washington, DC also claim that one of its bills—Bill 23-0409 (2020)—will broadly (i.e., not just for specific groups) increase protection and safety for citizens in the District. Georgia's and Washington, DC's discussion of how their hate crime bills will increase public safety are indicative of Internal Determinants at work. Lawmakers in each jurisdiction were concerned with the safety of the citizens there—a state/district-level factor.

Washington, DC’s legislative history documents reference current trends, similar to the letter from Georgia’s Governor and Lieutenant Governor. Their comments suggest that lawmakers were cognizant of the unrest and demonstrations taking place in the state following the murders of Ahmaud Arbery (in Glynn County, Georgia) in February 2020 and the murder of George Floyd in May 2020. Indeed, Governor Kemp said that “while [the passage of House Bill 426] does not right every wrong, it is an important step, and we will continue our part as state leaders to ensure that Georgia is a place where all people can live, learn, and prosper.” Washington, DC’s legislative history documents, however, referenced current trends at the national level rather the state (district) level. The documents described changes multiple states made to language used to describe individuals with disabilities. While both Georgia and Washington, DC referenced current trends, Georgia’s fell into the Internal Determinants category—as it was at the state level—while Washington, DC’s was classified as Regional Diffusion, as lawmakers spoke about national trends. This might be because of Washington D.C.’s district status when compared to Georgia’s statehood. Internal Determinants themes found in Texas’ legislative history documents did not overlap with Internal Determinants themes in Georgia’s legislative history documents (see Table 38). Georgia’s themes were related to increasing public safety and the message the bill sends to would-be offenders and Georgians, while Texas’ two Internal Determinants themes were arguments made against bills and references to specific Texas hate crime cases and statistics.

There was some overlap in the themes uncovered for Texas and Washington, DC. Legislative history documents in Texas and Washington, DC both mentioned ‘local’ (i.e., state/district-level) hate crime statistics to substantiate arguments made about bills. This

is indicative of the Internal Determinants model. Some references to hate crime statistics bolstered arguments that hate crime bills needed to be passed, others accompanied arguments made against the passage of bills. Both Texas and Washington, DC also mentioned national level hate crime statistics and trends in adopting related legislation to back up their positions on passing hate crime bills. This is consistent with tenets of the Regional Diffusion model.

Last, concerns and arguments about hate crime bills were present in Texas' and Washington, DC's legislative history documents. In Washington, DC, the Mayor expressed concern that Bill 23-0409 (2020) would overextend the local Attorney Generals' power to prosecute hate crime cases. A concern raised as part of an argument against the passage of Texas' House Bill 587 (2001) emerged beyond disagreement with adding sexual orientation as a protected class. A lawmaker felt that the bill would "establish a right not available to all Texans." In other words, the Texas lawmaker felt that some groups would receive more legal protection (an overextension of the law) compared to other groups. These concerns about bills in Texas and Washington, DC focus on the impact the bill would have on local citizens, evidence of Internal Determinants. There was no overlap between Washington, DC's remaining four themes—"the bill will better equip the District of Columbia's criminal justice system to combat hate crime;" "the bill will increase equality, protection, and safety for citizens;" "message the bill sends to potential offenders and District citizens condemning hate crimes;" and "testimony from District citizens describing hate crime-related concerns"—and those from Texas. To be fair, two of the themes were unique to just Washington, DC ("the bill will better equip the District of Columbia's criminal justice system to combat

hate crime,” and “testimony from District citizens describing hate crime-related concerns”). That said, Texas still had very few portions of its legislative history documents that were classified as examples of Internal Determinants.

Northeast Region

The final two states selected for analysis, Connecticut and New Hampshire, come from the U.S. Census Bureau’s Northeast region. Connecticut has the most expansive hate crime legislation in the Northeast region, while New Hampshire has the least expansive legislation in the Northeast region. It is important to keep in mind that while New Hampshire’s legislation was limited compared to Connecticut’s legislation, it was still relatively expansive when compared to the United States as a whole. While Connecticut and New Hampshire differ in the scope of their hate crime statutes, many of the themes uncovered in their legislative history documents align with one another. This reflects the tenets of Regional Diffusion; the two states have quite similar approaches to adopting hate crime legislation.

A number of Internal Determinants themes were found in Connecticut’s and New Hampshire’s legislative history documents. Individuals who shared testimony for hate crime bills in Connecticut and New Hampshire both made impassioned moral arguments for and against passing the bills. This was particularly the case with Connecticut’s House Bill 6599 (2011) and New Hampshire’s House Bill 421 (1998), which added gender identity or expression and sexual orientation as protected classes, respectively. Individuals who gave testimony and lawmakers alike referenced hate crime statistics and individual hate crime cases that occurred in their respective states to show evidence of the problem that the bill would address. Additionally, individual testimony/statements from

citizens and lawmakers in Connecticut and New Hampshire discussed the message that passing the bill would send to the public. Deterrence and substantial criminal punishment were what citizens and lawmakers envisioned as the message bills would send to would-be offenders in their states, reflective of Connecticut and New Hampshire not tolerating hate crimes whatsoever. It is also interesting to note these two bills focused on sexuality and gender—two types of protected classes that may overlap.

Last, legislative history documents from Connecticut and New Hampshire both reference laws in other states—indicative of Regional Diffusion—that are similar to the hate crime bills their legislatures were attempting to enact. In fact, in one legislative history document, Connecticut's direct regional neighbors were explicitly mentioned, an exemplar of Regional Diffusion. Referencing the laws of other states served a similar purpose to citing hate crime statistics. Precedent was shown for enacting hate crime bills by noting that other states had similar legislation in place already. In sum, while Connecticut and New Hampshire are fairly different in the scope of their respective hate crime statutes, the two states had numerous similarities in the Internal Determinants and Regional Diffusion information found in their legislative history documents.

CHAPTER V

Discussion

This dissertation closely analyzed the legislative history documents from the hate crime statutes in nine states and Washington, DC. Only the statutes that listed protected classes and outlined enhanced penalties were included, as these statutes are the foundation for the rest of a state's collection of hate crime statutes. Content analysis of the legislative history documents revealed that the legislative history documents for the nine selected states and Washington, DC were largely just records of legislative actions taking place and copies of bill versions. For all states, nearly half or more (and for Indiana and Wyoming, all) of their legislative history documents fell into the Legislative Records category, as they were just records of legislative actions for the bill or assorted versions of the bill text.

Content analysis also uncovered evidence that states seem to almost completely rely upon internal (e.g., state-level and state-specific) characteristics when developing hate crime statutes. This is reflected in the number of Internal Determinants portions of legislative history documents (403 in 90 legislative history documents) compared to the number of Regional Diffusion portions (34 in 24 legislative history documents) (see Table 38). This is arguably evidence of the Internal Determinants model of policy adoption being a driving force behind the selected states' hate crime law adoption processes. A significant portion of the Internal Determinants portions are testimony/statements given by interested parties (e.g., citizens, advocacy organizations, criminal justice actors, lawmakers) voicing their opinion about the bill, citing state-level hate crime statistics, and referencing specific hate crime cases in the state.

States also referenced the actions of other states, including their hate crime laws, and other out-of-state factors, such as hate crime cases and statistics. This is reflective of the Regional Diffusion model of policy adoption and indicate this process might be more complex in select states. States may feel more compelled to act after seeing their neighbors, other states, or the federal government pass a bill. Again, the finding that the Regional Diffusion process may be less common is reflected by the representation of Regional Diffusion document portions (34) compared to Internal Determinants document portions (403). Just over half (six) of the selected states referenced the legislation of other states or the federal government.

Rather, it appears that information from the legislative history documents showed that Regional Diffusion portions were paired alongside internal state characteristics and information to bolster claims that the hate crime bill needed to be passed. This combination aligns collective findings from existing research that examined state hate crime legislation adoption (Grattet et al., 1998; Haider-Markel, 1998; Jenness, 1999; Jenness & Grattet, 1996; Soule & Earl, 2001). Indeed, findings from those five studies determined that state adoption of hate crime statutes is a complex, multifaceted process involving social movements, political factors, hate crime visibility, and the actions of other jurisdictions. Each of these factors were identified in the information contained within the selected states' legislative history documents.

Social Movements

While large, widespread social movements like the civil rights and women's movements were not mentioned in the selected states' legislative history documents, organizations and advocacy groups were involved at least during the public hearings for

various states' bills. Organizations/groups officially listed their support or opposition to bills, and many gave testimony speaking about the bill. Sexual minority advocacy groups often gave impassioned arguments in favor of passing hate crime bills that added sexual orientation and gender identity or expression as protected classes. Those advocacy groups also tended to back up their arguments by citing state-wide hate crime statistics (i.e., Internal Determinants in many cases), detailing tragic individual hate crime cases, and specifically noting how the state law is flawed. Legislative history documents in Washington, DC also cited a growing national movement to use more respectful language for individuals with disabilities to support passing their hate crime bill doing the same thing. Not all organizations/groups spoke in favor of the hate crime bill in states.

Individuals advocating for the passage/failure of hate crime bills are arguably another manifestation of social movements at work. Individuals may support advocacy groups or were speaking on the behalf of the groups but did not indicate their affiliation in legislative history documents. Individuals and advocacy groups alike may also have been part of a collective societal movement to advocate for the rights and safety of specific groups. For a number of bills, a large number of individuals spoke in favor of/opposition to bills. They, at the very least, made their opinions known, and arguably had some degree of influence, given how many of the hate crime bills examined were enacted.

Social movements and individuals were not always working to get hate crime legislation passed, however. Those advocating against bills may also have had an effect on changes to New Hampshire's House Bill 421 (1998) and Texas' House Bill 587 (2001) that added sexual orientation as a protected class to their hate crime laws. For

New Hampshire's House Bill 421, lawmakers added a clause at the beginning of the bill: "the definition of sexual orientation does not render lawful any conduct prohibited by the criminal laws of New Hampshire." While sexual orientation was included as a protected class, New Hampshire lawmakers circumvented officially supporting sexual minorities and how they live their lives. In Texas, there was a terminology change for a protected class. The original version of House Bill 587 used sexual orientation to describe the protected class, but this was later changed to "sexual preference," a controversial term given its implication that sexual orientation is a choice. There was ardent opposition from organizations and individuals to granting sexual minorities legal protection under New Hampshire's and Texas' hate crime statutes. While those in opposition to House Bill 421 (1998) and House Bill 587 (2001) did not prevent the bills from passing, they affected the language in the legislation to some degree.

One particular special interest group made its presence known in multiple states by speaking in hearings for hate crime bills. The Eagle Forum—a politically conservative interest group—consistently listed its opposition to bills across multiple states, and often gave testimony speaking against the bills as well. Their presence across multiple states again highlights the complexity of the legislative process and the fuzziness between Internal Determinants and Regional Diffusion. Collectively, while advocacy work has historically benefited marginalized groups by helping to get hate crime laws passed across the U.S., individuals and moral entrepreneurs who are against hate crime laws also affected laws, albeit to a lesser degree.

Political Factors

Political factors showed up in the selected states' legislative history documents, all of which were state-specific and thus Internal Determinants at work. Evidence of the roles political factors play in hate crime statute adoption found within legislative history documents from the selected states partially supports the findings of prior literature in this area (Grattet et al., 1998; Jenness & Grattet, 1996; Soule & Earl, 2001). The legislative history documents compiled for this dissertation did not really describe competition between political parties, something Haider-Markel (1998) found in their study to be a positive influence on hate crime policy adoption among states. In fact, one legislative history document in Utah explicitly mentioned bipartisan sponsorship on Senate Bill 103 (2019). Political parties themselves were not mentioned in the documents, outside of bill sponsor information, which included what political party the lawmaker belonged to.

While this dissertation did not find support for the role of political party competition in the selected states' legislative history documents, this dissertation did find evidence of other political factors that prior research has found influence hate crime law adoption (Grattet et al., 1998; Jenness & Grattet, 1996; Soule & Earl, 2001). In some states, such as New Hampshire and Texas, lawmakers talked about the need to act in the best interests of their constituents. Lawmakers in each state claimed that their constituents did not support adding sexual orientation as a protected class. In a letter to the Utah Legislature, the United Jewish Federation of Utah mentioned that 64% of Utahns supported the passage of Senate Bill 103 (2019). Utah lawmakers enacted Senate Bill 103, which became the state's first hate crime statute, aligning with what state

citizens supported. Based upon these examples, it seems that while state lawmakers are cognizant of how their constituents and citizens feel about bills, they may not always act in the best interests of everyone in the state.

Claims that hate crime bills would improve/equalize the rights of specific groups, and that hate crime bills would increase public safety both represent political factors. Both arguments aim to appeal to what ideally is lawmakers' collective desire to act in (what they believe to be) the best interests of the people they represent. Equal rights for all and increased public safety both appeal to what lawmakers (should) strive to achieve in their work. Arguments that hate crime bills would equalize the rights of specific groups and would increase public safety were found in six states (California, Connecticut, Georgia, Illinois, New Hampshire, and Washington, DC). These claims align with the concept of 'greater commitment to group rights' that prior research in this area uncovered (Grattet et al., 1998; Jenness & Grattet, 1996; Soule & Earl, 2001) and with Internal Determinants. Those studies found that states were more likely to adopt hate crime legislation when lawmakers possess a greater commitment to group rights. Given that many of the selected states added various protected classes—either individually or, in Georgia's and Utah's cases, many at once—to their hate crime legislation, there appears to be at least *some* commitment to group rights among state lawmakers in the sample.

These political factors are reflective of different considerations politicians contemplate while deciding how they will approach legislation development and adoption. Politicians are elected, and if they want to maintain their position, they need to appease their constituents and try to gain favor with other citizens to boost their chances of reelection. As such, they *should* try to act in the best interests of as many citizens as

possible and respond to their demands. Equalizing rights for marginalized groups by including them as protected classes is one way to appeal to those groups. Increasing public safety is a near-universal way to appeal to people, although people arguably envision public safety in different ways. Another way to at least gain some favor with citizens is to give them a chance to provide feedback on legislation.

As evidenced in the analyses, lawmakers are at least willing to give citizens and organizations a platform to share their opinions on bills. Four states—Connecticut, New Hampshire, Texas, and Utah—and Washington, DC had public hearing testimony present or mentioned in their legislative history documents. New Hampshire lawmakers were even willing to share citizen testimony on their behalf in debates over House Bill 421 (1997). For New Hampshire's House Bill 608 (2019), lawmakers explicitly mentioned they spoke with citizens in focus groups to develop the bill, which added gender identity as a protected class. Whether testimony given by citizens and special interest groups is actually a significant influence for lawmakers when developing and adopting hate crime bills is up to lawmakers themselves, but they do at least give citizens a (one-time) direct line of communication with them.

Lawmakers have much to ponder when developing and acting on hate crime bills. Their alignment with the desires of their constituents and state citizens is not a guarantee. Given the sometimes fierce and polarized debate surrounding hate crime law, lawmakers will likely never be able to make everyone happy with a hate crime bill. The considerations described above will remain a competing voice in the heads of lawmakers across the U.S.

‘Visibility’ of Hate Crime

The ‘visibility’ of hate crime was readily located within the selected states’ legislative history documents. Lawmakers, advocacy groups, and citizens speaking in favor of hate crime bills often cited local (i.e., state-specific) hate crime statistics and individual hate crime incidents. Such state-specific references represent Internal Determinants. In some instances, those arguing for the passage of hate crime bills mention hate crime statistics and cases in other states and at the national level, reflective of Regional Diffusion. Regardless of whether hate crime statistics/cases were local or from another state/nationwide, speakers used the statistics and cases for a unified purpose. This was to show that hate crimes are occurring, and such cases can be tragic.

Mention of local hate crime statistics and cases presented hate crime as a problem affecting the citizens lawmakers are elected to (theoretically) serve. This aligns with findings from prior research: that as ‘visibility’ of hate crimes increases due to rising hate crime prevalence and public attention, the public will likely call upon elected officials to do something about it (Grattet et al., 1998; Jenness & Grattet, 1996). Citizens, advocacy groups, and lawmakers shared testimony at hearings for many of the hate crime bills examined in the analyses and hate crime data/cases were frequently used to substantiate their arguments that hate crime bills should be passed. Given that these hate crime bills were subsequently enacted, it appears that these two aspects of hate crime ‘visibility’—hate crime prevalence and public attention to hate crime—played a role in the adoption of state hate crime legislation adoption.

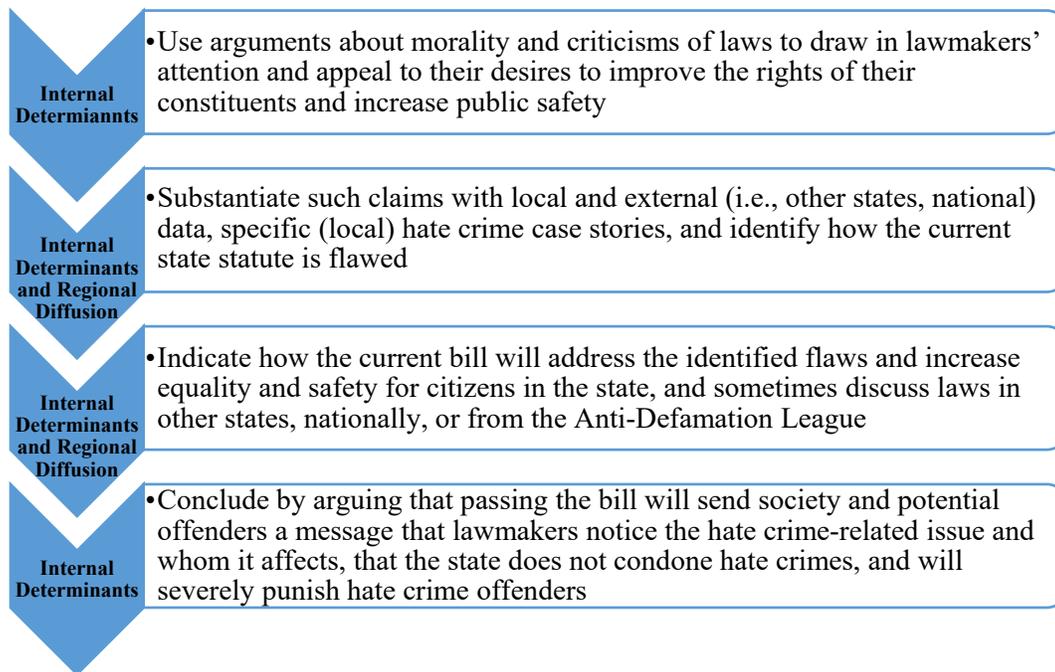
Actions by Other Jurisdictions

Last, the actions of other jurisdictions—which are the focus of Regional Diffusion—were mentioned in some of the selected states’ legislative history documents. Prior literature has found mixed support for Regional Diffusion in the context of hate crime legislation adoption (Grattet et al., 1998; Soule & Earl, 2001). Indeed, research has found that some states were more likely to adopt hate crime legislation as the number of other states doing so increased. If a state felt the actions of other states were objectionable, though, states were less likely to adopt similar laws (Soule & Earl, 2001). References to aspects of other states were uncommon relative to the presence of Internal Determinants references in the same of legislative history documents. Nevertheless, lawmakers, advocacy groups, and citizens referenced hate crime laws and other characteristics in other states. References served to provide an example for how the state should develop its own law, and/or as evidence that another states’ hate crime law is legally sound or not. When lawmakers mentioned limitations with other states’ hate crime laws, it was sometimes in combination with reference to U.S. Supreme Court cases, and how their state needed to amend its own legislation to avoid similar legal challenges. In addition, a handful of legislative history documents included statements by lawmakers and citizens that a number of states have laws in place like their states’ bill. Therefore, they need to follow suit and enact their bill, further supporting the findings from prior literature (Grattet et al., 1998; Soule & Earl, 2001). Collectively, while references to other states and the nation’s hate crime laws, hate crime statistics, and individual hate crime cases were few in number (34 in 5,138 pages overall), they provide

evidence of Regional Diffusion's presence. States turned to other jurisdictions as one source of insight for how they should approach their own hate crime laws.

General Strategy for Hate Crime Law Adoption

This dissertation's detailed analysis of legislative history documents in nine states and Washington, DC affirmed the speculation that legislative history documents can be useful for analyzing state hate crime legislation. Legislative history documents were useful for divining legislative intent and understanding what factors lawmakers consider when developing and acting upon bills. This dissertation found evidence of state-specific factors and characteristics throughout the sample of legislative history documents (evidence of Internal Determinants), along with several references to external jurisdictions (evidence of Regional Diffusion). While states approached the legislative development and adoption process for their hate crime bills a bit differently, several common themes and a general strategy among the selected states emerged. This approach (as seen in Figure 6) strives to get lawmakers invested in progressing the bill through the state's legislative process all the way to passing the bill.

Figure 6*General Strategy for Hate Crime Bill Adoption***Considerations for Future Research**

Future qualitative and quantitative research can likely uncover a more complete understanding of what factors and information play a role in the development and adoption of state hate crime legislation. One way to do this is to look at a state's complete slate of hate crime statutes. This dissertation only examined statutes that denoted protected classes and penalty enhancements, as they serve as the foundation for other types of hate crime laws. States, however, can also have statutes that: mandate hate crime-focused data collection and law enforcement training; allow civil action to be taken in hate crime cases; give victims of hate crime additional rights and resources; and criminalize institutional vandalism, cross burning, and interference with religious worship (Bills & Vaughn, under review). It may be that the factors influencing the legislative development process operate differently for these other forms of hate crime

legislation. More specifically, state-specific factors (evidence of Internal Determinants), such as fiscal restraints, may play a more substantial role for mandated hate crime data collection, law enforcement training statutes, and those that afford hate crime victims more rights and resources. Such laws require the use of additional financial resources. These same statutes and those allowing civil action to be taken in hate crime cases may have more consideration given to the limited resources of the courts as well. Legislative history documents, at least from states that maintain more detailed Legislative Records, may shed light on the development and adoption process for hate crime statutes beyond those that designate protected classes and penalties for hate crimes.

Future research should examine the legislative history documents accompanying hate crime laws in different states to determine if they align with the general hate crime legislation adoption strategy that arose from this dissertation's analyses. Legislative history documents from other states may expand our understanding of how Internal Determinants and Regional Diffusion operate in the realm of hate crime law adoption as well. It may be that some states heavily rely upon the actions of other states when developing their own hate crime laws, which would align with the central tenet of Regional Diffusion. Though it is clear that themes emerge across states, input from criminal justice actors and advocacy groups may have a substantial influence on lawmakers' decision making, for example. States may also have different internal/state-specific factors that play a role in hate crime law adoption from the nine selected states and Washington, DC altogether, which would reflect another impact of Internal Determinants. Future research should explore these and other aspects in states' legislative history documents.

Other Potential Sources of Information for Hate Crime Law Adoption Research

An examination of what characteristics, information, and considerations play a role in the development and adoption of hate crime legislation may also benefit from examining more than just legislative history documents. Some legislatures also maintain audio transcripts of legislative sessions, which may contain more conversation and information from lawmakers than legislative history documents do. News articles may also provide comments on bills from lawmakers that they only shared in interviews or statements given to the media. In addition, the use of social media by politicians is becoming more commonplace. How politicians use social media and what they say on various platforms may shed light on opinions lawmakers have about an issue or provide a different perspective on bills, including hate crime bills. Future scholarship will need to critically consider how to compile this information from disparate sources and analyze it.

Limitations

This dissertation is not without limitation. First, a purposive sample of nine states and Washington, DC was used for analysis. There may be unique insight and information in legislative history documents in the 41 states excluded from analyses. The general ‘strategies’ these states employ to develop and adopt hate crime legislation may differ from those included in the sample.

For four states—Georgia, Indiana, Utah, and Wyoming—legislative history documents were limited or all-together absent, minus the final bill text and/or a chronological bill history. This narrowed the amount of information available to analyze for this dissertation’s purposes. More specifically related to this dissertation’s theoretical focus, few (or no) examples of Internal Determinants or Regional Diffusion were

uncovered in these four states' legislative history documents. As such, an understanding of how hate crime bills in these four states were developed and (except in Wyoming) adopted could not be ascertained. This also hampered some of the within-region and overall state comparison analyses. It is quite possible other states not included in the sample also have sparse legislative history documents, which would limit what could be learned about their legislative development processes.

Legislative history documents were limited for some bills in states that collectively had more substantial legislative history documents. Many state legislature and archive websites indicate that the older a bill is, the less likely that legislative history documents are available. Some exceptions were found among the bills examined for this dissertation, however. As state legislatures made the shift to keeping digital records for legislative sessions, some legislatures archived old legislative history documents online. But, this was not the case for all bills. In some cases, there were few or no legislative history documents maintained for older bills. For those bills, this lack of legislative history documents is disappointing given that the bills were their state's first hate crime law. This remains an important gap and something that digitalization and technology will hopefully continue to improve. For older bills, this is contingent upon whether legislative history documents were created during the bill development process. Improved online legislative records for future bills is dependent upon the willingness of state officials to compile those legislative history documents.

Some of the selected states had legislative history documents, but some potentially useful documents were absent, such as committee and House/Senate discussions and public hearing testimony. These documents provided insight into how

Internal Determinants and Regional Diffusion are infused into the hate crime legislation development process in several of the selected states, including Connecticut, New Hampshire, and in Washington, DC.

Last, for the nine states and Washington, DC, the majority of legislative history documents were solely records of legislative actions taking place, such as documentation that bills were sent to committees, voting results, and bill draft text. These documents are useful for chronicling how bills progress through the legislative process. They do not, however, provide information related to state-specific factors (Internal Determinants) or actions/attributes of other states (Regional Diffusion) that may have influenced the hate crime legislation development process. This made these documents less useful for this dissertation's analyses.

A lack of legislative history documentation—whether for one bill or for multiple—may be a message of its own kind, that the state legislature does not want its legislative process or the information and factors that lawmakers consider when developing legislation to be well known. Alternatively, states may not have a tradition or requirement of maintaining legislative history documents, so they are absent for this reason. Much remains to be understood about how each of these states developed and adopted their hate crime bills (or, in Wyoming's case, did not adopt any of their 11 introduced hate crime bills).

CHAPTER VI

Conclusion

That said, a great deal was and can continue to be gleaned from the legislative history documents, particularly given that legislative history documents from state hate crime legislation had not been examined in great detail by prior research. Further, the findings from this dissertation largely affirm what prior related research found (Grattet et al., 1998; Haider-Markel, 1998; Jenness, 1999; Jenness & Grattet, 1996; Soule & Earl, 2001). Indeed, this dissertation's analyses found that social movements, political factors, 'visibility' of hate crime, and actions of other jurisdictions were all present in the sample of legislative history documents. Advocacy groups and organizations mostly supported the passage of hate crime bills, but some argued against them. Lawmakers toil with political factors in the legislative development process. While competition between political parties was not found within the legislative history documents, analyses did show that some lawmakers possessed a greater commitment to group rights by making improvements to hate crime laws. Hate crime data and specific cases were referenced heavily by those speaking about and arguing for hate crime bills to be passed, representative of the 'visibility' of hate crime, providing evidence for both Internal Determinants and Regional Diffusion. Last, the actions of other jurisdictions were discussed, including hate crime laws in other states, U.S. Supreme Court cases related to some of those laws, and hate crime statistics in other states. While the majority of legislative history document portions that included these four factors identified by prior research were evidence of Internal Determinants, there is also some evidence of Regional Diffusion as well.

States need to better equip their criminal legal systems to better respond to hate crime, from punishing offenders, to providing informed support and resources for victims. A more effective response to hate crime will show the community that jurisdictions consider hate crime a serious matter and one that the criminal legal system is ready, willing, and able to respond to. Nationwide (e.g., the September 11, 2001 terrorist attacks) and worldwide (e.g., the COVID-19 pandemic) events spark increases in specific forms of hate crime. Some people may attribute blame to members of groups deemed ‘responsible’ for the events (Arab and Muslim individuals with 9/11, and those of Asian descent with the COVID-19 pandemic) and take out their frustrations and anger on those who belong to (or are perceived to belong to) those groups. Increases in the number of hate crimes committed toward Arab and Muslim individuals are reflected in UCR data (FBI, n.d.), and anti-Asian hate crimes should be reflected in subsequent UCR yearly publications.

Given that hate crime data from all jurisdictional levels show hate crime’s continued and prevalent presence, hate crime is clearly not going anywhere. The criminal legal system needs to be willing and able to adapt to pressing issues such as hate crime. Legislation is a way to do this, and something that provides a foundation for more specific ways to address hate crime. Time will tell if states get on board with effecting positive change in how they handle hate crime. The general approach to adopting hate crime laws this dissertation uncovered, along with the expansive legislation found in California, Illinois, Texas, Utah, and Washington, DC, provide a solid framework for all states to follow as they pursue hate crime law reform in the future.

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perceptions and reporting actions? *British Journal of Criminology*, 56(2), 239-255.

Williams, M.L., & Tregidga, J. (2014). Hate crime victimization in Wales: Psychological and physical impacts across seven hate crime victim types. *British Journal of Criminology*, 54(5), 946-967.

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Wong, K., Christmann, K., Meadows, L., Albertson, K., & Senior, P. (2013). *Hate crime in Suffolk: Understanding prevalence and support needs*. Hallam Centre for Community Justice, Sheffield Hallam University.

VITA

Matthew Allan Bills

Education

2021 Ph.D., Criminal Justice, Sam Houston State University.

Dissertation: An analysis of state hate crime legislation: Do legislative history documents hold the key to hate crime law reform?

2017 M.A., Criminal Justice and Criminology, Sam Houston State University.

Thesis: The impact of low self-control and risky lifestyles on juvenile victimization.
Chair: Dr. Ling Ren

2015 B.S., Criminal Justice. Minor, Psychology, Sam Houston State University.

Academic Positions

2019-2021 Doctoral Teaching Fellow in the Department of Criminal Justice and Criminology at SHSU

2019-present Doctoral Research Assistant in the Department of Criminal Justice and Criminology at SHSU for Drs. Danielle Boisvert, Brittany Hayes, Eryn O'Neal, & Erin Orrick

2017-2019 Doctoral Research Assistant: Crime Victims' Institute at SHSU; Director: Dr. Cortney Franklin

2015-2017 Teaching and Research Assistant in the Department of Criminal Justice and Criminology at SHSU for Drs. Randy Garner, Brittany Hayes, Kathy Latz, Eryn O'Neal, Ryan Randa, Ling Ren, Victoria Titterington, & Jihong Zhao.

Research Interests

Hate Crime
Criminal Justice Policy
Victimology
Victimization on College Campuses

Peer-Reviewed Publications

Bills, M.A., & Hayes, B.E. (Accepted). Examining the effect of adherence to sexist attitudes and traditional family/gender roles on attitudes toward sexual minorities. *Journal of Homosexuality*.

Hoppe, S., Zhang, Y., Hayes, B.E., & **Bills, M.A.** (2020). Mandatory arrest and recidivism: A meta-analysis of domestic violence literature. *Aggression and Violent Behavior*. DOI: 10.1080/00918369.2020.1826836

Bills, M.A., O'Neal, E.N, Hayes, B.E., & Meeker, K.A. (2019). Writing between the lines: Examining unprompted handwritten student comments on a campus climate survey. *Journal of School Violence*, 19(2), 205-218.

Hayes, B.E., O'Neal, E.N., Meeker, K.A., Steele, S.A., Brady, P.Q., & **Bills, M.A.** (2018). Assessing online strategies aimed at enhancing campus safety. *Journal of Aggression, Conflict, and Peace Research*, 10(2), 112-122.

He, N., Ren, L., Zhao, J., & **Bills, M.A.** (2018). Public attitudes toward the police: Findings from a dual-frame telephone survey. *International Journal of Offender Therapy and Comparative Criminology*, 62(7), 1992-2015.

Manuscripts in Progress

Bills, M.A., Hayes, B.E., & Vaughn, M.S. (Under Review). A snapshot of hate crime legislation in the United States and its territories.

Technical Reports

Bills, M.A., & Hayes, B.E. (2019). *Legislation and prosecution of hate crime*. Hate Crime Series, Vol. 1, Iss. 4, Crime Victims' Institute.

Bills, M.A., O'Neal, E.N, Hayes, B.E., & Meeker, K.A. (2019). Writing between the lines: Examining unprompted handwritten student comments on a campus climate survey. Campus Sexual Assault Series, Vol. 3., Iss. 1, Crime Victims' Institute.

Bills, M.A., & Franklin, C. (2018). *Hate crime: An overview*. Hate Crimes Series, Vol. 1, Iss. 1, Crime Victims' Institute, 2018.

Hayes, B.E., O'Neal, E.N., Meeker, K.A., Steele, S.A., Brady, P.Q., & **Bills, M.A.** (2018). *Assessing online strategies aimed at enhancing campus safety*. Campus Sexual Assault Series, Vol. 2, Iss. 2, Crime Victims' Institute.

Grant Work

2018-2019 Research Assistant. *Research and evaluation of Houston Police Department's response to sexual assault and domestic violence survivors*. PI: Dr. Courtney Franklin. Funded by the Office of Violence Against Women.

2017 Interviewer: *Measuring the effects of correctional officer stress on the well-being of the officer and the prison workplace and developing a practical index of officer stress for use by correctional agencies*. PI: Dr. John Hepburn; Texas Site Coordinator: Dr. Melinda Tasca; Texas Site Co-Coordinator: Dr. H. Daniel Butler. Funded by the National Institute of Justice (Award No. 2014-IJ-CX-0026). SHSU Subcontract: \$127,194.

Conference Presentations

Bills, M.A., Hayes, B.E., & Vaughn, M.S. (2019). A snapshot of hate crime legislation in the United States and its territories. Presentation at the American Society of Criminology in San Francisco, California.

Bills, M.A., & Hayes, B.E. (2018). Examining the effect of adherence to sexist attitudes and traditional family/gender roles on attitudes toward sexual minorities. Presentation at the American Society of Criminology in Atlanta, Georgia.

Bills, M.A., O'Neal, E.N, Hayes, B.E., & Meeker, K.A. (2017). Unprompted handwritten student comments on a campus safety survey. Presentation at the American Society of Criminology in Philadelphia, Pennsylvania.

Bills, M.A., & Ren, L. (2017). The impact of low self-control and risky lifestyles on juvenile victimization. Presentation at the Academy of Criminal Justice Sciences in Kansas City, Missouri.

TEACHING

Doctoral Teaching Fellow, SHSU

Undergraduate

Introduction to Methods of Research, Spring 2020-Spring 2021

Teaching Assistant, Department of Criminal Justice and Criminology, SHSU

Graduate

Child Abuse and Neglect
Elder Abuse and Victimization
Gender and Crime
Seminar in Victimology

Undergraduate

Correctional Strategies
Correctional Systems and Practices
Criminal Justice Statistics
Gender and Crime
Introduction to the Criminal Justice System

Police Systems and Practices
 Statistics
 Victimology

PROFESSIONAL DEVELOPMENT

Workshops and Conferences Attended

2020 Sam Houston State's 16th Annual Diversity Leadership Conference

2019 Sam Houston State's Annual Teaching and Learning Conference

SERVICE

College and University

2020 Speaker, Teaching Tips and Tricks Presentation to SHSU Criminal Justice Graduate Student Organization.

2019-2021 Coordinator, Walk a Mile in Her Shoes. An event sponsored by SHSU, as a part of their Sexual Assault Awareness Month.

2020 Walk a Mile was cancelled due to COVID-19 concerns.

2018 Co-Coordinator, Walk a Mile in Her Shoes. An event sponsored by SHSU, as a part of their Sexual Assault Awareness Month.

2018-2021 Member, Sam Houston State Sexual Assault Awareness Month Committee.

2017-2018 Volunteer, Walk a Mile in Her Shoes. An event sponsored by SHSU, as a part of their Sexual Assault Awareness Month.

2016-current Peer Mentor, for fellow criminal justice and criminology graduate students.

2015-current Member, SHSU Department of Criminal Justice and Criminology Graduate Student Organization.

Profession

2020 Manuscript Reviewer: *Journal of School Violence*, *Journal of Criminal Justice Education*

2019 Lightning Talk Discussant, American Society of Criminology: San Francisco, California. Disproportionate representation of minority youth in the juvenile justice system: Is race and unconscious bias the root cause or is access to services by no other means?

2017 Panel Chair, ACJS Conference: Kansas City, Missouri. Victimization and offending: Exploring the roles of control and financial well-being.

Honors and Awards

2018-2021 John Lee McMaster Criminal Justice Scholarship, SHSU.

2018 Raven Scholar, SHSU.

2017-2021 Doctoral Scholarship, Department of Criminal Justice and Criminology, SHSU.

2016-2021 Graduate Bearkat Grant, SHSU.

2015-2017 Graduate Fellowship Scholarship, SHSU.

2015 Graduated Summa Cum Laude with Honors, SHSU.

2012 Assam Scholarship in Honors Research, SHSU.

2012-2015 President's List, SHSU.

2011-2015 Dean's List, College of Criminal Justice, SHSU.

2011-2015 Elliot T. Bowers Honors Scholarship, SHSU.

2011-2012 High School Relations Scholarship, Liberal Arts and Science Academy of Austin.

Professional Affiliations

American Society of Criminology (ASC), member, Student Division of Victimology
Academy of Criminal Justice Sciences (ACJS), member, Student Division of
Victimology