

Kenai Peninsula Borough Assembly

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Kelly Cooper, Assembly President (B) for K.C.
Hall Smalley, Assembly Vice-President (B) for H.S.

DATE: February 13, 2020

RE: Resolution 2020-016, Supporting Alaska House Bill 198, an Act Relating to Aggravating Factors Considered at Sentencing (Cooper, Smalley)

This resolution expresses the Kenai Peninsula Borough Assembly's support of House Bill 198, *An Act Relating to Aggravating Factors Considered at Sentencing*, pre-filed by Rep. Andy Josephson of Anchorage for the Alaska State Legislature's session in 2020.

A series of escalating incidents of harassment and assault in the Central Kenai Peninsula in 2019, targeted against an individual based on sexual orientation, led to a town hall meeting on January 4, 2020 on the issue of public safety. This town hall meeting, open to the public, was attended by over 100 Kenai Peninsula Borough residents, including many law enforcement officials and elected officials. Many individuals spoke about incidents of harassment and violence that they had experienced based on their sexual orientation or gender identity.

At the town hall meeting, protection against hate crime was discussed. A hate crime may be defined as a criminal offense against a person or property motivated in whole or in part by an offender's bias against the victim's race, religion, disability, sexual orientation, ethnicity, gender, or gender identity. At present, Alaska Statute 12.55.155(c)(22) provides as an aggravating factor for sentencing for a serious crime that "the defendant knowingly directed the conduct constituting the offense at a victim because of that person's race, sex, color, creed, physical or mental disability, ancestry, or national origin," but does not include sexual orientation or gender identity as an aggravating factor for sentencing of a person convicted of the crime.

Hate crimes are an extreme form of prejudice intended to target the victims and to intimidate an entire group. One term used is "Message Crime", perpetrated to create fear and anxiety among "vulnerable" groups and real people in our community. Do it to one and "they" will be looking over their shoulders. It doesn't happen often, law enforcement tells us. Targeted members tell us these crimes

are rarely reported because reporting these crimes results in increased violence. Including this in the hate crimes section will not make the "rest of us" less safe or raise others to a more important level. Our children are also targets and deserve protection and deserve examples of how we honor all people and that this behavior will not be accepted.

After the town hall meeting, Rep. Andy Josephson of Anchorage pre-filed HB 198, and cited incidents in 2019 and this town hall meeting as some of the reasons for this bill. HB 198 would amend AS 12.55.155(c)(22) to expand hate crime protections to include "sexual orientation or gender identity" as aggravating factors for sentencing of a person convicted of a crime. A finding of an aggravating factor allows the sentencing court to increase a presumptive sentence for a crime up to the maximum sentence for that crime.

The Kenai Peninsula Borough is a diverse community, with residents who fall along the full range of sexual orientation and gender identity spectrums. As a matter of public safety, criminal offenses motivated in whole or in part by an offender's bias against the victim's sexual orientation or gender identity have no place in our community.

Your support of this resolution is appreciated.