

S. 2400 — Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 — DOD Motion to Instruct Conferees on Hate Crimes

The Senate attached a provision to the DOD Authorization bill that would establish a new federal hate crime offense for “violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of the victim.”

When the House appoints conferees, it is in order to instruct the conferees, and it is expected that the Democrats will offer a non-binding motion to instruct the House conferees to accept the Senate hate crimes provision.

Note: The House voted on a similar non-binding motion in 2000.

<http://clerk.house.gov/evs/2000/roll471.xml> The motion passed 232 to 192, but the provision was ultimately dropped from the bill signed into law.

Federalizing State Crimes:

The Senate provisions specifically authorize federal involvement in any crime that:

- “constitutes a crime of violence (as defined in section 16 of title 18, United States Code);
- “constitutes a felony under the laws of the State or Indian tribe; and
- “is motivated by prejudice based on the race, color, religion, national origin, gender, sexual orientation, or disability of the victim, or is a violation of the hate crime laws of the State or Indian tribe.”

The findings of the Senate provision note that federal involvement is warranted under the Commerce Clause because, for instance, “Such violence is committed using articles that have traveled in interstate commerce.”

New Federal Grant Programs: The Senate provision authorizes \$10 million over two years and such sums as may be necessary for new grant programs to combat hate crimes, to both state and local law enforcement, and to local organizations.

The Senate provision includes mandatory sentences for offenses committed “because of the actual **or perceived** religion, national origin, gender, sexual orientation, or disability of” the victim (emphasis added).

Additional Information: Hate crimes, defined as “crimes that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity,” represent less than one tenth of one percent of crimes committed nationwide every year. In 2001, law enforcement agencies at all levels reported 9,730 hate crime incidents out of more than 11 *million* crimes. **Of those labeled hate crimes, only 10 were murders and the majority of the crimes against persons were crimes characterized as “intimidation,” as opposed to any crime involving bodily injury.**

The Senate Republican Policy Committee has published a detailed white paper explaining some of the flaws with the hate crimes provisions, which are virtually identical to a bill authored by Senator Kennedy. To read the paper go to:
<http://rpc.senate.gov/files/CRIMEcr071503.pdf>

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