

Union Calendar No. 67

110TH CONGRESS
1ST SESSION

H. R. 1592

[Report No. 110-113]

To provide Federal assistance to States, local jurisdictions, and Indian tribes to prosecute hate crimes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2007

Mr. CONYERS (for himself, Mr. KIRK, Mr. FRANK of Massachusetts, Mr. SHAYS, Ms. BALDWIN, Ms. ROS-LEHTINEN, Mr. NADLER, Mrs. BONO, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ALLEN, Mr. ANDREWS, Mr. ARCURI, Mr. BACA, Mr. BAIRD, Mr. BECERRA, Ms. BERKLEY, Mr. BERMAN, Mrs. BIGGERT, Mr. BISHOP of New York, Mr. BLUMENAUER, Ms. BORDALLO, Mr. BOSWELL, Mr. BRADY of Pennsylvania, Mr. BRALEY of Iowa, Ms. CORRINE BROWN of Florida, Mrs. CAPPS, Mr. CAPUANO, Mr. CARNAHAN, Ms. CARSON, Mr. CASTLE, Mr. COHEN, Mr. COSTA, Mr. COURTNEY, Mr. CROWLEY, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mrs. DAVIS of California, Mr. DEFazio, Ms. DEGETTE, Mr. DELAHUNT, Ms. DELAURO, Mr. DINGELL, Mr. DOGGETT, Mr. DOYLE, Mr. ELLISON, Mr. EMANUEL, Mr. ENGEL, Mr. FARR, Mr. FATTAH, Mr. FILNER, Mr. GERLACH, Ms. GIFFORDS, Mr. GONZALEZ, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. HASTINGS of Florida, Mr. HIGGINS, Mr. HINCHEY, Ms. HIRONO, Mr. HODES, Mr. HOLT, Mr. HONDA, Ms. HOOLEY, Mr. INSLEE, Mr. ISRAEL, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KAGEN, Mr. KENNEDY, Mr. KILDEE, Mr. KIND, Mr. KLEIN of Florida, Mr. KUCINICH, Mr. KUHL of New York, Mr. LANGEVIN, Mr. LARSON of Connecticut, Ms. LEE, Mr. LEVIN, Mr. LEWIS of Georgia, Mr. LOEBSACK, Ms. ZOE LOFGREN of California, Mrs. LOWEY, Mr. LYNCH, Mrs. MALONEY of New York, Mr. MARKEY, Ms. MATSUI, Ms. MCCOLLUM of Minnesota, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. McNULTY, Mr. MEEHAN, Mr. MICHAUD, Mr. MILLER of North Carolina, Mr. GEORGE MILLER of California, Ms. MOORE of Wisconsin, Mr. MOORE of Kansas, Mr. MORAN of Virginia, Mr. MURPHY of Connecticut, Mr. PATRICK J. MURPHY of Pennsylvania, Mrs. NAPOLITANO, Ms. NORTON, Mr. OLVER, Mr. PALLONE, Mr. PASCRELL, Mr. PASTOR, Mr. PAYNE, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Ms. LINDA T.

SÁNCHEZ of California, Ms. SCHAKOWSKY, Mr. SCHIFF, Ms. SCHWARTZ, Mr. SCOTT of Virginia, Mr. SERRANO, Ms. SHEA-PORTER, Mr. SHERMAN, Mr. SIRES, Mr. SKELTON, Ms. SLAUGHTER, Mr. SMITH of Washington, Mr. STARK, Ms. SUTTON, Mrs. TAUSCHER, Mr. THOMPSON of California, Mr. TIERNEY, Mrs. JONES of Ohio, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VAN HOLLEN, Ms. WASSERMAN SCHULTZ, Ms. WATSON, Mr. WAXMAN, Mr. WEINER, Mr. WEXLER, Ms. WOOLSEY, Mr. WU, and Mr. WYNN) introduced the following bill; which was referred to the Committee on the Judiciary

APRIL 30, 2007

Additional sponsors: Mr. DAVIS of Alabama, Mr. JACKSON of Illinois, Mr. YARMUTH, Ms. CLARKE, Mr. BISHOP of Georgia, Ms. ESHOO, Ms. KAPTUR, Ms. BEAN, Mr. RUSH, Ms. VELÁZQUEZ, Mr. SNYDER, Mr. PERLMUTTER, Mr. JOHNSON of Georgia, Ms. SOLIS, Mr. RUPPERSBERGER, Mr. LARSEN of Washington, Mr. GUTIERREZ, Mr. WALSH of New York, Mr. CLEAVER, Mr. PRICE of North Carolina, Mr. GILCHREST, Ms. CASTOR, Mr. PLATTS, Mr. CLAY, Mr. MATHESON, Mr. SARBANES, Mr. NEAL of Massachusetts, Mr. MEEKS of New York, Mrs. MCCARTHY of New York, Mr. AL GREEN of Texas, Mr. OBERSTAR, Ms. HARMAN, Ms. KILPATRICK, and Mr. LANTOS

APRIL 30, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 20, 2007]

A BILL

To provide Federal assistance to States, local jurisdictions, and Indian tribes to prosecute hate crimes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Local Law Enforcement*
 5 *Hate Crimes Prevention Act of 2007”.*

1 **SEC. 2. FINDINGS.**

2 *Congress makes the following findings:*

3 *(1) The incidence of violence motivated by the*
4 *actual or perceived race, color, religion, national ori-*
5 *gin, gender, sexual orientation, gender identity, or*
6 *disability of the victim poses a serious national prob-*
7 *lem.*

8 *(2) Such violence disrupts the tranquility and*
9 *safety of communities and is deeply divisive.*

10 *(3) State and local authorities are now and will*
11 *continue to be responsible for prosecuting the over-*
12 *whelming majority of violent crimes in the United*
13 *States, including violent crimes motivated by bias.*
14 *These authorities can carry out their responsibilities*
15 *more effectively with greater Federal assistance.*

16 *(4) Existing Federal law is inadequate to ad-*
17 *dress this problem.*

18 *(5) A prominent characteristic of a violent crime*
19 *motivated by bias is that it devastates not just the ac-*
20 *tual victim and the family and friends of the victim,*
21 *but frequently savages the community sharing the*
22 *traits that caused the victim to be selected.*

23 *(6) Such violence substantially affects interstate*
24 *commerce in many ways, including the following:*

25 *(A) The movement of members of targeted*
26 *groups is impeded, and members of such groups*

1 are forced to move across State lines to escape
2 the incidence or risk of such violence.

3 (B) Members of targeted groups are pre-
4 vented from purchasing goods and services, ob-
5 taining or sustaining employment, or partici-
6 pating in other commercial activity.

7 (C) Perpetrators cross State lines to commit
8 such violence.

9 (D) Channels, facilities, and instrumental-
10 ities of interstate commerce are used to facilitate
11 the commission of such violence.

12 (E) Such violence is committed using arti-
13 cles that have traveled in interstate commerce.

14 (7) For generations, the institutions of slavery
15 and involuntary servitude were defined by the race,
16 color, and ancestry of those held in bondage. Slavery
17 and involuntary servitude were enforced, both prior to
18 and after the adoption of the 13th amendment to the
19 Constitution of the United States, through widespread
20 public and private violence directed at persons be-
21 cause of their race, color, or ancestry, or perceived
22 race, color, or ancestry. Accordingly, eliminating ra-
23 cially motivated violence is an important means of
24 eliminating, to the extent possible, the badges, inci-
25 dents, and relics of slavery and involuntary servitude.

1 (8) *Both at the time when the 13th, 14th, and*
2 *15th amendments to the Constitution of the United*
3 *States were adopted, and continuing to date, members*
4 *of certain religious and national origin groups were*
5 *and are perceived to be distinct “races”. Thus, in*
6 *order to eliminate, to the extent possible, the badges,*
7 *incidents, and relics of slavery, it is necessary to pro-*
8 *hibit assaults on the basis of real or perceived reli-*
9 *gions or national origins, at least to the extent such*
10 *religions or national origins were regarded as races*
11 *at the time of the adoption of the 13th, 14th, and 15th*
12 *amendments to the Constitution of the United States.*

13 (9) *Federal jurisdiction over certain violent*
14 *crimes motivated by bias enables Federal, State, and*
15 *local authorities to work together as partners in the*
16 *investigation and prosecution of such crimes.*

17 (10) *The problem of crimes motivated by bias is*
18 *sufficiently serious, widespread, and interstate in na-*
19 *ture as to warrant Federal assistance to States, local*
20 *jurisdictions, and Indian tribes.*

21 **SEC. 3. DEFINITION OF HATE CRIME.**

22 *In this Act—*

23 (1) *the term “crime of violence” has the meaning*
24 *given that term in section 16, title 18, United States*
25 *Code;*

1 (2) *the term “hate crime” has the meaning given*
2 *such term in section 280003(a) of the Violent Crime*
3 *Control and Law Enforcement Act of 1994 (28 U.S.C.*
4 *994 note); and*

5 (3) *the term “local” means a county, city, town,*
6 *township, parish, village, or other general purpose po-*
7 *litical subdivision of a State.*

8 **SEC. 4. SUPPORT FOR CRIMINAL INVESTIGATIONS AND**
9 **PROSECUTIONS BY STATE, LOCAL, AND TRIB-**
10 **AL LAW ENFORCEMENT OFFICIALS.**

11 (a) *ASSISTANCE OTHER THAN FINANCIAL ASSIST-*
12 *ANCE.—*

13 (1) *IN GENERAL.—At the request of State, local,*
14 *or Tribal law enforcement agency, the Attorney Gen-*
15 *eral may provide technical, forensic, prosecutorial, or*
16 *any other form of assistance in the criminal inves-*
17 *tigation or prosecution of any crime that—*

18 (A) *constitutes a crime of violence;*

19 (B) *constitutes a felony under the State,*
20 *local, or Tribal laws; and*

21 (C) *is motivated by prejudice based on the*
22 *actual or perceived race, color, religion, national*
23 *origin, gender, sexual orientation, gender iden-*
24 *tity, or disability of the victim, or is a violation*
25 *of the State, local, or Tribal hate crime laws.*

1 (2) *PRIORITY.*—*In providing assistance under*
2 *paragraph (1), the Attorney General shall give pri-*
3 *ority to crimes committed by offenders who have com-*
4 *mitted crimes in more than one State and to rural*
5 *jurisdictions that have difficulty covering the extraor-*
6 *inary expenses relating to the investigation or pros-*
7 *ecution of the crime.*

8 (b) *GRANTS.*—

9 (1) *IN GENERAL.*—*The Attorney General may*
10 *award grants to State, local, and Indian law enforce-*
11 *ment agencies for extraordinary expenses associated*
12 *with the investigation and prosecution of hate crimes.*

13 (2) *OFFICE OF JUSTICE PROGRAMS.*—*In imple-*
14 *menting the grant program under this subsection, the*
15 *Office of Justice Programs shall work closely with*
16 *grantees to ensure that the concerns and needs of all*
17 *affected parties, including community groups and*
18 *schools, colleges, and universities, are addressed*
19 *through the local infrastructure developed under the*
20 *grants.*

21 (3) *APPLICATION.*—

22 (A) *IN GENERAL.*—*Each State, local, and*
23 *Indian law enforcement agency that desires a*
24 *grant under this subsection shall submit an ap-*
25 *plication to the Attorney General at such time,*

1 *in such manner, and accompanied by or con-*
2 *taining such information as the Attorney Gen-*
3 *eral shall reasonably require.*

4 *(B) DATE FOR SUBMISSION.—Applications*
5 *submitted pursuant to subparagraph (A) shall be*
6 *submitted during the 60-day period beginning on*
7 *a date that the Attorney General shall prescribe.*

8 *(C) REQUIREMENTS.—A State, local, and*
9 *Indian law enforcement agency applying for a*
10 *grant under this subsection shall—*

11 *(i) describe the extraordinary purposes*
12 *for which the grant is needed;*

13 *(ii) certify that the State, local govern-*
14 *ment, or Indian tribe lacks the resources*
15 *necessary to investigate or prosecute the*
16 *hate crime;*

17 *(iii) demonstrate that, in developing a*
18 *plan to implement the grant, the State,*
19 *local, and Indian law enforcement agency*
20 *has consulted and coordinated with non-*
21 *profit, nongovernmental victim services pro-*
22 *grams that have experience in providing*
23 *services to victims of hate crimes; and*

24 *(iv) certify that any Federal funds re-*
25 *ceived under this subsection will be used to*

1 *supplement, not supplant, non-Federal*
2 *funds that would otherwise be available for*
3 *activities funded under this subsection.*

4 (4) *DEADLINE.*—*An application for a grant*
5 *under this subsection shall be approved or denied by*
6 *the Attorney General not later than 30 business days*
7 *after the date on which the Attorney General receives*
8 *the application.*

9 (5) *GRANT AMOUNT.*—*A grant under this sub-*
10 *section shall not exceed \$100,000 for any single juris-*
11 *isdiction in any 1-year period.*

12 (6) *REPORT.*—*Not later than December 31, 2008,*
13 *the Attorney General shall submit to Congress a re-*
14 *port describing the applications submitted for grants*
15 *under this subsection, the award of such grants, and*
16 *the purposes for which the grant amounts were ex-*
17 *pended.*

18 (7) *AUTHORIZATION OF APPROPRIATIONS.*—
19 *There is authorized to be appropriated to carry out*
20 *this subsection \$5,000,000 for each of fiscal years*
21 *2008 and 2009.*

22 **SEC. 5. GRANT PROGRAM.**

23 (a) *AUTHORITY TO AWARD GRANTS.*—*The Office of*
24 *Justice Programs of the Department of Justice may award*
25 *grants, in accordance with such regulations as the Attorney*

1 *General may prescribe, to State, local, or Tribal programs*
 2 *designed to combat hate crimes committed by juveniles, in-*
 3 *cluding programs to train local law enforcement officers in*
 4 *identifying, investigating, prosecuting, and preventing hate*
 5 *crimes.*

6 (b) *AUTHORIZATION OF APPROPRIATIONS.—There are*
 7 *authorized to be appropriated such sums as may be nec-*
 8 *essary to carry out this section.*

9 **SEC. 6. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO**
 10 **ASSIST STATE, LOCAL, AND TRIBAL LAW EN-**
 11 **FORCEMENT.**

12 *There are authorized to be appropriated to the Depart-*
 13 *ment of the Treasury and the Department of Justice, in-*
 14 *cluding the Community Relations Service, for fiscal years*
 15 *2008, 2009, and 2010 such sums as are necessary to in-*
 16 *crease the number of personnel to prevent and respond to*
 17 *alleged violations of section 249 of title 18, United States*
 18 *Code, as added by section 7 of this Act.*

19 **SEC. 7. PROHIBITION OF CERTAIN HATE CRIME ACTS.**

20 (a) *IN GENERAL.—Chapter 13 of title 18, United*
 21 *States Code, is amended by adding at the end the following:*

22 **“§ 249. Hate crime acts**

23 **“(a) IN GENERAL.—**

24 **“(1) OFFENSES INVOLVING ACTUAL OR PER-**
 25 **CEIVED RACE, COLOR, RELIGION, OR NATIONAL ORI-**

1 GIN.—Whoever, whether or not acting under color of
2 law, willfully causes bodily injury to any person or,
3 through the use of fire, a firearm, or an explosive or
4 incendiary device, attempts to cause bodily injury to
5 any person, because of the actual or perceived race,
6 color, religion, or national origin of any person—

7 “(A) shall be imprisoned not more than 10
8 years, fined in accordance with this title, or
9 both; and

10 “(B) shall be imprisoned for any term of
11 years or for life, fined in accordance with this
12 title, or both, if—

13 “(i) death results from the offense; or

14 “(ii) the offense includes kidnaping or
15 an attempt to kidnap, aggravated sexual
16 abuse or an attempt to commit aggravated
17 sexual abuse, or an attempt to kill.

18 “(2) OFFENSES INVOLVING ACTUAL OR PER-
19 CEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEX-
20 UAL ORIENTATION, GENDER IDENTITY, OR DIS-
21 ABILITY.—

22 “(A) IN GENERAL.—Whoever, whether or
23 not acting under color of law, in any cir-
24 cumstance described in subparagraph (B), will-
25 fully causes bodily injury to any person or,

1 *through the use of fire, a firearm, or an explosive*
2 *or incendiary device, attempts to cause bodily*
3 *injury to any person, because of the actual or*
4 *perceived religion, national origin, gender, sex-*
5 *ual orientation, gender identity or disability of*
6 *any person—*

7 *“(i) shall be imprisoned not more than*
8 *10 years, fined in accordance with this title,*
9 *or both; and*

10 *“(ii) shall be imprisoned for any term*
11 *of years or for life, fined in accordance with*
12 *this title, or both, if—*

13 *“(I) death results from the offense;*

14 *or*

15 *“(II) the offense includes kid-*
16 *naping or an attempt to kidnap, ag-*
17 *gravated sexual abuse or an attempt to*
18 *commit aggravated sexual abuse, or an*
19 *attempt to kill.*

20 *“(B) CIRCUMSTANCES DESCRIBED.—For*
21 *purposes of subparagraph (A), the circumstances*
22 *described in this subparagraph are that—*

23 *“(i) the conduct described in subpara-*
24 *graph (A) occurs during the course of, or as*

1 *the result of, the travel of the defendant or*
2 *the victim—*

3 “(I) *across a State line or na-*
4 *tional border; or*

5 “(II) *using a channel, facility, or*
6 *instrumentality of interstate or foreign*
7 *commerce;*

8 “(ii) *the defendant uses a channel, fa-*
9 *cility, or instrumentality of interstate or*
10 *foreign commerce in connection with the*
11 *conduct described in subparagraph (A);*

12 “(iii) *in connection with the conduct*
13 *described in subparagraph (A), the defend-*
14 *ant employs a firearm, explosive or incen-*
15 *diary device, or other weapon that has trav-*
16 *eled in interstate or foreign commerce; or*

17 “(iv) *the conduct described in subpara-*
18 *graph (A)—*

19 “(I) *interferes with commercial or*
20 *other economic activity in which the*
21 *victim is engaged at the time of the*
22 *conduct; or*

23 “(II) *otherwise affects interstate*
24 *or foreign commerce.*

1 “(b) *CERTIFICATION REQUIREMENT.*—No prosecution
2 of any offense described in this subsection may be under-
3 taken by the United States, except under the certification
4 in writing of the Attorney General, the Deputy Attorney
5 General, the Associate Attorney General, or any Assistant
6 Attorney General specially designated by the Attorney Gen-
7 eral that—

8 “(1) such certifying individual has reasonable
9 cause to believe that the actual or perceived race,
10 color, religion, national origin, gender, sexual ori-
11 entation, gender identity, or disability of any person
12 was a motivating factor underlying the alleged con-
13 duct of the defendant; and

14 “(2) such certifying individual has consulted
15 with State or local law enforcement officials regard-
16 ing the prosecution and determined that—

17 “(A) the State does not have jurisdiction or
18 does not intend to exercise jurisdiction;

19 “(B) the State has requested that the Fed-
20 eral Government assume jurisdiction;

21 “(C) the State does not object to the Federal
22 Government assuming jurisdiction; or

23 “(D) the verdict or sentence obtained pursu-
24 ant to State charges left demonstratively

1 *unvindicated the Federal interest in eradicating*
2 *bias-motivated violence.*

3 “(c) *DEFINITIONS.—In this section—*

4 *“(1) the term ‘explosive or incendiary device’ has*
5 *the meaning given such term in section 232 of this*
6 *title;*

7 *“(2) the term ‘firearm’ has the meaning given*
8 *such term in section 921(a) of this title; and*

9 *“(3) the term ‘gender identity’ for the purposes*
10 *of this chapter means actual or perceived gender-re-*
11 *lated characteristics.*

12 “(d) *RULE OF EVIDENCE.—In a prosecution for an of-*
13 *fense under this section, evidence of expression or associa-*
14 *tions of the defendant may not be introduced as substantive*
15 *evidence at trial, unless the evidence specifically relates to*
16 *that offense. However, nothing in this section affects the*
17 *rules of evidence governing impeachment of a witness.”.*

18 (b) *TECHNICAL AND CONFORMING AMENDMENT.—The*
19 *table of sections at the beginning of chapter 13 of title 18,*
20 *United States Code, is amended by adding at the end the*
21 *following new item:*

 “249. *Hate crime acts.*”.

22 **SEC. 8. DUTIES OF FEDERAL SENTENCING COMMISSION.**

23 *The United States Sentencing Commission shall study*
24 *the issue of adult recruitment of juveniles to commit hate*
25 *crimes and shall report the Commission’s findings back to*

1 *the Congress not later than 180 days after the date of the*
2 *enactment of this Act.*

3 **SEC. 9. STATISTICS.**

4 *(a) IN GENERAL.—Subsection (b)(1) of the first section*
5 *of the Hate Crime Statistics Act (28 U.S.C. 534 note) is*
6 *amended by inserting “gender and gender identity,” after*
7 *“race,”.*

8 *(b) DATA.—Subsection (b)(5) of the first section of the*
9 *Hate Crime Statistics Act (28 U.S.C. 534 note) is amended*
10 *by inserting “, including data about crimes committed by,*
11 *and crimes directed against, juveniles” after “data acquired*
12 *under this section”.*

13 **SEC. 10. SEVERABILITY.**

14 *If any provision of this Act, an amendment made by*
15 *this Act, or the application of such provision or amendment*
16 *to any person or circumstance is held to be unconstitu-*
17 *tional, the remainder of this Act, the amendments made by*
18 *this Act, and the application of the provisions of such to*
19 *any person or circumstance shall not be affected thereby.*

20 **SEC. 11. RULE OF CONSTRUCTION.**

21 *Nothing in this Act, or the amendments made by this*
22 *Act, shall be construed to prohibit any expressive conduct*
23 *protected from legal prohibition by, or any activities pro-*
24 *tected by the free speech or free exercise clauses of, the First*
25 *Amendment to the Constitution.*

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