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Anchorage Daily News

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Racially motivated attack nets prison terms for Anchorage pair**VIDEO: The duo taped the attack; one posted clips on YouTube.**By ELIZABETH BLUEMINK
ebluemink@adn.com

(09/09/10 21:39:15)

The Anchorage duo who threatened and harassed a Native man while he was walking down the street two years ago have been sentenced to prison terms on felony civil rights violations.

Robert Gum, 19, was sentenced to 20 months in prison, and Deanna Scaglione, 21, also known as Deanna Powers, was sentenced to 16 months. Both were given three years of probation, according to court documents.

Federal prosecutors said that the two pursued the Native man, who was on his way to Bean's Cafe, by car and on foot and verbally and physically threatened him -- pelting him with eggs and a water bottle, saying they'd hurt him with a baseball bat and a gun and shouting racial slurs. They took turns recording their June 2008 attack on a video camera and Scaglione later posted clips of the bullying on YouTube.

The two were turned in by a woman who helped raise Scaglione after Scaglione's mother died. The woman called Crime Stoppers, a privately operated tip line.

Gum and Scaglione were arrested in 2009. They admitted to investigators that their attack was racially motivated and that it was Gum's idea. They also admitted that they egged two other Alaska Natives in downtown Anchorage that night, according to prosecutors.

In a plea for leniency, Gum's grandfather wrote that Gum recognized that he had done something very wrong and needed to make amends. But he said his grandson has many Native family members and is "not a racist."

Gum was "a very young man" who committed a stupid crime while "trying to be noticed by his friends," the grandfather wrote.

During the sentencing in federal District Court, the victim of the assault gave a powerful testimonial to the court, said Assistant U.S. Attorney Kevin Feldis, the prosecutor in the case.

The victim "spoke about the impact on him, the fear and the hurt he felt, but also how he moved forward and (his) forgiveness" of his attackers, Feldis said.

The case was investigated by the Anchorage Police Department and the Federal Bureau of Investigation.

"Conduct like the assault that occurred in this case is a crime not only against the victim but also against our entire community and must be appropriately punished," said U.S. Attorney Karen Loeffler after the sentencing.

State prosecutors have also charged the two on misdemeanor assault and harassment charges.

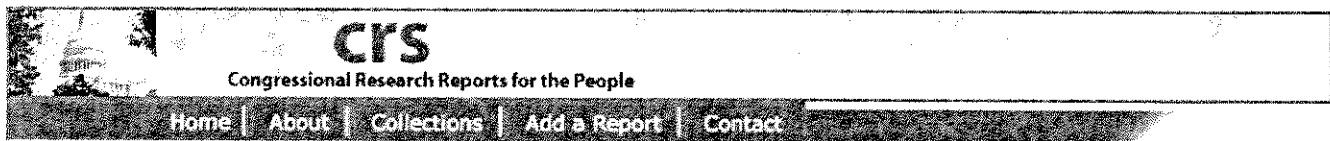
Sentencing in that case has been set for later this month.

Find Elizabeth Bluemink online at adn.com/contact/ebluemink or call 257-4317.

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RL33403

Hate Crime Legislation

November 29, 2010

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Summary

On October 28, 2009, President Barack Obama signed the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act into law, as Division E of the National Defense Authorization Act for Fiscal Year 2010 (P.L. 111-84; H.R. 2647). This law broadens federal jurisdiction over hate crimes by authorizing the Attorney General to provide assistance, when requested by a state, local, or tribal official, for crimes that (1) would constitute a violent crime under federal law or a felony under state or tribal law, and (2) are motivated by the victim's actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability. In other words, hate crimes are traditional crimes during which the offender is motivated by one or more biases considered to be particularly reprehensible and damaging to society as a whole. Prior to enactment, however, hate crimes were not separate and distinct offenses under federal law. Furthermore, federal jurisdiction over hate crime was limited to certain civil rights offenses. Although there is a consensus that hate crime is deplorable, determining the definitive federal role in addressing hate crime has proved contentious, as reflected in the legislative history and congressional debate. Legislation to widen federal jurisdiction over hate crime was passed by the Senate in the 106th and 108th Congresses, by the House in the 109th Congress, and by both chambers in the 110th Congress. Opponents of hate crime legislation view separate federal offenses for hate crime as redundant and largely symbolic, arguing that separate hate crime offenses would be in addition to the legal prohibitions for traditional crime that already exist under either federal or state law. They also contend that in most cases the federal nexus is tenuous, and that such offenses are best handled at the state and local level. Proponents for creating a separate and distinct federal offense for hate crime maintain that there is a fundamental difference between ordinary crime and hate crime. They believe that hate crimes are often perpetrated to send a message of threat and intimidation to a wider group, and that the effects of hate crime extend beyond the particular victim and reflect more pervasive patterns of discrimination on the basis of race, color, religion, national origin, and other characteristics. In the 111th Congress, the House Judiciary Committee amended and ordered reported a hate crimes bill (H.R. 1913; H.Rept. 111-86) on April 23, 2009. The House passed H.R. 1913 on April 29, 2009. Senator Reid, for Senator Kennedy, introduced the Matthew Shepard Hate Crimes Prevention Act (S. 909) on April 28, 2009. Senator Leahy successfully amended the National Defense Authorization Act (S. 1390) with language that is similar to S. 909 on July 16, 2009. The Senate passed S. 1390, amended, on July 23, 2009. The hate crime provisions were included in the conference report on the National Defense Authorization Act for Fiscal Year 2010 (H.R. 2647; H.Rept. 111-288). The House passed the conference report on H.R. 2647 on October 7, 2009; the Senate passed it on October 22, 2009. In addition, Representative Sheila Jackson-Lee has introduced three hate crime-related bills (H.R. 70, H.R. 256, and H.R. 262), and Representative Maloney has introduced a hate crime statistics act (H.R. 823). At issue for Congress is whether the prevalence and harmfulness of hate crimes warrant greater federal intervention to ensure that such crimes are systematically addressed at all levels of government. Another related issue is the completeness and comprehensiveness of national hate crime data. Representative Eddie Bernice Johnson introduced (H.R. 3419), which would amend the Hate Crime Statistics Act to require data collection on crimes committed against homeless persons. Senator Benjamin Cardin introduced an identical bill (S. 1765). On several occasions, the Senate Judiciary Committee was scheduled to mark up this bill during the 111th Congress, but consideration of this bill was postponed.

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OCTOBER 28, 2009, 7:43 PM

Obama Signs Hate Crimes Bill

By JEFF ZELENY

Doug Mills/The New York Times The hate crimes measure was included in the national defense authorization act that President Obama signed into law on Wednesday.

President Obama signed a hate crimes bill into law on Wednesday, telling an audience at the White House that the provision would “strengthen the protections against crimes based on the color of your skin, the faith in your heart, or the place of your birth.”

The law expands the definition of violent federal hate crimes to those committed because of a victim’s sexual orientation. Under existing federal law, hate crimes are defined as those motivated by the victim’s race, color, religion or national origin.

“Prosecutors will have new tools to work with states in order to prosecute to the fullest those who would perpetrate such crimes,” Mr. Obama said, speaking in the East Room of the White House at an evening reception, “Because no one in America should ever be afraid to walk down the street holding the hands of the person they love.”

The hate crimes measure was included in a defense spending bill, which Democratic leaders in Congress intentionally did in an effort to keep Republicans from blocking the legislation. The legislation had been under consideration in Congress for years. It was named in memory of Matthew Shepard, the gay Wyoming college student who was murdered 11 years ago.

“You understood that we must stand against crimes that are meant not only to break bones, but to break spirits — not only to inflict harm, but to instill fear,” Mr. Obama said. “You understand that the rights afforded every citizen under our Constitution mean nothing if we do not protect those rights — both from unjust laws and violent acts.”

The audience at the White House included Denis and Judy Shepard, the parents of Matthew, and the family of the late Senator Edward M. Kennedy, who championed the legislation for years, but died before the bill was ultimately passed.

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S. 909: Matthew Shepard Hate Crimes Prevention Act

111th Congress
2009-2010

Summaries

Congressional Research Service Summary

The following summary was written by the Congressional Research Service, a well-respected nonpartisan arm of the Library of Congress. GovTrack did not write and has no control over these summaries.

4/28/2009--Introduced.

Matthew Shepard Hate Crimes Prevention Act - Adopts the definition of "hate crime" as set forth in the Violent Crime Control and Law Enforcement Act of 1994 (i.e., a crime in which the defendant intentionally selects a victim or, in the case of a property crime, the property that is the object of the crime because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person). Authorizes the Attorney General to: (1) provide state, local, or tribal law enforcement agencies with technical, forensic, prosecutorial, or other assistance in the investigation or prosecution of violent crimes and hate crimes; and (2) award grants to assist such agencies with the extraordinary expenses associated with the investigation and prosecution of hate crimes. Authorizes the Office of Justice Programs to award grants to state, local, or tribal programs designed to combat hate crimes committed by juveniles. Authorizes appropriations to the Department of Justice (DOJ), including the Community Relations Service, for FY2010-FY2012 to prevent and respond to hate crime acts. Amends the federal criminal code to prohibit willfully causing bodily injury to any person because of the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of such person. Amends the Hate Crimes Statistics Act to expand data collection and reporting requirements under such Act to include: (1) crimes manifesting prejudice based on gender and gender identity; and (2) hate crimes committed by and against juveniles. Declares that nothing in this Act shall be construed to prohibit the exercise of constitutionally-protected free speech.

Because the U.S. Congress posts most legislative information online one legislative day after events occur, GovTrack is usually one legislative day behind. For more information about where this data comes from, see [About GovTrack.us](#).

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[Congress](#) > [Legislation](#) > 2009-2010 (111th Congress) > [S. 909](#)

Text of S. 909: Matthew Shepard Hate Crimes Prevention Act

Apr 28, 2009 - Introduced in Senate. This is the original text of the bill as it was written by its sponsor and submitted to the Senate for consideration. This is the latest version of the bill currently available on GovTrack.

S 909 IS

111th CONGRESS

1st Session

S. 909

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

IN THE SENATE OF THE UNITED STATES

April 28, 2009

Mr. REID (for Mr. KENNEDY (for himself, Mr. LEAHY, Ms. SNOWE, Ms. COLLINS, Mr. SPECTER, Mr. SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. LEVIN, Ms. MIKULSKI, Mr. WHITEHOUSE, Mr. CARDIN, Ms. KLOBUCHAR, Mr. LIEBERMAN, Mrs. GILLIBRAND, Mr. MERKLEY, Mr. REED, Mr. NELSON of Florida, Mr. KERRY, Mr. BINGAMAN, Mr. DODD, Mr. BAYH, Mr. UDALL of Colorado, Mrs. SHAHEEN, Mr. HARKIN, Mr. BROWN, Mrs. MURRAY, Mr. CASEY, Mr. JOHNSON, Mr. LAUTENBERG, Mr. NELSON of Nebraska, Ms. LANDRIEU, Ms. CANTWELL, and Mr. AKAKA)) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Matthew Shepard Hate Crimes Prevention Act'.

SEC. 2. FINDINGS.

Congress makes the following findings:

- (1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of the victim poses a serious national problem.
- (2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.
- (3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.
- (4) Existing Federal law is inadequate to address this problem.
- (5) A prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the family and friends of the victim, but frequently savages the community sharing the traits that caused the victim to be selected.
- (6) Such violence substantially affects interstate commerce in many ways, including the following:
 - (A) The movement of members of targeted groups is impeded, and members of such groups are forced to move across State lines to escape the incidence or risk of such violence.
 - (B) Members of targeted groups are prevented from purchasing goods and services, obtaining or sustaining employment, or participating in other commercial activity.
 - (C) Perpetrators cross State lines to commit such violence.
 - (D) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(E) Such violence is committed using articles that have traveled in interstate commerce.

(7) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(8) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct 'races'. Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

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

(10) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States, local jurisdictions, and Indian tribes.

SEC. 3. DEFINITION OF HATE CRIME.

In this Act--

(1) the term 'crime of violence' has the meaning given that term in section 16, title 18, United States Code;

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

(3) the term 'local' means a county, city, town, township, parish, village, or other general purpose political subdivision of a State.

SEC. 4. SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE, LOCAL, AND TRIBAL LAW ENFORCEMENT OFFICIALS.

(a) Assistance Other Than Financial Assistance-

(1) IN GENERAL- At the request of State, local, or tribal law enforcement agency, the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that--

(A) constitutes a crime of violence;

(B) constitutes a felony under the State, local, or tribal laws; and

(C) is motivated by prejudice based on the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of the victim, or is a violation of the State, local, or tribal hate crime laws.

(2) PRIORITY- In providing assistance under paragraph (1), the Attorney General shall give priority to crimes committed by offenders who have committed crimes in more than one State and to rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.

(b) Grants-

(1) IN GENERAL- The Attorney General may award grants to State, local, and tribal law enforcement agencies for extraordinary expenses associated with the investigation and prosecution of hate crimes.

(2) OFFICE OF JUSTICE PROGRAMS- In implementing the grant program under this subsection, the Office of Justice Programs shall work closely with grantees to ensure that the concerns and needs of all affected parties, including community groups and schools, colleges, and universities, are addressed through the local infrastructure developed under the grants.

(3) APPLICATION-

(A) IN GENERAL- Each State, local, and tribal law enforcement agency that desires a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

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

(C) REQUIREMENTS- A State, local, and tribal law enforcement agency applying for a grant under this subsection shall--

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

(ii) certify that the State, local government, or Indian tribe lacks the resources necessary to investigate or prosecute the hate crime;

(iii) demonstrate that, in developing a plan to implement the grant, the State, local, and tribal law enforcement agency has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of hate crimes; and

(iv) certify that any Federal funds received under this subsection will be used to

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

(4) DEADLINE- An application for a grant under this subsection shall be approved or denied by the Attorney General not later than 180 business days after the date on which the Attorney General receives the application.

(5) GRANT AMOUNT- A grant under this subsection shall not exceed \$100,000 for any single jurisdiction in any 1-year period.

(6) REPORT- Not later than December 31, 2010, the Attorney General shall submit to Congress a report describing the applications submitted for grants under this subsection, the award of such grants, and the purposes for which the grant amounts were expended.

(7) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated to carry out this subsection \$5,000,000 for each of fiscal years 2010 and 2011.

SEC. 5. GRANT PROGRAM.

(a) Authority To Award Grants- The Office of Justice Programs of the Department of Justice may award grants, in accordance with such regulations as the Attorney General may prescribe, to State, local, or tribal programs designed to combat hate crimes committed by juveniles, including programs to train local law enforcement officers in identifying, investigating, prosecuting, and preventing hate crimes.

(b) Authorization of Appropriations- There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 6. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO ASSIST STATE, LOCAL, AND TRIBAL LAW ENFORCEMENT.

There are authorized to be appropriated to the Department of Justice, including the Community Relations Service, for fiscal years 2010, 2011, and 2012 such sums as are necessary to increase the number of personnel to prevent and respond to alleged violations of section 249 of

title 18, United States Code, as added by section 7 of this Act.

SEC. 7. PROHIBITION OF CERTAIN HATE CRIME ACTS.

(a) In General- Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

'Sec. 249. Hate crime acts

'(a) In General-

'(1) OFFENSES INVOLVING
ACTUAL OR PERCEIVED RACE,
COLOR, RELIGION, OR NATIONAL
ORIGIN- Whoever, whether or not acting
under color of law, willfully causes bodily
injury to any person or, through the use
of fire, a firearm, a dangerous weapon,
or an explosive or incendiary device,
attempts to cause bodily injury to any
person, because of the actual or
perceived race, color, religion, or
national origin of any person--

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

'(B) shall be imprisoned
for any term of years or
for life, fined in accordance with
this title, or both, if--

'(i) death results
from the offense;
or

'(ii) the offense
includes
kidnapping or an attempt
to kidnap, aggravated
sexual abuse or an
attempt to commit
aggravated sexual abuse,
or an attempt to kill.

'(2) OFFENSES INVOLVING
ACTUAL OR PERCEIVED
RELIGION, NATIONAL ORIGIN, GENDER,
SEXUAL ORIENTATION, GENDER
IDENTITY, OR DISABILITY-

'(A) IN GENERAL-
Whoever, whether or not
acting under color of law, in any
circumstance described in
subparagraph (B) or paragraph
(3), willfully causes bodily injury
to any person or, through the use
of fire, a firearm, a dangerous

weapon, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, gender identity or disability of any person--

`(i) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

`(ii) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if--

`(I) death results from the offense; or

`(II) the offense includes kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

`(B) CIRCUMSTANCES DESCRIBED- For purposes of subparagraph (A), the circumstances described in this subparagraph are that--

`(i) the conduct described in subparagraph (A) occurs during the course of, or as the result of, the travel of the defendant or the victim--

`(I) across a State line or national border; or

`(II) using a channel, facility, or instrumentality of interstate or foreign commerce;

`(ii) the defendant uses a channel, facility, or instrumentality of interstate or foreign commerce in connection with the conduct described in subparagraph (A);

`(iii) in connection with the conduct described in subparagraph (A), the defendant employs a firearm, dangerous weapon, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce; or

`(iv) the conduct described in subparagraph (A)--

`(I) interferes with commercial or other economic activity in which the victim is engaged at the time of the conduct; or

`(II) otherwise affects interstate or foreign commerce.

`(3) OFFENSES OCCURRING IN THE SPECIAL MARITIME OR TERRITORIAL JURISDICTION OF THE UNITED STATES- Whoever, within the special maritime or territorial jurisdiction of the United States, commits an offense described in paragraph (1) or (2) shall be subject to the same penalties as prescribed in those paragraphs.

`(b) Certification Requirement-

`(1) IN GENERAL- No prosecution of any offense described in this subsection may be undertaken by the United States, except under the certification in writing of the Attorney General, or his designee, that--

`(A) the State does not have jurisdiction;

'(B) the State has requested that the Federal Government assume jurisdiction;

'(C) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence; or

'(D) a prosecution by the United States is in the public interest and necessary to secure substantial justice.

'(2) RULE OF CONSTRUCTION- Nothing in this subsection shall be construed to limit the authority of Federal officers, or a Federal grand jury, to investigate possible violations of this section.

'(c) Definitions- In this section--

'(1) the term 'bodily injury' has the meaning given such term in section 1365(h)(4) of this title, but does not include solely emotional or psychological harm to the victim;

'(2) the term 'explosive or incendiary device' has the meaning given such term in section 232 of this title;

'(3) the term 'firearm' has the meaning given such term in section 921(a) of this title; and

'(4) the term 'gender identity' for the purposes of this chapter means actual or perceived gender-related characteristics.'.

(b) Technical and Conforming Amendment- The analysis for chapter 13 of title 18, United States Code, is amended by adding at the end the following:

'249. Hate crime acts.'.

SEC. 8. STATISTICS.

(a) In General- Subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended by inserting 'gender and gender identity,' after 'race,'.

(b) Data- Subsection (b)(5) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended by inserting ',

including data about crimes committed by, and crimes directed against, juveniles' after 'data acquired under this section'.

SEC. 9. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 10. RULE OF CONSTRUCTION.

For purposes of construing this Act and the amendments made by this Act the following shall apply:

(1) **RELEVANT EVIDENCE-** Courts may consider relevant evidence of speech, beliefs, or expressive conduct to the extent that such evidence is offered to prove an element of a charged offense or is otherwise admissible under the Federal Rules of Evidence. Nothing in this Act is intended to affect the existing rules of evidence.

(2) **VIOLENT ACTS-** This Act applies to violent acts motivated by actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity or disability of a victim.

(3) **CONSTITUTIONAL PROTECTIONS-** Nothing in this Act shall be construed to prohibit any constitutionally protected speech, expressive conduct or activities (regardless of whether compelled by, or central to, a system of religious belief), including the exercise of religion protected by the First Amendment and peaceful picketing or demonstration. The Constitution does not protect speech, conduct or activities consisting of planning for, conspiring to commit, or committing an act of violence.

(4) **FREE EXPRESSION-** Nothing in this Act shall be construed to allow prosecution based solely upon an individual's expression of racial, religious, political, or other beliefs or solely upon an individual's membership in a group advocating or espousing such beliefs.

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Issues & Research » Civil and Criminal Justice » HR 1913: Local Law Enforcement Hate Crimes Prevent

Go 17258

HR 1913: Local Law Enforcement Hate Crimes Prevention Act of 2009

April 29, 2009

Background:

Representative John Conyers of Michigan introduced the Local Law Enforcement Hate Crimes Prevention Act of 2009 on April 2, 2009 and the bill was promptly referred to the House Committee on the Judiciary. Senator Edward Kennedy of Massachusetts is sponsoring the companion bill (S. 909). The Judiciary marked up the bill on April 22, 2009 and April 23, 2009 and moved to the House floor. The committee amendments removed the "findings" portion contained in the original bill and also removed language concerning the Hate Crimes Statistics Act (28 U.S.C. 534). An amendment offered by Rep. John Conyers on the House floor was adopted on April 29, 2009. This amendment 1) clarifies the coverage of tribal lands, 2) extends the period for the Attorney General to approve applications for grants 3) clarifies that offenses committed with weapons can be considered hate crimes 4) clarifies jurisdictions of the bill and 5) limits prosecutions, trials, and punishment for offenses not resulting in death. The bill passed the house on April 29, 2009 by a vote of 249 to 175. The Local Law Enforcement Hate Crimes Prevention Act of 2009 (H.R. 1913) currently carries one hundred twenty cosponsors and is under consideration in the Senate Judiciary Committee.

DEFINITION OF HATE CRIME:

"crime of violence" – defined in section 16, title 18, United States Code

"hate crime" – defined in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note)

"local" – means a county, city, town, township, parish, village, or other general purpose political subdivision of a State.

SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS:

At the request of a state, local, or tribal law enforcement agency, the Attorney General (AG) may provide assistance in the criminal investigation of any crime that:

- Constitutes an act of violence;
- Constitutes a felony under the state, local, or tribal laws
- Is motivated by prejudice based on race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of the victim, or
- Is a violation of state, local, or tribal hate crime laws.

The AG will give priority to crimes and offenders in multiple state jurisdictions and to rural jurisdictions, particularly those having difficulty covering "extraordinary expenses" relating to the investigation or prosecution of the crime. The AG may award grants to state, local, and Tribal law enforcement agencies for those expenses. The Office of Justice Programs (OJP) will implement the grant program and address the concerns and needs of all affected parties. Each state, local, and Tribal law enforcement agency that desires a grant must submit an application to the AG. Applications must be a 60-day period prescribed by the AG. A state, local, or Tribal law enforcement agency applying for a grant must:

- Describe the "extraordinary purposes" for which the grant is needed
- Certify that the state, local, or Indian tribe lacks the resources to investigate or prosecute the hate crime
- Demonstrate that the state, local, or Tribal law enforcement agency has consulted with non-profit, nongovernmental service programs that provide services to victims of hate crimes
- Certify that any federal funds granted will be used to supplement, not supplant, non-federal funds for specified activities

An application for a grant must be approved or denied by the AG not later than 180 business days after the date received. A grant must not exceed \$100,000 for any single jurisdiction in any 1-year period. By December 31, 2011,

the AG must submit a report to congress describing the applications, awarded grants, and purposes for which the grants were expended.

\$5 million for each FY 2010 and FY 2011 is authorized to be appropriated for this program.

GRANT PROGRAM:

OJP may award grants with the regulations prescribed by the AG to state, local, or tribal programs designed to combat hate crimes committed by juveniles. This includes programs to train local law enforcement in identifying, investigating, prosecuting, and preventing hate crimes.

There are authorized to be appropriated such sums as may be necessary to carry out this program.

AUTHORIZATION FOR ADDITIONAL PERSONNEL

There are authorized to be appropriated to the Department of Justice, including the Community Relations Service, for fiscal years 2010, 2011, and 2012, such sums as are necessary to increase the number of personnel to prevent and respond to alleged hate crimes.

PROHIBITION OF CERTAIN HATE CRIME ACTS

This language adds a section entitled "Hate crime acts" to Chapter 13 of title 18, USC.

This section establishes that any person who attempts or commits a hate crime (as defined in the statute):

Shall be imprisoned not more than 10 years, fined, or both AND

Shall be imprisoned for any term of years or for life if:

Death results from the offense

The offense includes kidnapping or an attempt to kidnap,

The offense includes aggravated sexual abuse, or an attempt to commit aggravated sexual abuse

Or an attempt to kill

For more information, please contact:

Susan Parnas Frederick	(202) 624-5400	susan.frederick@ncsl.org
Emily Taylor		emily.taylor@ncsl.org

Prepared by Emily Taylor, Policy Associate, NCSL Updated April 29, 2009

Denver Office

Tel: 303-364-7700 | Fax: 303-364-7800 | 7700 East First Place | Denver, CO 80230

Washington Office

Tel: 202-624-5400 | Fax: 202-737-1069 | 444 North Capitol Street, N.W., Suite 515 | Washington, D.C. 20001

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