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

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2005

Mr. CONYERS (for himself, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ALLEN, Ms. BALDWIN, Ms. BERKLEY, Mr. BERNARD, Mr. BISHOP of Georgia, Mr. BLUMENAUER, Mr. BOSWELL, Mr. BROWN of Ohio, Mrs. CAPP, Mr. CAPUANO, Mr. CARDIN, Mr. CASE, Mr. CLAY, Mr. COOPER, Mr. CROWLEY, Mr. CUMMINGS, Mr. DAVIS of Alabama, Mr. DAVIS of Florida, Mr. DELAHUNT, Ms. DE LAURO, Mr. ENGL, Ms. ESHOO, Mr. FARR, Mr. FATTAH, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HOLT, Mr. HONDA, Mr. HOYER, Mr. INSLEE, Mr. ISRAEL, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Mrs. JONES of Ohio, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mr. KIND, Mr. KIRK, Mr. KOLBE, Mr. LANGEFVIT, Mr. LANTOS, Mr. LARSON of Connecticut, Mr. LEACH, Ms. LEE, Mrs. LOWEY, Mr. LYNCH, Mrs. MALONEY, Mr. MATHESON, Mrs. McCARTHY, Ms. MCCOLLUM of Minnesota, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. McNUITY, Mr. MEEK, Mr. MEEK of Florida, Mr. MENENDEZ, Mr. GEORGE MILLER of California, Mr. MOORE of Kansas, Mr. NADLER, Mr. OLIVER, Mr. OWENS, Mr. PALLONE, Mr. PASTOR, Mr. PAYNE, Mr. PRICE of North Carolina, Ms. ROS-LEHTINEN, Ms. ROYHAL-ALLARD, Mr. SABO, Ms. LORETTA SANCHEZ of California, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SCOTT of Georgia, Mr. SERRANO, Mr. SHAYS, Mr. SHERMAN, Mr. SIMMONS, Mr. SMITH of Washington, Ms. SOLIS, Mr. STARK, Mrs. TAUSCHER, Mr. THOMPSON of Mississippi, Mr. TIERNEY, Mr. UDALL of Colorado, Mr. VAN HOLLEN, Ms. WATERS, Ms. WATSON, Mr. WEXLER, Ms. WOOLSEY, and Mr. WU) introduced the following bill; which was referred to the Committee on the Judiciary
A BILL

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Local Law Enforce-
ment Hate Crimes Prevention Act of 2005”.

SEC. 2. FINDINGS.

Congress makes the following findings:

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

(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 over-
whelming 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 ad-
dress this problem.
(5) The 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—

(A) by impeding the movement of members of targeted groups and forcing such members to move across State lines to escape the incidence or risk of such violence; and

(B) by preventing members of targeted groups from purchasing goods and services, obtaining or sustaining employment, or participating in other commercial activity.

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

(8) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

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

(10) 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.

(11) 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.

(12) 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.

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

SEC. 3. DEFINITION OF HATE CRIME.

In this Act, the term “hate crime” has the same meaning as in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note).

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

(a) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—At the request of a law enforcement official of a State or Indian tribe, 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 (as defined in section 16 of title 18, United States Code);
(B) constitutes a felony under the laws of the State or Indian tribe; 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 hate crime laws of the State or Indian tribe.

(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 1 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 assist State, local, and Indian law enforcement officials with the extraordinary expenses associated with the investigation and prosecution of hate crimes.

(2) OFFICE OF JUSTICE PROGRAMS.—In implementing the grant program, the Office of Justice Programs shall work closely with the funded jurisdictions 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 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 begin-
ning on a date that the Attorney General shall
prescribe.

(C) REQUIREMENTS.—A State or political
subdivision of a State or tribal official applying
for assistance under this subsection shall—

(i) describe the extraordinary pur-
poses for which the grant is needed;

(ii) certify that the State, political
subdivision, or Indian tribe lacks the re-
sources necessary to investigate or pros-
ecute the hate crime;
(iii) demonstrate that, in developing a plan to implement the grant, the State, political subdivision, or tribal official has consulted and coordinated with nonprofit, non-governmental 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 disapproved by the Attorney General not later than 30 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 within a 1 year period.

(6) Report.—Not later than December 31, 2006, 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 2006 and 2007.

SEC. 5. GRANT PROGRAM.

(a) Authority to Make Grants.—The Office of Justice Programs of the Department of Justice shall award grants, in accordance with such regulations as the Attorney General may prescribe, to State and local 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 AND LOCAL LAW ENFORCEMENT.

There are authorized to be appropriated to the Department of the Treasury and the Department of Justice, including the Community Relations Service, for fiscal years 2006, 2007, and 2008 such sums as are necessary
to increase the number of personnel to prevent and re-

spond to alleged violations of section 249 of title 18,

United States Code, as added by section 7.

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 fol-

lowing:

“§ 249. Hate crime acts

“(a) IN GENERAL.—

“(1) OFFENSES INVOLVING ACTUAL OR PER-
CEIVED RACE, COLOR, RELIGION, OR NATIONAL ORI-
GIN.—Whoever, whether or not acting under color of
law, willfully causes bodily injury to any person or,
through the use of fire, a firearm, 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 kidnaping 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), willfully causes bodily injury to any person or, through the use of fire, a firearm, 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, 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.

“(b) CERTIFICATION REQUIREMENT.—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, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that—

“(1) he or she has reasonable cause to believe that the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of any person was a motivating
factor underlying the alleged conduct of the defendant; and

“(2) he or his designee or she or her designee has consulted with State or local law enforcement officials regarding the prosecution and determined that—

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

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

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

“(D) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence.

“(c) DEFINITIONS.—In this section—

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

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

“(3) the term ‘gender identity’ for the purposes of this chapter means actual or perceived gender-related characteristics.
“(d) Rule of Evidence.—In a prosecution for an offense under this section, evidence of expression or associations of the defendant may not be introduced as substantive evidence at trial, unless the evidence specifically relates to that offense. However, nothing in this section affects the rules of evidence governing impeachment of a witness.”.

(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.

Subsection (b)(1) of the first section of the Hate Crimes Statistics Act (28 U.S.C. 534 note) is amended by inserting “gender and gender identity,” after “race,”.

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.

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