

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1913

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IN THE SENATE OF THE UNITED STATES

APRIL 30, 2009

Received; read twice and referred to the Committee on the Judiciary

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## AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Local Law Enforce-  
3 ment Hate Crimes Prevention Act of 2009”.

4 **SEC. 2. DEFINITION OF HATE CRIME.**

5 In this Act—

6 (1) the term “crime of violence” has the mean-  
7 ing given that term in section 16, title 18, United  
8 States Code;

9 (2) the term “hate crime” has the meaning  
10 given such term in section 280003(a) of the Violent  
11 Crime Control and Law Enforcement Act of 1994  
12 (28 U.S.C. 994 note); and

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

16 **SEC. 3. SUPPORT FOR CRIMINAL INVESTIGATIONS AND**  
17 **PROSECUTIONS BY STATE, LOCAL, AND TRIB-**  
18 **AL LAW ENFORCEMENT OFFICIALS.**

19 (a) ASSISTANCE OTHER THAN FINANCIAL ASSIST-  
20 ANCE.—

21 (1) IN GENERAL.—At the request of a State,  
22 local, or tribal law enforcement agency, the Attorney  
23 General may provide technical, forensic, prosecu-  
24 torial, or any other form of assistance in the crimi-  
25 nal investigation or prosecution of any crime that—

26 (A) constitutes a crime of violence;

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

3 (C) is motivated by prejudice based on the  
4 actual or perceived race, color, religion, national  
5 origin, gender, sexual orientation, gender iden-  
6 tity, or disability of the victim, or is a violation  
7 of the State, local, or tribal hate crime laws.

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

15 (b) GRANTS.—

16 (1) IN GENERAL.—The Attorney General may  
17 award grants to State, local, and Tribal law enforce-  
18 ment agencies for extraordinary expenses associated  
19 with the investigation and prosecution of hate  
20 crimes.

21 (2) OFFICE OF JUSTICE PROGRAMS.—In imple-  
22 menting the grant program under this subsection,  
23 the Office of Justice Programs shall work closely  
24 with grantees to ensure that the concerns and needs  
25 of all affected parties, including community groups

1 and schools, colleges, and universities, are addressed  
2 through the local infrastructure developed under the  
3 grants.

4 (3) APPLICATION.—

5 (A) IN GENERAL.—Each State, local, or  
6 Tribal law enforcement agency that desires a  
7 grant under this subsection shall submit an ap-  
8 plication to the Attorney General at such time,  
9 in such manner, and accompanied by or con-  
10 taining such information as the Attorney Gen-  
11 eral shall reasonably require.

12 (B) DATE FOR SUBMISSION.—Applications  
13 submitted pursuant to subparagraph (A) shall  
14 be submitted during the 60-day period begin-  
15 ning on a date that the Attorney General shall  
16 prescribe.

17 (C) REQUIREMENTS.—A State, local, or  
18 Tribal law enforcement agency applying for a  
19 grant under this subsection shall—

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

22 (ii) certify that the State, local gov-  
23 ernment, or Indian tribe lacks the re-  
24 sources necessary to investigate or pros-  
25 ecute the hate crime;

1 (iii) demonstrate that, in developing a  
2 plan to implement the grant, the State,  
3 local, or Tribal law enforcement agency  
4 has consulted and coordinated with non-  
5 profit, nongovernmental violence recovery  
6 service programs that have experience in  
7 providing services to victims of hate  
8 crimes; and

9 (iv) certify that any Federal funds re-  
10 ceived under this subsection will be used to  
11 supplement, not supplant, non-Federal  
12 funds that would otherwise be available for  
13 activities funded under this subsection.

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

19 (5) GRANT AMOUNT.—A grant under this sub-  
20 section shall not exceed \$100,000 for any single ju-  
21 risdiction in any 1-year period.

22 (6) REPORT.—Not later than December 31,  
23 2011, the Attorney General shall submit to Congress  
24 a report describing the applications submitted for  
25 grants under this subsection, the award of such

1 grants, and the purposes for which the grant  
2 amounts were expended.

3 (7) AUTHORIZATION OF APPROPRIATIONS.—

4 There is authorized to be appropriated to carry out  
5 this subsection \$5,000,000 for each of fiscal years  
6 2010 and 2011.

7 **SEC. 4. GRANT PROGRAM.**

8 (a) AUTHORITY TO AWARD GRANTS.—The Office of  
9 Justice Programs of the Department of Justice may  
10 award grants, in accordance with such regulations as the  
11 Attorney General may prescribe, to State, local, or tribal  
12 programs designed to combat hate crimes committed by  
13 juveniles, including programs to train local law enforce-  
14 ment officers in identifying, investigating, prosecuting,  
15 and preventing hate crimes.

16 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
17 are authorized to be appropriated such sums as may be  
18 necessary to carry out this section.

19 **SEC. 5. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO**  
20 **ASSIST STATE, LOCAL, AND TRIBAL LAW EN-**  
21 **FORCEMENT.**

22 There are authorized to be appropriated to the De-  
23 partment of Justice, including the Community Relations  
24 Service, for fiscal years 2010, 2011, and 2012, such sums  
25 as are necessary to increase the number of personnel to

1 prevent and respond to alleged violations of section 249  
2 of title 18, United States Code, as added by section 7 of  
3 this Act.

4 **SEC. 6. PROHIBITION OF CERTAIN HATE CRIME ACTS.**

5 (a) IN GENERAL.—Chapter 13 of title 18, United  
6 States Code, is amended by adding at the end the fol-  
7 lowing:

8 **“§ 249. Hate crime acts**

9 “(a) IN GENERAL.—

10 “(1) OFFENSES INVOLVING ACTUAL OR PER-  
11 CEIVED RACE, COLOR, RELIGION, OR NATIONAL ORI-  
12 GIN.—Whoever, whether or not acting under color of  
13 law, willfully causes bodily injury to any person or,  
14 through the use of fire, a firearm, a dangerous  
15 weapon, or an explosive or incendiary device, at-  
16 tempts to cause bodily injury to any person, because  
17 of the actual or perceived race, color, religion, or na-  
18 tional origin of any person—

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

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

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

1           “(ii) the offense includes kidnaping or  
2           an attempt to kidnap, aggravated sexual  
3           abuse or an attempt to commit aggravated  
4           sexual abuse, or an attempt to kill.

5           “(2) OFFENSES INVOLVING ACTUAL OR PER-  
6           CEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEX-  
7           UAL ORIENTATION, GENDER IDENTITY, OR DIS-  
8           ABILITY.—

9           “(A) IN GENERAL.—Whoever, whether or  
10          not acting under color of law, in any cir-  
11          cumstance described in subparagraph (B), will-  
12          fully causes bodily injury to any person or,  
13          through the use of fire, a firearm, a dangerous  
14          weapon, or an explosive or incendiary device, at-  
15          tempts to cause bodily injury to any person, be-  
16          cause of the actual or perceived religion, na-  
17          tional origin, gender, sexual orientation, gender  
18          identity, or disability of any person—

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

22                 “(ii) shall be imprisoned for any term  
23                 of years or for life, fined in accordance  
24                 with this title, or both, if—

1                   “(I) death results from the of-  
2                   fense; or

3                   “(II) the offense includes kid-  
4                   naping or an attempt to kidnap, ag-  
5                   gravated sexual abuse or an attempt  
6                   to commit aggravated sexual abuse, or  
7                   an attempt to kill.

8                   “(B) CIRCUMSTANCES DESCRIBED.—For  
9                   purposes of subparagraph (A), the cir-  
10                  cumstances described in this subparagraph are  
11                  that—

12                  “(i) the conduct described in subpara-  
13                  graph (A) occurs during the course of, or  
14                  as the result of, the travel of the defendant  
15                  or the victim—

16                         “(I) across a State line or na-  
17                         tional border; or

18                         “(II) using a channel, facility, or  
19                         instrumentality of interstate or for-  
20                         eign commerce;

21                         “(ii) the defendant uses a channel, fa-  
22                         cility, or instrumentality of interstate or  
23                         foreign commerce in connection with the  
24                         conduct described in subparagraph (A);

1           “(iii) in connection with the conduct  
2           described in subparagraph (A), the defend-  
3           ant employs a firearm, explosive or incen-  
4           diary device, or other weapon that has  
5           traveled in interstate or foreign commerce;  
6           or

7           “(iv) the conduct described in sub-  
8           paragraph (A)—

9                   “(I) interferes with commercial  
10                   or other economic activity in which  
11                   the victim is engaged at the time of  
12                   the conduct; or

13                   “(II) otherwise affects interstate  
14                   or foreign commerce.

15           “(3) ADDITIONAL FEDERAL NEXUS FOR OF-  
16           FENSE.—Whoever, in the special maritime or terri-  
17           torial jurisdiction of the United States, or in Indian  
18           country, engages in conduct described in paragraph  
19           (1) or in paragraph (2)(A) (without regard to  
20           whether that conduct occurred in a circumstance de-  
21           scribed in paragraph (2)(B)) shall be subject to the  
22           same penalties as those provided for offenses under  
23           those paragraphs.

24           “(b) CERTIFICATION REQUIREMENT.—No prosecu-  
25           tion of any offense described in this subsection may be

1 undertaken by the United States, except under the certifi-  
2 cation in writing of the Attorney General, the Deputy At-  
3 torney General, the Associate Attorney General, or any  
4 Assistant Attorney General specially designated by the At-  
5 torney General that—

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

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

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

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

19                 “(C) the State does not object to the Fed-  
20                 eral Government assuming jurisdiction; or

21                 “(D) the verdict or sentence obtained pur-  
22                 suant to State charges left demonstratively  
23                 unvindicated the Federal interest in eradicating  
24                 bias-motivated violence.

25          “(c) DEFINITIONS.—

1 “(1) In this section—

2 “(A) the term ‘explosive or incendiary de-  
3 vice’ has the meaning given such term in sec-  
4 tion 232 of this title;

5 “(B) the term ‘firearm’ has the meaning  
6 given such term in section 921(a) of this title;  
7 and

8 “(C) the term ‘State’ includes the District  
9 of Columbia, Puerto Rico, and any other terri-  
10 tory or possession of the United States.

11 “(2) For the purposes of this chapter, the term  
12 ‘gender identity’ means actual or perceived gender-  
13 related characteristics.

14 “(d) STATUTE OF LIMITATIONS.—

15 “(1) OFFENSES NOT RESULTING IN DEATH.—  
16 Except as provided in paragraph (2), no person shall  
17 be prosecuted, tried, or punished for any offense  
18 under this section unless the indictment for such of-  
19 fense is found, or the information for such offense  
20 is instituted, not later than 7 years after the date  
21 on which the offense was committed.

22 “(2) DEATH RESULTING OFFENSES.—An in-  
23 dictment or information alleging that an offense  
24 under this section resulted in death may be found or  
25 instituted at any time without limitation.

1       “(e) **RULE OF EVIDENCE.**—In a prosecution for an  
2 offense under this section, evidence of expression or asso-  
3 ciations of the defendant may not be introduced as sub-  
4 stantive evidence at trial, unless the evidence specifically  
5 relates to that offense. However, nothing in this section  
6 affects the rules of evidence governing impeachment of a  
7 witness.”.

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

“249. Hate crime acts.”.

12 **SEC. 7. SEVERABILITY.**

13       If any provision of this Act, an amendment made by  
14 this Act, or the application of such provision or amend-  
15 ment to any person or circumstance is held to be unconsti-  
16 tutional, the remainder of this Act, the amendments made  
17 by this Act, and the application of the provisions of such  
18 to any person or circumstance shall not be affected there-  
19 by.

20 **SEC. 8. RULE OF CONSTRUCTION.**

21       Nothing in this Act, or the amendments made by this  
22 Act, shall be construed to prohibit any expressive conduct

1 protected from legal prohibition by, or any activities pro-  
2 tected by, the Constitution.

Passed the House of Representatives April 29, 2009.

Attest:                   LORRAINE C. MILLER,  
*Clerk.*