

HR 1913 RFS

111th CONGRESS

1st Session

**H. R. 1913****IN THE SENATE OF THE UNITED STATES****April 30, 2009**

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

**AN ACT**

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 `Local Law Enforcement Hate Crimes Prevention Act of 2009'.

**SEC. 2. 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. 3. 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 a 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, or 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, or 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, or Tribal law enforcement agency has consulted and coordinated with nonprofit, nongovernmental violence recovery service 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

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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, 2011, 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. 4. 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. 5. 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. 6. 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 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, 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 kidnaping 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.

` (3) ADDITIONAL FEDERAL NEXUS FOR OFFENSE- Whoever, in the special maritime or territorial jurisdiction of the United States, or in Indian country, engages in conduct described in paragraph (1) or in paragraph (2)(A) (without regard to whether that conduct occurred in a circumstance described in paragraph (2)(B)) shall be subject to the same penalties as those provided for offenses under those paragraphs.

` (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) such certifying individual 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) such certifying individual 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-

` (1) In this section--

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

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

` (C) the term `State' includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States.

` (2) For the purposes of this chapter, the term `gender identity' means actual or perceived gender-related characteristics.

` (d) Statute of Limitations-

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

` (2) DEATH RESULTING OFFENSES- An indictment or information alleging that an offense under this section resulted in death may be found or instituted at any time without limitation.

` (e) 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 table of sections at the beginning of chapter 13 of title 18, United States Code, is amended by adding at the end the following new item:

` 249. Hate crime acts.'

## SEC. 7. 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. 8. RULE OF CONSTRUCTION.

Nothing in this Act, or the amendments made by this Act, shall be construed to prohibit any expressive conduct protected from legal prohibition by, or any activities protected by, the Constitution.

Passed the House of Representatives April 29, 2009.

Attest:

LORRAINE C. MILLER,

Clerk.

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