

109TH CONGRESS  
1ST SESSION

# H. R. 2662

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. BERMAN, Mr. BISHOP of Georgia, Mr. BLUMENAUER, Mr. BOSWELL, Mr. BROWN of Ohio, Mrs. CAPPS, 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. DELAURO, Mr. ENGEL, 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. LANGEVIN, 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. McNULTY, Mr. MEEHAN, Mr. MEEK of Florida, Mr. MENENDEZ, Mr. GEORGE MILLER of California, Mr. MOORE of Kansas, Mr. NADLER, Mr. OLVER, Mr. OWENS, Mr. PALLONE, Mr. PASTOR, Mr. PAYNE, Mr. PRICE of North Carolina, Ms. ROS-LEHTINEN, Ms. ROYBAL-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.

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 Enforce-  
5       ment Hate Crimes Prevention Act of 2005”.

6       **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

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

13              (2) Such violence disrupts the tranquility and  
14      safety of communities and is deeply divisive.

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

21              (4) Existing Federal law is inadequate to ad-  
22      dress this problem.

1           (5) The prominent characteristic of a violent  
2       crime motivated by bias is that it devastates not just  
3       the actual victim and the family and friends of the  
4       victim, but frequently savages the community shar-  
5       ing the traits that caused the victim to be selected.

6           (6) Such violence substantially affects interstate  
7       commerce in many ways, including—

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

12              (B) by preventing members of targeted  
13      groups from purchasing goods and services, ob-  
14      taining or sustaining employment, or partici-  
15      pating in other commercial activity.

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

18           (8) Channels, facilities, and instrumentalities of  
19      interstate commerce are used to facilitate the com-  
20      mission of such violence.

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

23           (10) For generations, the institutions of slavery  
24      and involuntary servitude were defined by the race,  
25      color, and ancestry of those held in bondage. Slavery

1       and involuntary servitude were enforced, both prior  
2       to and after the adoption of the 13th amendment to  
3       the Constitution of the United States, through wide-  
4       spread public and private violence directed at per-  
5       sons because of their race, color, or ancestry, or per-  
6       ceived race, color, or ancestry. Accordingly, elimi-  
7       nating racially motivated violence is an important  
8       means of eliminating, to the extent possible, the  
9       badges, incidents, and relics of slavery and involun-  
10      tary servitude.

11           (11) Both at the time when the 13th, 14th, and  
12       15th amendments to the Constitution of the United  
13       States were adopted, and continuing to date, mem-  
14       bers of certain religious and national origin groups  
15       were and are perceived to be distinct “races”. Thus,  
16       in order to eliminate, to the extent possible, the  
17       badges, incidents, and relics of slavery, it is nec-  
18       essary to prohibit assaults on the basis of real or  
19       perceived religions or national origins, at least to the  
20       extent such religions or national origins were re-  
21       garded as races at the time of the adoption of the  
22       13th, 14th, and 15th amendments to the Constitu-  
23       tion of the United States.

24           (12) Federal jurisdiction over certain violent  
25       crimes motivated by bias enables Federal, State, and

1 local authorities to work together as partners in the  
2 investigation and prosecution of such crimes.

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

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

8 In this Act, the term “hate crime” has the same  
9 meaning as in section 280003(a) of the Violent Crime  
10 Control and Law Enforcement Act of 1994 (28 U.S.C.  
11 994 note).

12 **SEC. 4. SUPPORT FOR CRIMINAL INVESTIGATIONS AND**  
13 **PROSECUTIONS BY STATE AND LOCAL LAW**  
14 **ENFORCEMENT OFFICIALS.**

15 (a) ASSISTANCE OTHER THAN FINANCIAL ASSIST-  
16 ANCE.—

17 (1) IN GENERAL.—At the request of a law en-  
18 forcement official of a State or Indian tribe, the At-  
19 torney General may provide technical, forensic, pros-  
20 ecutorial, or any other form of assistance in the  
21 criminal investigation or prosecution of any crime  
22 that—

23 (A) constitutes a crime of violence (as de-  
24 fined in section 16 of title 18, United States  
25 Code);

1 (B) constitutes a felony under the laws of  
2 the State or Indian tribe; 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 hate crime laws of the State or Indian  
8 tribe.

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

16 (b) GRANTS.—

17 (1) IN GENERAL.—The Attorney General may  
18 award grants to assist State, local, and Indian law  
19 enforcement officials with the extraordinary expenses  
20 associated with the investigation and prosecution of  
21 hate crimes.

22 (2) OFFICE OF JUSTICE PROGRAMS.—In imple-  
23 menting the grant program, the Office of Justice  
24 Programs shall work closely with the funded juris-  
25 dictions to ensure that the concerns and needs of all

1 affected parties, including community groups and  
2 schools, colleges, and universities, are addressed  
3 through the local infrastructure developed under the  
4 grants.

5 (3) APPLICATION.—

6 (A) IN GENERAL.—Each State that desires  
7 a grant under this subsection shall submit an  
8 application to the Attorney General at such  
9 time, in such manner, and accompanied by or  
10 containing such information as the Attorney  
11 General 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 or political  
18 subdivision of a State or tribal official applying  
19 for assistance under this subsection shall—

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

22 (ii) certify that the State, political  
23 subdivision, 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, po-  
3 litical subdivision, or tribal official has con-  
4 sulted and coordinated with nonprofit, non-  
5 governmental victim services programs  
6 that have experience in providing services  
7 to victims of hate crimes; and

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

13 (4) DEADLINE.—An application for a grant  
14 under this subsection shall be approved or dis-  
15 approved by the Attorney General not later than 30  
16 business days after the date on which the Attorney  
17 General receives the application.

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

21 (6) REPORT.—Not later than December 31,  
22 2006, the Attorney General shall submit to Congress  
23 a report describing the applications submitted for  
24 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 2006 and 2007.

7 **SEC. 5. GRANT PROGRAM.**

8 (a) AUTHORITY TO MAKE GRANTS.—The Office of  
9 Justice Programs of the Department of Justice shall  
10 award grants, in accordance with such regulations as the  
11 Attorney General may prescribe, to State and local pro-  
12 grams designed to combat hate crimes committed by juve-  
13 niles, including programs to train local law enforcement  
14 officers in identifying, investigating, prosecuting, and pre-  
15 venting 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. 6. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO**  
20 **ASSIST STATE AND LOCAL LAW ENFORCE-**  
21 **MENT.**

22 There are authorized to be appropriated to the De-  
23 partment of the Treasury and the Department of Justice,  
24 including the Community Relations Service, for fiscal  
25 years 2006, 2007, and 2008 such sums as are necessary

1 to increase the number of personnel to prevent and re-  
 2 spond to alleged violations of section 249 of title 18,  
 3 United States Code, as added by section 7.

4 **SEC. 7. 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, or an explosive or  
 15 incendiary device, attempts to cause bodily injury to  
 16 any person, because of the actual or perceived race,  
 17 color, religion, or national origin of any person—

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

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

24 “(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, or an explo-  
14                  sive or incendiary device, attempts to cause  
15                  bodily injury to any person, because of the ac-  
16                  tual or perceived religion, national origin, gen-  
17                  der, sexual orientation, gender identity or dis-  
18                  ability 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 “(b) CERTIFICATION REQUIREMENT.—No prosecu-  
16 tion of any offense described in this subsection may be  
17 undertaken by the United States, except under the certifi-  
18 cation in writing of the Attorney General, the Deputy At-  
19 torney General, the Associate Attorney General, or any  
20 Assistant Attorney General specially designated by the At-  
21 torney General that—

22 “(1) he or she has reasonable cause to believe  
23 that the actual or perceived race, color, religion, na-  
24 tional origin, gender, sexual orientation, gender iden-  
25 tity, or disability of any person was a motivating

1 factor underlying the alleged conduct of the defend-  
2 ant; and

3 “(2) he or his designee or she or her designee  
4 has consulted with State or local law enforcement of-  
5 ficials regarding the prosecution and determined  
6 that—

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

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

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

13 “(D) the verdict or sentence obtained pur-  
14 suant to State charges left demonstratively  
15 unvindicated the Federal interest in eradicating  
16 bias-motivated violence.

17 “(c) DEFINITIONS.—In this section—

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

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

23 “(3) the term ‘gender identity’ for the purposes  
24 of this chapter means actual or perceived gender-re-  
25 lated characteristics.

1       “(d) 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 analysis for chapter 13 of title 18, United States  
 10 Code, is amended by adding at the end the following:

“249. Hate crime acts.”.

11 **SEC. 8. STATISTICS.**

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

15 **SEC. 9. SEVERABILITY.**

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

○