

108TH CONGRESS
2D SESSION

H. R. 4204

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

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 2004

Mr. CONYERS (for himself, Mr. BERMAN, Mr. NADLER, Mr. WATT, Ms. LOFGREN, Ms. JACKSON-LEE of Texas, Ms. WATERS, Mr. MEEHAN, Mr. DELAHUNT, Mr. WEXLER, Ms. BALDWIN, Mr. WEINER, Mr. SCHIFF, Ms. LINDA T. SÁNCHEZ of California, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ALLEN, Mr. ANDREWS, Mr. BACA, Mr. BAIRD, Mr. BECERRA, Mr. BELL, Ms. BERKLEY, Mr. BISHOP of Georgia, Mr. BISHOP of New York, Mr. BLUMENAUER, Mrs. BONO, Mr. BOSWELL, Mr. BRADY of Pennsylvania, Ms. CORRINE BROWN of Florida, Mr. BROWN of Ohio, Mrs. CAPPS, Mr. CAPUANO, Mr. CARDIN, Ms. CARSON of Indiana, Mr. CASE, Mrs. CHRISTENSEN, Mr. CLAY, Mr. COOPER, Mr. CROWLEY, Mr. CUMMINGS, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. DAVIS of Florida, Mrs. DAVIS of California, Mr. DEFazio, Ms. DEGETTE, Ms. DELAURO, Mr. DEUTSCH, Mr. DICKS, Mr. DINGELL, Mr. DOGGETT, Mr. DOYLE, Mr. EMANUEL, Mr. ENGEL, Ms. ESHOO, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FARR, Mr. FATTAH, Mr. FILNER, Mr. FOLEY, Mr. FORD, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GEPHARDT, Mr. GONZALEZ, Mr. GRIJALVA, Mr. GUTIERREZ, Ms. HARMAN, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HOEFFEL, Mr. HOLT, Mr. HONDA, Mr. HOYER, Mr. INSLEE, Mr. ISRAEL, Mr. JACKSON of Illinois, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JOHNSON of Connecticut, Mrs. JONES of Ohio, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mr. KIND, Mr. KLECZKA, Mr. KOLBE, Mr. KUCINICH, Mr. LAMPSON, Mr. LANGEVIN, Mr. LANTOS, Mr. LARSEN of Washington, Mr. LARSON of Connecticut, Mr. LEACH, Ms. LEE, Mr. LEVIN, Mr. LEWIS of Georgia, Mr. LOBIONDO, Mrs. LOWEY, Mr. LYNCH, Ms. MAJETTE, Mrs. MCCARTHY of New York, Ms. MCCARTHY of Missouri, Ms. MCCOLLUM, Mr. McDERMOTT, Mr. MCGOVERN, Mr. MCNULTY, Mrs. MALONEY, Mr. MARKEY, Mr. MATHESON, Mr. MATSUI, Mr. MEEK of Florida, Mr. MEEKS of New York, Mr. MENENDEZ, Mr. MICHAUD, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mr. MOLLOHAN, Mr. MOORE, Mr. MORAN of Virginia, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. OWENS, Mr. PALLONE, Mr. PASCRELL, Mr. PASTOR,

Mr. PAYNE, Ms. PELOSI, Mr. PRICE of North Carolina, Mr. RANGEL, Mr. RODRIGUEZ, Ms. ROS-LEHTINEN, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. RUPPERSBERGER, Mr. RUSH, Mr. SABO, Mr. SANDERS, Ms. LORETTA SANCHEZ of California, Mr. SANDLIN, Ms. SCHAKOWSKY, Mr. SERRANO, Mr. SHAYS, Mr. SHERMAN, Mr. SIMMONS, Mr. SKELTON, Ms. SLAUGHTER, Mr. SMITH of Washington, Mr. SNYDER, Ms. SOLIS, Mr. SPRATT, Mr. STARK, Mr. STRICKLAND, Mr. STUPAK, Mrs. TAUSCHER, Mr. THOMPSON of California, Mr. THOMPSON of Mississippi, Mr. TIERNEY, Mr. TOWNS, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VAN HOLLEN, Ms. VELÁZQUEZ, Mr. VISCLOSKEY, Mr. WALSH, Ms. WATSON, Mr. WAXMAN, Ms. WOOLSEY, Mr. WU, and Mr. WYNN) 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 2004”.

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, or disability of the
 11 victim poses a serious national problem.

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

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

7 (4) Existing Federal law is inadequate to ad-
8 dress this problem.

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

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

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

20 (B) by preventing members of targeted
21 groups from purchasing goods and services, ob-
22 taining or sustaining employment, or partici-
23 pating in other commercial activity.

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

1 (8) Channels, facilities, and instrumentalities of
2 interstate commerce are used to facilitate the com-
3 mission of such violence.

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

6 (10) For generations, the institutions of slavery
7 and involuntary servitude were defined by the race,
8 color, and ancestry of those held in bondage. Slavery
9 and involuntary servitude were enforced, both prior
10 to and after the adoption of the 13th amendment to
11 the Constitution of the United States, through wide-
12 spread public and private violence directed at per-
13 sons because of their race, color, or ancestry, or per-
14 ceived race, color, or ancestry. Accordingly, elimi-
15 nating racially motivated violence is an important
16 means of eliminating, to the extent possible, the
17 badges, incidents, and relics of slavery and involun-
18 tary servitude.

19 (11) Both at the time when the 13th, 14th, and
20 15th amendments to the Constitution of the United
21 States were adopted, and continuing to date, mem-
22 bers of certain religious and national origin groups
23 were and are perceived to be distinct “races”. Thus,
24 in order to eliminate, to the extent possible, the
25 badges, incidents, and relics of slavery, it is nec-

1 (1) IN GENERAL.—At the request of a law en-
2 forcement official of a State or Indian tribe, the At-
3 torney General may provide technical, forensic, pros-
4 ecutorial, or any other form of assistance in the
5 criminal investigation or prosecution of any crime
6 that—

7 (A) constitutes a crime of violence (as de-
8 fined in section 16 of title 18, United States
9 Code);

10 (B) constitutes a felony under the laws of
11 the State or Indian tribe; and

12 (C) is motivated by prejudice based on the
13 race, color, religion, national origin, gender,
14 sexual orientation, or disability of the victim, or
15 is a violation of the hate crime laws of the State
16 or Indian tribe.

17 (2) PRIORITY.—In providing assistance under
18 paragraph (1), the Attorney General shall give pri-
19 ority to crimes committed by offenders who have
20 committed crimes in more than 1 State and to rural
21 jurisdictions that have difficulty covering the ex-
22 traordinary expenses relating to the investigation or
23 prosecution of the crime.

24 (b) GRANTS.—

1 (1) IN GENERAL.—The Attorney General may
2 award grants to assist State, local, and Indian law
3 enforcement officials with the extraordinary expenses
4 associated with the investigation and prosecution of
5 hate crimes.

6 (2) OFFICE OF JUSTICE PROGRAMS.—In imple-
7 menting the grant program, the Office of Justice
8 Programs shall work closely with the funded juris-
9 dictions to ensure that the concerns and needs of all
10 affected parties, including community groups and
11 schools, colleges, and universities, are addressed
12 through the local infrastructure developed under the
13 grants.

14 (3) APPLICATION.—

15 (A) IN GENERAL.—Each State that desires
16 a grant under this subsection shall submit an
17 application to the Attorney General at such
18 time, in such manner, and accompanied by or
19 containing such information as the Attorney
20 General shall reasonably require.

21 (B) DATE FOR SUBMISSION.—Applications
22 submitted pursuant to subparagraph (A) shall
23 be submitted during the 60-day period begin-
24 ning on a date that the Attorney General shall
25 prescribe.

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

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

6 (ii) certify that the State, political
7 subdivision, or Indian tribe lacks the re-
8 sources necessary to investigate or pros-
9 ecute the hate crime;

10 (iii) demonstrate that, in developing a
11 plan to implement the grant, the State, po-
12 litical subdivision, or tribal official has con-
13 sulted and coordinated with nonprofit, non-
14 governmental victim services programs
15 that have experience in providing services
16 to victims of hate crimes; and

17 (iv) certify that any Federal funds re-
18 ceived under this subsection will be used to
19 supplement, not supplant, non-Federal
20 funds that would otherwise be available for
21 activities funded under this subsection.

22 (4) DEADLINE.—An application for a grant
23 under this subsection shall be approved or dis-
24 approved by the Attorney General not later than 30

1 business days after the date on which the Attorney
2 General receives the application.

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

6 (6) REPORT.—Not later than December 31,
7 2005, the Attorney General shall submit to Congress
8 a report describing the applications submitted for
9 grants under this subsection, the award of such
10 grants, and the purposes for which the grant
11 amounts were expended.

12 (7) AUTHORIZATION OF APPROPRIATIONS.—
13 There is authorized to be appropriated to carry out
14 this subsection \$5,000,000 for each of fiscal years
15 2005 and 2006.

16 **SEC. 5. GRANT PROGRAM.**

17 (a) AUTHORITY TO MAKE GRANTS.—The Office of
18 Justice Programs of the Department of Justice shall
19 award grants, in accordance with such regulations as the
20 Attorney General may prescribe, to State and local pro-
21 grams designed to combat hate crimes committed by juve-
22 niles, including programs to train local law enforcement
23 officers in identifying, investigating, prosecuting, and pre-
24 venting hate crimes.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as may be
3 necessary to carry out this section.

4 **SEC. 6. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO**
5 **ASSIST STATE AND LOCAL LAW ENFORCE-**
6 **MENT.**

7 There are authorized to be appropriated to the De-
8 partment of the Treasury and the Department of Justice,
9 including the Community Relations Service, for fiscal
10 years 2005, 2006, and 2007 such sums as are necessary
11 to increase the number of personnel to prevent and re-
12 spond to alleged violations of section 249 of title 18,
13 United States Code, as added by section 7.

14 **SEC. 7. PROHIBITION OF CERTAIN HATE CRIME ACTS.**

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

18 **“§ 249. Hate crime acts**

19 “(a) IN GENERAL.—

20 “(1) OFFENSES INVOLVING ACTUAL OR PER-
21 CEIVED RACE, COLOR, RELIGION, OR NATIONAL ORI-
22 GIN.—Whoever, whether or not acting under color of
23 law, willfully causes bodily injury to any person or,
24 through the use of fire, a firearm, or an explosive or
25 incendiary device, attempts to cause bodily injury to

1 any person, because of the actual or perceived race,
2 color, religion, or national origin of any person—

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

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

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

10 “(ii) the offense includes kidnaping or
11 an attempt to kidnap, aggravated sexual
12 abuse or an attempt to commit aggravated
13 sexual abuse, or an attempt to kill.

14 “(2) OFFENSES INVOLVING ACTUAL OR PER-
15 CEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEX-
16 UAL ORIENTATION, OR DISABILITY.—

17 “(A) IN GENERAL.—Whoever, whether or
18 not acting under color of law, in any cir-
19 cumstance described in subparagraph (B), will-
20 fully causes bodily injury to any person or,
21 through the use of fire, a firearm, or an explo-
22 sive or incendiary device, attempts to cause
23 bodily injury to any person, because of the ac-
24 tual or perceived religion, national origin, gen-

1 der, sexual orientation, or disability of any per-
2 son—

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

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

9 “(I) death results from the of-
10 fense; or

11 “(II) the offense includes kid-
12 naping or an attempt to kidnap, ag-
13 gravated sexual abuse or an attempt
14 to commit aggravated sexual abuse, or
15 an attempt to kill.

16 “(B) CIRCUMSTANCES DESCRIBED.—For
17 purposes of subparagraph (A), the cir-
18 cumstances described in this subparagraph are
19 that—

20 “(i) the conduct described in subpara-
21 graph (A) occurs during the course of, or
22 as the result of, the travel of the defendant
23 or the victim—

24 “(I) across a State line or na-
25 tional border; or

1 “(II) using a channel, facility, or
2 instrumentality of interstate or for-
3 eign commerce;

4 “(ii) the defendant uses a channel, fa-
5 cility, or instrumentality of interstate or
6 foreign commerce in connection with the
7 conduct described in subparagraph (A);

8 “(iii) in connection with the conduct
9 described in subparagraph (A), the defend-
10 ant employs a firearm, explosive or incen-
11 diary device, or other weapon that has
12 traveled in interstate or foreign commerce;
13 or

14 “(iv) the conduct described in sub-
15 paragraph (A)—

16 “(I) interferes with commercial
17 or other economic activity in which
18 the victim is engaged at the time of
19 the conduct; or

20 “(II) otherwise affects interstate
21 or foreign commerce.

22 “(b) CERTIFICATION REQUIREMENT.—No prosecu-
23 tion of any offense described in this subsection may be
24 undertaken by the United States, except under the certifi-
25 cation in writing of the Attorney General, the Deputy At-

1 torney General, the Associate Attorney General, or any
2 Assistant Attorney General specially designated by the At-
3 torney General that—

4 “(1) he or she has reasonable cause to believe
5 that the actual or perceived race, color, religion, na-
6 tional origin, gender, sexual orientation, or disability
7 of any person was a motivating factor underlying the
8 alleged conduct of the defendant; and

9 “(2) he or his designee or she or her designee
10 has consulted with State or local law enforcement of-
11 ficials regarding the prosecution and determined
12 that—

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

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

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

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

23 “(c) DEFINITIONS.—In this section—

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

4 “(2) the term ‘firearm’ has the meaning given
5 the term in section 921(a) of this title.”.

6 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—
7 The analysis for chapter 13 of title 18, United States
8 Code, is amended by adding at the end the following:

 “249. Hate crime acts.”.

9 **SEC. 8. DUTIES OF FEDERAL SENTENCING COMMISSION.**

10 (a) **AMENDMENT OF FEDERAL SENTENCING GUIDE-**
11 **LINES.**—Pursuant to the authority provided under section
12 994 of title 28, United States Code, the United States
13 Sentencing Commission shall study the issue of adult re-
14 cruitment of juveniles to commit hate crimes and shall,
15 if appropriate, amend the Federal sentencing guidelines
16 to provide sentencing enhancements (in addition to the
17 sentencing enhancement provided for the use of a minor
18 during the commission of an offense) for adult defendants
19 who recruit juveniles to assist in the commission of hate
20 crimes.

21 (b) **CONSISTENCY WITH OTHER GUIDELINES.**—In
22 carrying out this section, the United States Sentencing
23 Commission shall—

24 (1) ensure that there is reasonable consistency
25 with other Federal sentencing guidelines; and

1 (2) avoid duplicative punishments for substan-
2 tially the same offense.

3 **SEC. 9. STATISTICS.**

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

7 **SEC. 10. SEVERABILITY.**

8 If any provision of this Act, an amendment made by
9 this Act, or the application of such provision or amend-
10 ment to any person or circumstance is held to be unconsti-
11 tutional, the remainder of this Act, the amendments made
12 by this Act, and the application of the provisions of such
13 to any person or circumstance shall not be affected there-
14 by.

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