



Local Law Enforcement Hate Crime Prevention Act of 2009

**Support legislation
to strengthen
existing federal
hate crime laws**

Senate Sponsor:

Sen. Kennedy (D-MA)

House Sponsors:

Rep. Conyers (D-MI)

Rep. Kirk (R-IL)

Rep. Frank (D-MA)

Rep. Biggert (R-IL)

Rep. Baldwin (D-WI)

Rep. Ros-Lehtinen (R-FL)

Rep. Nadler (D-NY)

Rep. Bono Mack (R-CA)

Rep. Polis (D-CO)

BACKGROUND

This legislation would strengthen existing federal hate crime laws in two ways:

1. The bill would eliminate a serious limitation on federal involvement under existing law – the requirement that a victim of a bias-motivated crime was attacked because he/she was engaged in a specified federally-protected activity, such as serving on a jury or attending public school.
2. Current law, 18 U.S.C. Sec. 245, authorizes federal involvement only in those cases in which the victim was targeted because of race, color, religion, or national origin. The LLEHCPA would also authorize the Department of Justice to investigate and prosecute certain bias-motivated crimes based on the victim's actual or perceived sexual orientation, gender, gender identity, or disability. Current federal law does not provide authority for involvement in these four categories of cases at all.

RECENT ACTION

The Local Law Enforcement Hate Crime Prevention Act (H.R. 1913) has repeatedly received bipartisan majority support in both the House and the Senate since its original introduction in 1997.

In the last session of Congress, the House of Representatives approved H.R. 1592, the Local Law Enforcement Hate Crime Prevention Act, by a vote of [237-180](#) on May 3, 2007. Facing a [veto threat](#) from President Bush, the Senate added the text of S. 1105, the Matthew Shepard Local Law Enforcement Hate Crimes Prevention Act, as an amendment to the Department of Defense Authorization legislation on September 27. The key vote, [60-39](#), was on a motion to limit debate on the bill, as policy opponents tried to kill the measure through the use of a filibuster. The House version of the Department of Defense Authorization bill, H.R. 1585, had been approved on May 17, without hate crime provisions.

Unfortunately, the House-Senate Conference Committee meeting to reconcile differences did not include the hate crimes provisions in the final version of the bill.

LAW ENFORCEMENT SUPPORT

The measure also enjoys the support of President Obama, Attorney General Holder, more than 300 civil rights, professional, civic, educational, and religious groups, twenty-six state Attorneys General, former US Attorney General Dick Thornburgh, and virtually every major national law enforcement organizations in America, including:

- Federal Law Enforcement Officers Association
- Hispanic American Police Command Officers Association
- Hispanic National Law Enforcement Association
- International Association of Chiefs of Police
- International Brotherhood of Police Officers
- Major Cities Chiefs Association
- National Asian Peace Officers Association
- National Black Police Association
- National Center for Women & Policing
- National Coalition of Public Safety Officers
- National District Attorneys Association
- National Latino Police Officers Association
- National Organization of Black Law Enforcement Executives
- National Sheriffs' Association
- Police Executive Research Forum
- Police Foundation



Local Law Enforcement Hate Crimes Prevention Act of 2009

Endorsing Organizations

The Local Law Enforcement Hate Crimes Prevention Act is supported by twenty-six state Attorneys General and over 300 national law enforcement, professional, education, civil rights, religious, and civic organizations.

- A. Philip Randolph Institute
- AIDS National Interfaith Network
- African American Ministers in Action
- African-American Women's Clergy Association
- Agudath Israel
- Alexander Graham Bell Association for the Deaf and Hard of Hearing (AG Bell)
- Alliance for Rehabilitation Counseling
- American-Arab Anti-Discrimination Committee
- American Association for Affirmative Action
- American Association of University Women
- American Association on Health and Disability
- American Association on Intellectual and Developmental Disabilities
- American Association on Mental Retardation (AAMR)
- American Association of People with Disabilities (AAPD)
- American Citizens for Justice
- American Civil Liberties Union (ACLU)
- American Conference of Cantors
- American Council of the Blind
- American Counseling Association
- American Dance Therapy Association
- American Ethical Union, Washington Office
- American Federation of Government Employees
- American Federation of Musicians
- American Federation of State, County, and Municipal Employees, AFL CIO
- American Federation of Teachers
- AFL-CIO
- American Foundation for the Blind
- American Islamic Congress
- American Jewish Committee
- American Jewish Congress
- American Medical Association
- American Medical Rehabilitation Providers Association (AMRPA)
- American Music Therapy Association
- American Network of Community Options and Resources (ANCOR)
- American Nurses Association
- American Occupational Therapy Association (AOTA)
- American Psychological Association
- American Rehabilitation Association
- American Speech-Language Hearing Association
- American Therapeutic Recreation Association
- American Psychological Association
- Americans for Democratic Action
- American Veterans Committee
- And Justice For All
- Anti-Defamation League
- Aplastic Anemia Foundation of America, Inc.
- Arab American Institute
- The Arc of the United States
- Asian American Justice Center
- Asian American Legal Defense & Education Fund
- Asian Law Caucus
- Asian Pacific American Labor Alliance
- Asian Pacific American Legal Center
- Association for Gender Equity Leadership in Education
- Association of Tech Art Projects (ATAP) c/o Washington Partners LLP
- Association of University Centers on Disabilities (AUCD)
- Autism Society of America
- AYUDA
- Bazon Center for Mental Health Law
- Bi-Net
- B'nai B'rith International
- Brain Injury Association, Inc.
- Break the Cycle
- Buddhist Peace Fellowship
- Business and Professional Women, USA
- Catholics for Free Choice
- Center for Community Change
- Center for Democratic Renewal
- Center for the Study of Hate & Extremism
- Center for Women Policy Studies
- Central Conference of American Rabbis
- Chinese American Citizens Alliance
- Christian Church Capital Area
- Church Women United
- Coalition of Black Trade Unionists
- Coalition of Labor Union Women
- Colorado Coalition Against Sexual Assault (CCASA)
- Communication Workers of America
- Congress of National Black Churches
- Consortium for Citizens with Disabilities
- Consortium of Developmental Disabilities Councils
- Council for Learning Disabilities
- Council of State Administrators of Vocational Rehabilitation
- Cuban American National Council
- Democrats.com
- Disability Rights Education and Defense Fund

Disciples of Christ Advocacy Washington Network
 Disciples Justice Action Network
 Easter Seals
 The Episcopal Church
 Epilepsy Foundation
 Equal Partners in Faith
 Equal Rights Advocates, Inc.
 Evangelical Lutheran Church of America, Office for
 Government Affairs
 Fair Employment Council of Greater Washington
 Family Pride Coalition
 Federal Law Enforcement Officers Association
 Federally Employed Women
 Feminist Majority
 Friends Committee on National Legislation
 Gay, Lesbian and Straight Education Network
 Gender Public Advocacy Coalition
 GenderWatchers
 General Federation of Women's Clubs
 Goodwill Industries International, Inc.
 Hadassah, the Women's Zionist Organization of America
 Helen Keller National Center
 Hispanic American Police Command Officers
 Association
 Hispanic National Law Enforcement Association
 Human Rights Campaign
 Human Rights First
 The Indian American Center for Political Awareness
 Interfaith Alliance
 International Association of Chiefs of Police - (Senate) /
 (House)
 International Association of Jewish Lawyers and Jurists
 International Association of Jewish Vocational Services
 International Brotherhood of Teamsters
 International Dyslexia Association
 International Federation of Black Pride
 International Union of United Aerospace and Agricultural
 Implements
 Japanese American Citizens League
 Jewish Council for Public Affairs
 Jewish Labor Committee
 Jewish Reconstructionist Federation
 Jewish War Veterans of the USA
 Jewish Women International
 JAC-Joint Action Committee
 Justice for All
 LDA, The Learning Disabilities Association of America
 Labor Council for Latin American Advancement
 The Latino Coalition
 Latino/a, Lesbian, Gay, Bisexual & Transgender
 Organization
 Lawyers' Committee for Civil Rights Under Law
 Leadership Conference on Civil Rights
 LEAP- Leadership Education for Asian Pacifics, Inc.
 Learning Disabilities Association of America
 League of Women Voters
 League of United Latin American Citizens (LULAC)
 Legal Momentum
 Log Cabin Republicans
 Major Cities Chiefs Association
 MALDEF - Mexican American Legal Defense &
 Education Fund
 MANA - A National Latina Organization
 Maryland State Department of Education
 Matthew Shepard Foundation
 The McAuley Institute
 Methodist Federation for Social Action
 Moderator's Global Justice Team of Metropolitan
 Community Churches
 National Abortion Federation
 NAACP
 NAACP Legal Defense and Educational Fund, Inc.
 NA'AMAT USA
 NAKASEC- National Korean American Service
 & Education Consortium, Inc
 National Abortion Federation
 National Alliance on Mental Illness (NAMI)
 National Alliance of Postal and Federal Employees
 National Asian Pacific American Bar Association
 National Asian Pacific American Women's Forum
 National Asian Peace Officers Association
 National Association for Multicultural Education
 National Association for the Education and Advancement
 of Cambodian, Laotian and Vietnamese Americans
 National Association of Commissions for Women
 National Association of Collegiate Women Athletics
 Administrators
 National Association of the Deaf
 National Association of Developmental Disabilities
 Councils (NADDC)
 National Association of Latino Elected and Appointed
 Officials (NALEO)
 National Association of Lesbian, Gay, Bisexual and
 Transgender Community Centers (on House Vote)
 National Association for Multicultural Education
 National Association of People with AIDS
 National Association of Private Schools for Exceptional
 Children
 National Association of Rehabilitation Research and
 Training Centers
 National Association of School Psychologists
 National Association of Social Workers
 National Black Justice Coalition
 National Black Police Association
 National Black Women's Health Project
 National Center for Lesbian Rights
 National Center for Transgender Equality
 National Center for Victims of Crime
 National Center for Women & Policing
 National Coalition Against Domestic Violence
 National Coalition for Asian Pacific American
 Community Development
 National Coalition of Anti-Violence Programs
 National Coalition on Deaf-Blindness
 National Coalition of Public Safety Officers
 National Conference for Community and Justice (NCCJ)
 National Congress of American Indians
 National Congress of Black Women
 National Council of Churches of Christ in the USA
 National Council of Jewish Women
 National Council of La Raza
 National Council of Women's Organizations
 National Crime Prevention Council
 National Disability Rights Network

National District Attorneys Association
 National Down Syndrome Society (NDSS)
 National Education Association
 National Federation of Filipino American Associations
 National Fragile X Foundation (Fragile X)
 National Gay and Lesbian Task Force
 National Hispanic Leadership Agenda (NHLA)
 National Italian American Foundation
 National Jewish Democratic Council
 National Korean American Service and
 Education Consortium
 National Latino Police Officers Association
 National League of Cities
 National Mental Health Association
 National Multicultural Institute
 National Newspaper Publishers Association
 National Organization of Black Law Enforcement
 Executives
 National Organization for Women
 National Parent Network on Disabilities
 National Partnership for Women & Families
 National Puerto Rican Coalition, Inc.
 National Rehabilitation Association
 National Respite Network
 National Sheriffs' Association
 National Spinal Cord Injury Association
 National Spiritual Assembly of the Baha'is of the United
 States
 National Structured Settlement Trade Association
 (NSSTA)
 National Therapeutic Recreation Society
 National Urban League
 National Victim Center
 National Women's Conference
 National Women's Committee (NWC)
 National Women's Law Center
 National Youth Advocacy Coalition
 NISH
 NOW - National Organization for Women
 NOW Legal Defense & Education Fund
 NETWORK, A National Catholic Social Justice Lobby
 9to5 Atlanta
 9to5 Bay Area
 9to5 Colorado
 9to5 Los Angeles
 9to5 Poverty Network Initiative (Wisconsin)
 9to5, National Association of Working Women
 North American Federation of Temple Youth
 Northwest Women's Law Center
 Organization of Chinese Americans
 ORT- Organization for Educational Resources
 and Technological Training
 Paralyzed Veterans of America
 Parents, Families and Friends of Lesbians and Gays
 People For the American Way
 Police Executive Research Forum
 Police Foundation
 Presbyterian Church (USA), Washington Office
 Pride at Work
 Project Equality, Inc.
 Rainbow/PUSH Coalition

Rehabilitation Engineering and Assistive Technology
 Society of North America
 Research Institute for Independent Living
 The Rabbinical Assembly
 Rock the Vote
 Sargent Shriver National Center on Poverty Law
 School Social Work Association of America
 Service Employees International Union, AFL-CIO
 Sikh American Legal Defense and Education Fund
 (SALDEF)
 Society for the Psychological Study of Social Issues
 South Asian Americans Leading Together (SAALT)
 Southeast Asia Resource Action Center
 Southern Poverty Law Center
 Spina Bifida Association of America
 Texas Police Chiefs Association
 Union of Reform Judaism
 Union of Needletrades, Industrial & Textile Employees
 (UNITE)
 Unitarian Universalist Association of Congregations
 United Cerebral Palsy
 United Church of Christ – Justice and Witness Ministries
 United Church of Christ - Office of Church in Society
 United Food and Commercial Workers
 International Union
 United Methodist Church – General Board of Church and
 Society
 United Methodist Church - General Commission on
 Religion and Race
 United Spinal Association
 The United States Conference of Mayors
 United States Student Association
 United Synagogue of Conservative Judaism
 Washington Teachers Union
 The Woman Activist Fund, Inc.
 Women Employed
 Women of Reform Judaism, Federation of Temple
 Sisterhoods
 Women Work!
 Women's Alliance for Theology, Ethics & Ritual
 Women's American ORT
 The Women's Institute for Freedom of the Press
 Women's Law Center of Maryland, Inc.
 Women's Research and Education Institute (WREI)
 World Institute on Disability (WID)
 YWCA of the USA

Updated March, 2009

The Local Law Enforcement Hate Crimes Prevention Act of 2009 Does Not Burden Speech, Thought or Association

The Local Law Enforcement Hate Crimes Prevention Act of 2009 (H.R. 1913) is a carefully crafted measure that protects First Amendment rights while combating violent, bias-motivated crime. The Act contains multiple provisions designed to ensure free speech and association rights will not be burdened.

Speech alone cannot be prosecuted under the LLEHCPA.

Claims that speech alone will result in a hate crimes charge are categorically false. Nothing in this legislation would or *could* change First Amendment protections. The LLEHCPA punishes only violent *actions* not beliefs or thoughts – even violent thoughts. This fact is clear from the plain language of the legislation.

- *First*, in order to be classified a hate crime under this legislation; a bias-motivated crime must involve “death or serious bodily injury” or must be an attempt to cause bodily injury to a person through the use of fire, a firearm, or an explosive or incendiary device.
- *Second*, the Act contains language that clarifies First Amendment rights – including free speech and free exercise of religion, will be protected. The language reads:

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 free speech or free exercise clause of, the First Amendment to the Constitution.

- *Third*, the Act contains language that makes clear that speech and association rights will not be burdened. The language reads:

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.

Hate crimes laws have never been used to prosecute speech.

State hate crimes laws have been around for decades and the current federal hate crimes law has been in place since 1968; *not once* has anyone in our country actually been prosecuted for speech.

- Although opponents often cite the arrest of several members of the group “Repent America” at the October 2004 Philadelphia Outfest, a large annual gay, lesbian, bisexual and transgender block party, this incident actually illustrates how well the criminal justice system worked. Initially charged under Pennsylvania’s hate crimes statute for their disruptive behavior, a judge quickly recognized that what had occurred was not a hate crime – and she dropped the charges.

Violence is not free speech.

No person has a right to commit a violent hate crime in our great nation. These crimes *are* different from other crimes. The intentional selection and beating or murder of an individual because of who they are terrorizes an entire community and sometimes the country. Protecting Americans against this type of violence will not burden free speech but will aid us in ridding our nation of this type of hate filled violence.

TALKING POINTS FOR MEMBERS

- The federal government must have jurisdiction to address bias-motivated crimes in states in which current law is inadequate. Currently, only thirty one states and the District of Columbia include sexual orientation-based crimes in their hate crimes statutes; only twenty-six states and the District of Columbia, include coverage of gender-based crimes; only eleven states and the District of Columbia include coverage of gender-identity based crimes, and only thirty states and the District of Columbia include coverage for disability-based crimes. A chart of existing state hate crimes statutory provisions is available here: http://www.adl.org/combating_hate/
- This measure would give local law enforcement officials important tools to combat violent, bias-motivated crime. Federal support – through training or direct assistance – will help ensure that bias-motivated violence is effectively investigated and prosecuted. The legislation would also facilitate federal investigations and prosecutions when local authorities are unwilling or unable to achieve a just result.
- Passage of a federal law would increase public education and awareness, and encourage Americans to report hate crimes. The federal government must demonstrate its resolve to deal with violence based on prejudice.
- Bias-motivated crimes merit a priority response because of their special impact on the victims. These crimes – designed to intimidate whole communities on the basis of personal and immutable characteristics – can spark widespread neighborhood conflicts and damage the fabric of our society.
- State and local authorities investigate and prosecute the overwhelming majority of hate crime cases – and the federal government can be expected to continue to defer to state authorities under the LLEEA, as well. Since 1991, for example, the FBI has documented almost 130,000 hate crimes. During that period, however, the Justice Department has brought fewer than 200 cases under 18 U.S.C. Sec. 245.
- For more information see: www.unitedagainsthate.net and <http://www.fbi.gov/ucr/hc2007/incidents.htm>

Updated April, 2009



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

April 6, 2009

Dear Representative:

The undersigned member organizations of the Consortium for Citizens with Disabilities (CCD) are writing to urge your support for H.R. 1913, the Local Law Enforcement Hate Crime Prevention Act (LLEHCPA), reintroduced April 2, 2009. LLEHCPA would grant agencies the authority to investigate and prosecute federal crimes based on the victim's disability, whether actual or perceived, and would authorize funding to states to help with the prosecution of Hate Crimes.

Through much of our country's history and well into the twentieth century, people with disabilities -- including those with developmental delays, epilepsy, cerebral palsy and other physical and mental impairments -- were seen as useless and dependent, hidden and excluded from society, either in their own homes or in institutions. Now, this history of isolation is gradually giving way to inclusion in all aspects of society, and people with disabilities everywhere are living and working in communities alongside family and friends. But this has not been a painless process. People with disabilities often seem "different" to people without disabilities. They may look different or talk differently. They may require the assistance of a wheel-chair, a cane, or other assistive technologies. They may have seizures or have difficulty understanding seemingly simple directions.

These perceived differences evoke a range of emotions in others, from misunderstanding and apprehension to feelings of superiority and hatred. Bias against people with disabilities takes many forms, often resulting in discriminatory actions in employment, housing, and public accommodations. Laws like the Fair Housing Amendments Act, the Americans with Disabilities Act, and the Rehabilitation Act are designed to protect people with disabilities from prejudice.

Perhaps most unfortunately, disability bias can also manifest itself in the form of violence — and it is imperative that a message be sent to our country that these acts of bias-motivated hatred are not acceptable in our society.

The federal government still has very limited authority to investigate and prosecute disability-bias **federal** crimes. In 1994, Congress enacted a penalty-enhancement law for **federal crimes** in which the defendant intentionally selects

a victim because of the person's "actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person" [28 USC 994 Note]. Also in 1994, Congress extended the Hate Crime Statistics Act of 1990, a law requiring the FBI to collect hate crime statistics from state and local law enforcement authorities, to include disability-based hate crimes. Still, hate crimes against those with disabilities remain vastly under-reported.

The LLEHCPA would broaden the definition of hate crimes to include disability, sexual orientation, gender and gender identity. It also makes grants available to state and local communities to combat violent crimes committed by juveniles, train law enforcement officers or to assist in state and local investigations and prosecutions of bias-motivated crimes.

Thirty-one states and the District of Columbia have already recognized the importance of this issue and have included people with disabilities as a protected class under their hate crimes statutes. However, protection is neither uniform nor comprehensive, and this has important practical and symbolic results. It is vital for the federal government to send the message that hate crimes committed because of disability bias are as intolerable as those motivated by race, ethnicity, national origin, or religion. The crucial resources provided to local law enforcement LLEHCPA would give meaning and substance to this important message. It is critical that people with disabilities share in the protection of the federal hate crimes statute.

Too frequently, bias-motivated crimes against those with disabilities have gone unreported and unprosecuted. The special problems associated with investigating and prosecuting hate violence against someone with a disability makes the availability of federal resources for state and local authorities all that much more important to ensure that justice prevails.

We urge you to support the Local Law Enforcement Hate Crime Prevention Act. This legislation is vitally important for the vulnerable population of individuals with disabilities, and must be enacted in order to bring the full protection of the law to those targeted for violent, bias-motivated crimes simply because they have a disability.

Sincerely,

Alexander Graham Bell Association for the Deaf and Hard or Hearing (AG Bell)

American Association on Health and Disability

American Association on Intellectual and Developmental Disabilities (AAIDD)

American Association of People with Disabilities (AAPD)

American Council of the Blind

American Counseling Association

American Diabetes Association
American Dance Therapy Association
American Medical Rehabilitation Providers Association (AMRPA)
American Music Therapy Association
American Network of Community Options and Resources (ANCOR)
American Occupational Therapy Association (AOTA)
American Psychological Association
American Therapeutic Recreation Association
American Rehabilitation Association
Association of Assistive Technology Act Programs (ATAP)
Association of University Centers on Disabilities (AUCD)
Autistic Self Advocacy Network
Autism Society of America
Bazelon Center for Mental Health Law
Brain Injury
Association of America
Council for Learning Disabilities
Council of Parent Attorneys and Advocates (COPAA)
Council of State Administrators of Vocational Rehabilitation
Disability Policy Collaboration
Disability Rights Education and Defense Fund
Disabled Action Committee
Easter Seals
Epilepsy Foundation
Helen Keller National Center
Higher Education Consortium for Special Education
Learning Disabilities Association of America
Mental Health America
National Alliance on Mental Illness (NAMI)
National Association of Councils on Developmental Disabilities (NACDD)
**National Association of County Behavioral Health and Developmental
Disability Directors**

National Association of the Deaf
National Association of School Psychologists
National Association of Social Workers
National Association of State Head Injury Administrators
National Center for Learning Disabilities
National Coalition on Deaf-Blindness
National Council on Independent Living
National Disability Rights Network (NDRN)
National Down Syndrome Congress
National Down Syndrome Society (NDSS)
National Fragile X Foundation
National Rehabilitation Association
National Organization of Social Security Claimants' Representatives
National Respite Coalition (NRC)
National Structured Settlement Trade Association (NSSTA)
NISH
Paralyzed Veterans of America (PVA)
Research Institute for Independent Living
School Social Work Association of America
Spina Bifida Association
TASH
The Arc of the United States
United Cerebral Palsy United Spinal Association
United Spinal Association
World Institute on Disability (WID)

The Consortium for Citizens with Disabilities is a Coalition of national consumer, advocacy, provider and professional organizations headquartered in Washington, D.C. (A list of members is available at www.c-c-d.org.) Since 1973, the CCD has advocated on behalf of people of all ages with physical and mental disabilities and their families. CCD has worked to achieve federal legislation and regulations that assure that America's 54 million children and adults with disabilities are fully integrated into the mainstream of society

Dear Representative,

We, the undersigned women's advocacy organizations, write to urge your support for, the Local Law Enforcement Hate Crime Prevention Act of 2009 (LLEHCPA). As organizations devoted to women's rights and women's progress, we have a shared commitment to equal justice under the law and to protecting the right of all people to live full and free lives, without fear of bias-driven violence or intimidation. We fully support this vital legislation because we believe it provides much-needed protections and tools to combat – and help eliminate – hate and bias crimes.

Gender-Based Hate Crimes Have Devastating Consequences

Like hate violence against racial, ethnic, and religious minorities, crimes motivated by gender bias are acts of discrimination that menace individual victims and entire communities. Attacks motivated by gender bias instill a fear in their intended victims that not only threatens their lives, but also can restrict where they work, study, travel, and live. Such crimes are particularly insidious because they target individuals for who they are and thus put victims at risk at all times and in any situation.

Strengthening Current Law is Essential to Combating Hate Crimes

Existing federal hate crimes laws authorize federal involvement in the prosecution of non-federal hate crimes only in those cases in which the victim was targeted because of race, color, religion, or national origin. The LLEHCPA would fill a gap in current law by authorizing the Department of Justice to investigate and prosecute certain violent crimes motivated by the victim's actual or perceived sexual orientation, gender, gender identity, or disability. In addition, the law strengthens protections against bias-motivated crimes by removing unduly rigid restrictions on when the federal government can assist local authorities in the prosecution of hate crimes. Further, the new provisions prohibiting gender-motivated hate crimes, coupled with the prohibitions against hate crimes based on race or ethnicity, will provide women of color with important protections, enabling them to challenge violent crimes fueled by prejudice based on multiple factors such as race and gender. Finally, the LLEHCPA will create a valuable mechanism to provide needed additional information about the nature and the magnitude of these crimes. The bill would require the FBI to collect statistics on gender-motivated crimes from police departments across the country under the Hate Crime Statistics Act of 1990.

These changes are crucial for women who otherwise would not be afforded relief by the justice system. While local law enforcement has made significant advances in responding to crimes such as domestic violence, rape, and sexual assault, state and local prosecutors and judges may be insufficiently informed about or otherwise unable to adequately prosecute gender-motivated hate crimes and may attribute violence against women to other motives. In such cases, an inadequate response by police or prosecutors can leave survivors of sexual and domestic violence vulnerable to further violence, even murder.

Limited Federal Jurisdiction Is Needed to Fill the Gaps in Current Law

The LLEHCPA would establish uniform federal protections against gender-motivated bias crimes as a backstop to existing laws in every state. Currently, only twenty-six states and the District of Columbia include gender-based crimes in their hate crimes statutes. Further, while the federal Violence Against Women Act (VAWA) addresses intimate-partner violence, it does not specifically address gender-

motivated hate crimes. In addition, the criminal remedies available under VAWA only apply in cases of interstate domestic violence, interstate stalking, and interstate violations of a protective order. Just as Congress recognized the need for a federal remedy to address violence against African-Americans in 1968 when some local officials failed to prosecute racially-motivated crimes, so too should Congress recognize the need for a federal remedy to address violent crimes motivated by gender bias in those discrete instances in which local authorities are unable or unwilling to act.

Providing authority for the federal government to investigate and prosecute certain gender-bias crimes is not unprecedented. In 1994, Congress enacted a penalty-enhancement law for federal crimes “in which the defendant intentionally selects a victim, or in the case of a property crime, the property that is the object of the crime, because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person.” 28 U.S.C. § 994 Note. The LLEHCPA would effectively complement this provision by allowing for limited federal jurisdiction in certain state bias crime cases.

Federal Jurisdiction Would Operate Only When Necessary and After Jurisdictional Prerequisites Have Been Met

Under the LLEHCPA, local law enforcement officials would continue to prosecute the vast majority of gender-motivated hate crimes. However, this legislation will help ensure an appropriate law enforcement response in those cases of gender-based hate crimes when the local authorities either cannot act or fail to do so. The LLEHCPA would allow for federal prosecution when, for instance, the local police fail to respond to complaints of violence resulting from gender bias because the police are friends or relatives of the perpetrator, or when local law enforcement officials face jurisdictional obstacles over an out-of-state individual suspected of committing a gender-based hate crime. Under current law, such crimes may escape effective prosecution, leaving the victims without an appropriate remedy and the perpetrators free to continue inflicting harms propelled by gender hatred. In addition, in jurisdictions where there is a systemic failure to address violence motivated by gender bias, a federal prosecution can send a message that such a widespread violation of women’s rights will not be tolerated.

This legislation would not convert every instance of domestic violence, rape, or sexual assault into a prosecution under the federal hate crime law. The law applies only to felony crimes that involve a direct connection to interstate or foreign commerce, which requires, for example, that the perpetrator or victim crossed state lines or that the perpetrator employed a weapon that traveled in interstate commerce. The legislation also limits federal involvement to those instances in which the Attorney General (or an authorized designee) not only certifies that the crime appears to be motivated by gender bias, but also confirms the need for federal intervention by certifying in each instance that local officials cannot or will not act or have requested federal assistance, or that the state prosecution was inadequate.

Further, not every violent crime against women is a bias crime, just as not every crime against an African-American is based on racial prejudice. Federal courts already routinely assess the question of gender motivation in the context of workplace discrimination claims and claims raised under other federal civil rights laws, such as 42 U.S.C. § 1983. Prosecutors and judges can rely on the same totality of

the circumstances analysis that would pertain to the other protected bases under the law – considering the language, nature and severity of the attack, absence of another apparent motive, patterns of behavior, and common sense – to determine whether a violent crime was motivated by gender bias.

A look at the actual numbers of prosecutions under state hate crimes laws further stems any concern that this legislation will open the floodgates to federal hate crimes prosecutions. States that recognize gender-based hate crimes have not been overwhelmed by prosecutions of domestic violence, rape, and sexual assault under their existing hate crimes laws. Instead, these laws have operated in a targeted way. The experience in these states demonstrates that protection against gender-motivated bias crimes is essential. As organizations committed to advocating for the rights of our constituencies which include women of every race, religion, color, ethnicity, ability, sexual orientation, and gender-identity, we believe it that this legislation is needed now.

Therefore, the undersigned women’s advocacy organizations request your support for, the Local Law Enforcement Hate Crime Prevention Act of 2009, to provide adequate enforcement mechanisms to address and deter gender-motivated hate crimes and ensure that safety is guaranteed to *all*.

Sincerely,

9to5 Bay Area (CA)
9to5 Colorado
9to5 Milwaukee
9to5, National Association of Working Women
AFL-CIO Department of Civil, Human and Women’s Rights
American Association of University Women
Atlanta 9to5
Break the Cycle
Coalition of Labor Union Women
Colorado Coalition Against Sexual Assault (CCASA)
Communications Workers of America, AFL-CIO
Democrats.com
Equal Rights Advocates, Inc.
Feminist Majority
Gender Public Advocacy Coalition (GenderPAC)
GenderWatchers
Hadassah, the Women’s Zionist Organization of America
Legal Momentum
Los Angeles 9to5
NA’AMAT USA
National Abortion Federation
National Asian Pacific American Women’s Forum
National Association of Social Workers

National Center for Lesbian Rights
National Center for Victims of Crime
National Center on Domestic and Sexual Violence
National Congress of Black Women
National Council of Jewish Women
National Council of Women's Organizations
National Organization for Women
National Partnership for Women & Families
National Women's Conference
National Women's Conference Committee
National Women's Committee (NWC)
National Women's Law Center
Northwest Women's Law Center
Sargent Shriver National Center on Poverty Law
The Women's Institute for Freedom of the Press
Washington Teachers Union
Women Employed
Women's Alliance for Theology, Ethics and Ritual
Women's Law Center of Maryland, Inc.
Women's Research & Education Institute (WREI)
YWCA USA

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April 8, 2009

Dear Representative,

As representatives of a diverse array of religious communities, we write to urge you to co-sponsor and vote in support of the Local Law Enforcement Hate Crimes Prevention Act—H.R. 1913 (LLEHCPA). In the 110th Congress, the House approved similar legislation on May 3, 2007 with a bipartisan majority of 237-180.

Hate is neither a religious nor American value. The sacred scriptures of many different faith traditions speak with dramatic unanimity on the subject of hate. Crimes motivated by hatred or bigotry are an assault not only upon individual victims' freedoms, but also upon a belief that lies at the core of our diverse faith traditions -- that every human being is created in the image of God. While we recognize that legislation alone cannot remove hatred from the hearts and minds of individuals, the LLEHCPA will serve as a crucial step in building a society where hate-motivated crimes are deemed intolerable.

In 2007, the FBI documented 7,624 hate crimes directed against institutions and individuals because of their race, religion, sexual orientation, national origin, or disability. But these troubling statistics do not speak for themselves – because behind each and every one of these incidents are individuals, families, and communities deeply impacted by these crimes. The LLEHCPA will stream-line the process for the Department of Justice to assist local authorities to investigate and prosecute these cases –

and permit federal involvement in cases that occur because of a victim's gender, disability, gender identity or sexual orientation.

Existing federal law is inadequate to address the significant national problem of hate crimes. Not only does current law contain obstacles to effective enforcement, but it also does not provide authority to investigate and prosecute bias crimes based on disability, gender, gender identity or sexual orientation. We are morally obligated to call for laws to protect all Americans from hate-motivated violence.

The LLEHCPA does not in any way violate First Amendment protections. Hate crime laws do not restrict speech. Rather, they target only criminal conduct prompted by prejudice. Some critics of the LLEHCPA have erroneously asserted that enactment of the measure would prohibit the lawful expression of one's deeply held religious beliefs. These fears are unfounded. **The LLEHCPA does not punish, nor prohibit in any way, preaching or other expressions of religious belief, name-calling, or even expressions of hatred toward any group. It covers only violent actions that result in death or bodily injury.**

Although we believe that state and local governments should continue to have the primary responsibility for investigating and prosecuting hate crimes, an expanded federal role is necessary to ensure adequate and equitable response to these divisive crimes. The federal government must have authority to address those important cases in which local authorities are either unable or unwilling to investigate and prosecute.

Now is the time for Congress to publicly reaffirm its commitment to protect all Americans from such flagrant bias-motivated violence. As people of faith and leaders in the religious community, we are committed to eradicating the egregious hatred and violence which divides our society. We believe that the LLEHCPA is vital to this struggle, and we ask you to support its passage.

Respectfully,

African American Ministers in Action
Alliance of Baptists
American-Arab Anti-Discrimination Committee
American Conference of Cantors
American Islamic Congress
American Jewish Committee
Anti-Defamation League
B'nai B'rith International
Central Conference of American Rabbis
Disciples Justice Action Network
The Episcopal Church
Equal Partners in Faith
FaithTrust Institute
Friends Committee on National Legislation

Hadassah, the Women's Zionist Organization of America
Interfaith Alliance
Islamic Society of North America
Jewish Council for Public Affairs
Jewish Labor Committee
Jewish Reconstructionist Federation
Jewish Women International
Maryknoll Office for Global Concerns
Methodist Federation for Social Action
Metropolitan Community Churches
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