

115TH CONGRESS
1ST SESSION

S. 662

To provide incentives for hate crime reporting, grants for State-run hate crime hotlines, a Federal private right of action for victims of hate crimes, and additional penalties for individuals convicted under the Matthew Shephard and James Byrd, Jr. Hate Crimes Prevention Act.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2017

Mr. BLUMENTHAL (for himself, Mr. SANDERS, Mr. MARKEY, Mr. DURBIN, Mr. MERKLEY, Mr. KAINE, Ms. BALDWIN, Mr. WYDEN, and Ms. HIRONO) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide incentives for hate crime reporting, grants for State-run hate crime hotlines, a Federal private right of action for victims of hate crimes, and additional penalties for individuals convicted under the Matthew Shephard and James Byrd, Jr. Hate Crimes Prevention Act.

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 “National Opposition
3 to Hate, Assault, and Threats to Equality Act of 2017”
4 or “NO HATE Act”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

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

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

15 (3) A prominent characteristic of a violent
16 crime motivated by bias is that it not only dev-
17 astates the actual victim and the family and friends
18 of the victim, but also frequently ravages the com-
19 munity sharing the traits that caused the victim to
20 be selected.

21 (4) According to data obtained by the Federal
22 Bureau of Investigation, the incidence of such vio-
23 lence increased in 2015, the most recent year for
24 which data is available, in comparison to prior years.

25 (5) The Hate Crimes Statistics Act (Public
26 Law 101–275; 28 U.S.C. 534 note) and the Mat-

1 thew Shepard and James Byrd, Jr. Hate Crimes
2 Prevention Act (division E of Public Law 111–84;
3 123 Stat. 2835) have enabled Federal authorities to
4 understand and, where appropriate, investigate and
5 prosecute hate crimes.

6 (6) However, a complete understanding of the
7 national problem posed by hate crimes is hindered
8 by incomplete data from Federal, State, and local
9 jurisdictions obtained through the Uniform Crime
10 Reports program authorized under section 534 of
11 title 28, United States Code, and administered by
12 the Federal Bureau of Investigation.

13 (7) Increased implementation of the National
14 Incident-Based Reporting System will enable the
15 Federal Bureau of Investigation to obtain more de-
16 tailed and accurate information on many crimes, in-
17 cluding violence motivated by the actual or perceived
18 race, color, religion, national origin, gender, sexual
19 orientation, gender identity, or disability of the vic-
20 tim.

21 (8) State-run hotlines that direct victims or wit-
22 nesses of hate crimes to law enforcement or local
23 support services will allow State and local law en-
24 forcement agencies, as well as local community-based

1 service providers, to understand hate crimes more
2 fully and to act accordingly.

3 (9) A Federal private right of action provides
4 an additional option of recourse for individuals who
5 are targeted for violence based on actual or per-
6 ceived race, color, religion, national origin, gender,
7 sexual orientation, gender identity, or disability.

8 (10) Many perpetrators of crimes motivated by
9 bias may benefit from educational programming or
10 volunteer service conducted in conjunction with,
11 under the guidance of, or with the input of the com-
12 munity targeted by the hate crime.

13 (11) Federal financial assistance with regard to
14 certain violent crimes motivated by bias enables Fed-
15 eral, State, and local authorities to work together as
16 partners in the investigation and prosecution of such
17 crimes.

18 (12) The problem of crimes motivated by bias
19 is sufficiently serious, widespread, and interstate in
20 nature as to warrant Federal financial assistance to
21 States and local jurisdictions.

22 **SEC. 3. REPORTING OF HATE CRIMES.**

23 (a) DEFINITIONS.—In this section—

24 (1) the term “hate crime” means a criminal of-
25 fense against a person or property motivated in

1 whole or in part by an offender’s bias against a race,
2 color, religion, national origin, gender, sexual ori-
3 entation, gender identity, or disability; and

4 (2) the term “Uniform Crime Reports” means
5 the reports authorized under section 534 of title 28,
6 United States Code, and administered by the Fed-
7 eral Bureau of Investigation that compile nationwide
8 criminal statistics for use—

9 (A) in law enforcement administration, op-
10 eration, and management; and

11 (B) to assess the nature and type of crime
12 in the United States.

13 (b) IMPLEMENTATION GRANTS.—

14 (1) IN GENERAL.—The Attorney General may
15 make grants to States and units of local government
16 to assist the State or unit of local government in im-
17 plementing the National Incident-Based Reporting
18 System, including to train employees in identifying
19 and classifying hate crimes in the National Incident-
20 Based Reporting System.

21 (2) PRIORITY.—In making grants under para-
22 graph (1), the Attorney General shall give priority to
23 States and units of local government with larger
24 populations.

25 (c) REPORTING.—

1 (1) COMPLIANCE.—

2 (A) IN GENERAL.—Except as provided in
3 subparagraph (B), in each fiscal year beginning
4 after the date that is 3 years after the date on
5 which a State or unit of local government first
6 receives a grant under subsection (b), the State
7 or unit of local government shall provide to the
8 Attorney General, through the Uniform Crime
9 Reporting system, information pertaining to
10 hate crimes committed in that jurisdiction dur-
11 ing the preceding fiscal year.

12 (B) EXTENSIONS; WAIVER.—The Attorney
13 General—

14 (i) may provide a 120-day extension
15 to a State or unit of local government that
16 is making good faith efforts to comply with
17 subparagraph (A); and

18 (ii) shall waive the requirements of
19 subparagraph (A) if compliance with that
20 subparagraph by a State or unit of local
21 government would be unconstitutional
22 under the constitution of the State or of
23 the State in which the unit of local govern-
24 ment is located, respectively.

1 (2) FAILURE TO COMPLY.—If a State or unit of
 2 local government that receives a grant under sub-
 3 section (b) fails to substantially comply with para-
 4 graph (1) of this subsection, the State or unit of
 5 local government shall repay the grant in full, plus
 6 reasonable interest and penalty charges allowable by
 7 law or established by the Attorney General.

8 **SEC. 4. GRANTS FOR STATE-RUN HATE CRIME HOTLINES.**

9 (a) DEFINITION.—In this section, the term “hate
 10 crime” means a criminal offense against a person or prop-
 11 erty motivated in whole or in part by an offender’s bias
 12 against a race, color, religion, national origin, gender, sex-
 13 ual orientation, gender identity, or disability.

14 (b) GRANTS AUTHORIZED.—

15 (1) IN GENERAL.—The Attorney General shall
 16 make grants to States to create State-run hate
 17 crime reporting hotlines.

18 (2) GRANT PERIOD.—A grant made under
 19 paragraph (1) shall be for a period of not more than
 20 5 years.

21 (c) HOTLINE REQUIREMENTS.—A State shall ensure,
 22 with respect to a hotline funded by a grant under sub-
 23 section (b), that—

24 (1) the hotline directs individuals to—

25 (A) law enforcement if appropriate; and

1 (B) local support services;

2 (2) any personally identifiable information that
3 an individual provides to an agency of the State
4 through the hotline is not directly or indirectly dis-
5 closed, without the consent of the individual, to—

6 (A) any other agency of that State;

7 (B) any other State;

8 (C) the Federal Government; or

9 (D) any other person or entity;

10 (3) the staff members who operate the hotline
11 are trained to be knowledgeable about—

12 (A) applicable Federal, State, and local
13 hate crime laws; and

14 (B) local law enforcement resources and
15 applicable local support services; and

16 (4) the hotline is accessible to—

17 (A) individuals with limited English pro-
18 ficiency, where appropriate; and

19 (B) individuals with disabilities.

20 (d) BEST PRACTICES.—The Attorney General shall
21 issue guidance to States on best practices for imple-
22 menting the requirements of subsection (c).

1 **SEC. 5. PRIVATE RIGHT OF ACTION FOR CRIMES MOTI-**
2 **VATED BY ACTUAL OR PERCEIVED RACE,**
3 **COLOR, RELIGION, OR NATIONAL ORIGIN.**

4 (a) DEFINITIONS.—In this section—

5 (1) the term “crime” means an act or series of
6 acts that would constitute a criminal offense under
7 Federal or State law, whether or not the act or
8 acts—

9 (A) have actually resulted in criminal
10 charges, prosecution, or conviction; or

11 (B) were committed in the special mari-
12 time and territorial jurisdiction of the United
13 States or in a Federal prison; and

14 (2) the term “crime motivated by actual or per-
15 ceived race, color, religion, or national origin” means
16 a crime committed because of actual or perceived
17 race, color, religion, or national origin.

18 (b) PURPOSE.—Pursuant to the affirmative power of
19 Congress to enact this section under section 2 of the Thir-
20 teenth Amendment to the Constitution of the United
21 States, as well as under section 8 of Article I of the Con-
22 stitution, the purpose of this section is to protect the civil
23 rights of victims of crimes motivated by actual or per-
24 ceived race, color, religion, or national origin and to pro-
25 mote public safety, health, and activities affecting inter-
26 state commerce by establishing a Federal civil rights cause

1 of action for victims of crime motivated by actual or per-
2 ceived race, color, religion, or national origin.

3 (c) RIGHT TO BE FREE FROM CERTAIN CRIMES.—

4 All persons within the United States shall have the right
5 to be free from crimes motivated by actual or perceived
6 race, color, religion, or national origin.

7 (d) CAUSE OF ACTION.—A person (including a per-
8 son who acts under color of any statute, ordinance, regula-
9 tion, custom, or usage of any State) who commits a crime
10 motivated by actual or perceived race, color, religion, or
11 national origin, and thus deprives another of the right de-
12 clared in subsection (c), shall be liable to the party in-
13 jured, in an action for the recovery of compensatory and
14 punitive damages, injunctive and declaratory relief, and
15 such other relief as a court may deem appropriate.

16 (e) DAMAGES.—In any civil action brought under this
17 section in which the plaintiff prevails, the court—

18 (1) shall award treble compensatory damages
19 and a reasonable attorney's fee; and

20 (2) may, in its discretion, award equitable re-
21 lief.

22 (f) LIMITATIONS.—

23 (1) PERIOD OF LIMITATIONS.—An action under
24 this section may not be commenced later than 3
25 years after the date of the act complained of.

1 (2) RULE OF CONSTRUCTION.—Nothing in this
2 section shall be construed to authorize a cause of ac-
3 tion under subsection (d) for—

4 (A) a random act unrelated to actual or
5 perceived race, color, religion, or national ori-
6 gin; or

7 (B) an act that cannot be demonstrated,
8 by a preponderance of the evidence, to be a
9 crime motivated by actual or perceived race,
10 color, religion, or national origin.

11 (g) CONCURRENT JURISDICTION.—The district
12 courts of the United States shall have original jurisdiction,
13 concurrent with State courts, of an action under this sec-
14 tion.

15 (h) NO PRIOR CRIMINAL ACTION.—Nothing in this
16 section shall be construed to require a prior criminal com-
17 plaint, prosecution, or conviction to establish the elements
18 of a cause of action under subsection (d).

19 **SEC. 6. PRIVATE RIGHT OF ACTION FOR CRIMES MOTI-**
20 **VATED BY ACTUAL OR PERCEIVED RELIGION,**
21 **NATIONAL ORIGIN, GENDER, SEXUAL ORI-**
22 **ENTATION, GENDER IDENTITY, OR DIS-**
23 **ABILITY.**

24 (a) DEFINITIONS.—In this section—

1 (1) the term “crime” means an act or series of
2 acts that would constitute a criminal offense under
3 Federal or State law, whether or not the act or acts
4 have actually resulted in criminal charges, prosecu-
5 tion, or conviction; and

6 (2) the term “crime motivated by actual or per-
7 ceived religion, national origin, gender, sexual ori-
8 entation, gender identity, or disability” means a
9 crime committed because of actual or perceived reli-
10 gion, national origin, gender, sexual orientation, gen-
11 der identity, or disability.

12 (b) PURPOSE.—Pursuant to the affirmative power of
13 Congress to enact this section under clause 3 of section
14 8 of Article I of the Constitution of the United States
15 (commonly known as the “Commerce Clause”), the pur-
16 pose of this section is to protect the civil rights of victims
17 of crimes motivated by actual or perceived religion, na-
18 tional origin, gender, sexual orientation, gender identity,
19 or disability and to promote public safety, health, and ac-
20 tivities affecting interstate commerce by establishing a
21 Federal civil rights cause of action for victims of crime
22 motivated by actual or perceived religion, national origin,
23 gender, sexual orientation, gender identity, or disability.

24 (c) RIGHT TO BE FREE FROM CERTAIN CRIMES.—
25 All persons within the United States shall have the right

1 to be free from crimes motivated by actual or perceived
2 religion, national origin, gender, sexual orientation, gender
3 identity, or disability.

4 (d) CAUSE OF ACTION.—

5 (1) IN GENERAL.—A person (including a person
6 who acts under color of any statute, ordinance, regu-
7 lation, custom, or usage of any State), in any cir-
8 cumstance described in paragraph (2) or within the
9 special maritime and territorial jurisdiction of the
10 United States or a Federal prison, who commits a
11 crime motivated by actual or perceived religion, na-
12 tional origin, gender, sexual orientation, gender iden-
13 tity, or disability, and thus deprives another of the
14 right declared in subsection (c), shall be liable to the
15 party injured, in an action for the recovery of com-
16 pensatory and punitive damages, injunctive and de-
17 claratory relief, and such other relief as a court may
18 deem appropriate.

19 (2) CIRCUMSTANCES DESCRIBED.—For pur-
20 poses of paragraph (1), the circumstances described
21 in this paragraph are that—

22 (A) the conduct described in paragraph (1)
23 occurs during the course of, or as the result of,
24 the travel of the defendant or the victim—

1 (i) across a State line or national bor-
2 der; or

3 (ii) using a channel, facility, or instru-
4 mentality of interstate or foreign com-
5 merce;

6 (B) the defendant uses a channel, facility,
7 or instrumentality of interstate or foreign com-
8 merce in connection with the conduct described
9 in paragraph (1);

10 (C) in connection with the conduct de-
11 scribed in paragraph (1), the defendant employs
12 a firearm, dangerous weapon, explosive or in-
13 cendiary device, or other weapon that has trav-
14 eled in interstate or foreign commerce;

15 (D) the conduct described in paragraph
16 (1)—

17 (i) interferes with commercial or other
18 economic activity in which the victim is en-
19 gaged at the time of the conduct; or

20 (ii) otherwise affects interstate or for-
21 eign commerce.

22 (e) DAMAGES.—In any civil action brought under this
23 section in which the plaintiff prevails, the court—

24 (1) shall award treble compensatory damages
25 and a reasonable attorney's fee; and

1 (2) may, in its discretion, award equitable re-
2 lief.

3 (f) LIMITATIONS.—

4 (1) PERIOD OF LIMITATION.—An action under
5 this section may not be commenced later than 3
6 years after the date of the act complained of.

7 (2) RULE OF CONSTRUCTION.—Nothing in this
8 section shall be construed to authorize a cause of ac-
9 tion under subsection (d) for—

10 (A) a random act unrelated to actual or
11 perceived religion, national origin, gender, sex-
12 ual orientation, gender identity, or disability; or

13 (B) an act that cannot be demonstrated,
14 by a preponderance of the evidence, to be a
15 crime motivated by actual or perceived religion,
16 national origin, gender, sexual orientation, gen-
17 der identity, or disability.

18 (g) CONCURRENT JURISDICTION.—The district
19 courts of the United States shall have original jurisdiction,
20 concurrent with State courts, of an action under this sec-
21 tion.

22 (h) NO PRIOR CRIMINAL ACTION.—Nothing in this
23 section shall be construed to require a prior criminal com-
24 plaint, prosecution, or conviction to establish the elements
25 of a cause of action under subsection (d).

1 **SEC. 7. ADDITIONAL CRIMINAL PENALTIES.**

2 Section 249 of title 18, United States Code, is
3 amended by adding at the end the following:

4 “(e) SUPERVISED RELEASE.—If a court includes, as
5 a part of a sentence of imprisonment imposed for a viola-
6 tion of subsection (a), a requirement that the defendant
7 be placed on a term of supervised release after imprison-
8 ment under section 3583, the court may order, as an ex-
9 plicit condition of supervised release, that the defendant
10 undertake educational classes or community service di-
11 rectly related to the community harmed by the defendant’s
12 offense.”.

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