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2d Session }

SENATE

{ REPORT
104-269

TO REAUTHORIZE THE HATE CRIME STATISTICS ACT

MAY 13, 1996.—Ordered to be printed

Mr. HATCH, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany S. 1624]

The Committee on the Judiciary, to which was referred the bill (S. 1624) to reauthorize the Hate Crime Statistics Act, having considered the same, reports favorably thereon and recommend that the bill do pass.

I. PURPOSE

The purpose of the proposed legislation is to reauthorize permanently the Hate Crime Statistics Act, which requires the Attorney General to establish reporting guidelines for the collection of, and to collect, data about crimes which manifest evidence of prejudice based on race, religion, sexual orientation, ethnicity or disability. Reauthorization of the Act is necessary to require the Attorney General to continue the collection of data on hate crimes and to publish annual summaries of the acquired data, thereby providing information which can help local law enforcement agencies and local communities combat hate crimes more effectively by identifying over time their frequency, location, and other patterns.

II. LEGISLATIVE HISTORY

The Hate Crimes Statistics Act was signed into law on April 23, 1990. The Act required the Attorney General acquire data about crimes which manifest evidence of prejudice based on race, religion, sexual orientation or ethnicity, including the crimes of murder, non-negligent manslaughter, forcible rape, aggravated assault, simple assault, intimidation, arson and destruction, damage or vandalism of property. In 1994, the Act was amended to add crimes which manifest prejudice based on disability. The Attorney General was

also required to establish guidelines for the collection of such data, including the evidence and criteria that must be present for a finding of manifest prejudice in connection with the classification of a crime as bias-motivated. The Act stipulated that the data be acquired for calendar year 1990 and each of the four succeeding calendar years. In addition, the Act mandated the Attorney General to publish an annual summary of the acquired data.

The Act did not create a private right of action, including an action based on sexual orientation, or limit any existing cause of action or right to bring an action, including under the Administrative Procedure Act. The Act also provides that nothing in the Act shall be construed, nor shall any funds appropriated to carry out the purpose of the Act be used, to promote or encourage homosexuality, and includes congressional findings: “(1) the American family life is the foundation of American Society, (2) Federal policy should encourage the well-being, financial security, and health of the American family, (3) schools should not de-emphasize the critical value of American family life.”

III. TEXT OF S. 1624, AS REPORTED

[104th Cong; 2d Sess.]

A BILL To reauthorize the Hate Crime Statistics Act, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION.

The first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended:

- (1) in subsection (b), by striking “for the calendar year 1990 and each of the succeeding 4 calendar years” and inserting “for each calendar year”; and
- (2) in subsection (c), by striking “through fiscal year 1994”.

IV. SECTION-BY-SECTION ANALYSIS

Section 1

This section amends the Hate Crime Statistics Act by striking from subsection (b)(1) the language “for the calendar year 1990 and each of the succeeding 4 calendar years” and inserting “for each calendar year.” This section further amends the Act by striking from subsection (c) the words “through fiscal year 1994.”

V. DISCUSSION

Prior to the adoption of the Hate Crime Statistics Act, there was no national data collection on crimes motivated by bias and prejudice. While individual incidents of hate crimes were sometimes reported in the news media, the absence of national data made it difficult to determine the actual number and nature of such incidents, whether particular incidents were isolated events or symptoms of a more pervasive problem, whether certain groups are more frequently victimized than others, and whether hate-related violence

is more prevalent in particular sections of the country or in particular communities.

As set forth in the statement of Mr. Charles W. Archer, Assistant Director, Criminal Justice Information Services Division, Federal Bureau of Investigation, before the Judiciary Committee at its hearing on reauthorization of the Hate Crime Statistics Act held on March 19, 1996, when the Act was enacted in 1990, the Attorney General delegated to the FBI the development of a hate crime data collection program and implementation of the Act. To lessen the reporting burden placed on State and local law enforcement agencies, the FBI consolidated this program within the FBI's existing Uniform Crime Reports Summary and National Incident-Based Reporting Systems and developed uniform standards and procedures which define and help identify criminal offenses that are motivated by the offender's bias against the victim's race, religion, disability, ethnicity, or sexual orientation. Because hate crimes are not separate, distinct offenses, but rather traditional crimes that are motivated by the offender's bias, hate crime reporting is complicated to the extent that there is difficulty in determining the offender's motivation. Incidents are reported as hate crimes only if the law enforcement investigation determines sufficient facts to lead a reasonable and prudent person to conclude that the offender's actions were motivated, in whole or in part, by bias. To help local law enforcement agencies develop methods by which to identify hate crimes accurately, the FBI has made the education and training of local law enforcement officers in the investigation, identification, reporting and appropriate handling of hate crimes a priority.

Like all other crimes reported under the Uniform Crime Reports, participation by State and local law enforcement agencies in the hate crime data collection program is voluntary. During 1991, the first full year of the collection program, a total of 2,771 agencies in 32 States submitted data. By 1994, that figure had increased to approximately 7,400 law enforcement agencies from 43 States and the District of Columbia, representing 58 percent of the United States population.

Every crime is, of course, is a terrible event. But the hate crime is of a particularly insidious nature. Americans cherish their individualism, and are proud to be a society of individualists and of individual rights. But individual human beings flourish best as members of families, neighborhoods, communities and our Nation. As Steven Arent of the Anti-Defamation League testified at the March 19, 1996, hearing, "(t)he damage done by hate crimes cannot be measured solely in terms of physical injury or dollars and cents." The hate crime atomizes the individual, splitting the individual victim apart from his or her neighbors and community. It isolates the victim because of who he or she is. The hate crime emphasizes the differences among our people, not as the strengths they are in this diverse country, but as a means of dividing American from American. It submerges the common humanity of all peoples. A physical assault upon one's person is horrible enough; when the attack is made because of the victim's religion, race, ethnicity, disability, or sexual orientation, it inevitably creates additional unease, not only on the part of the individual victim, but also all of those who are members of the same group. For persons who are members of mi-

nority groups with a history of persecution or mistreatment, hate crimes cause an anxiety and concern for the safety that others may take for granted. This legislation, and the collection of data on hate crimes, can help us address this serious problem within our society.

The Hate Crime Statistics Act has proven successful in its initial purpose, the creation of a national data base and system for the collection of data on bias-motivated crime. In addition, the Act has served as a catalyst for an FBI effort to train State and local law enforcement officials about hate crimes. Hearings held before the Senate Judiciary Committee's Subcommittee on the Constitution in 1992 and 1994 showed that one of the prime benefits of the Act has been to help increase the awareness and sensitivity of law enforcement with respect to hate crimes. Not only do victims of hate crimes benefit from a more informed police force, but greater police awareness encourages other victims to report hate crimes. Collection of this data has helped alert local communities and their law enforcement agencies to patterns of hate crimes in their neighborhoods and perhaps helped prevent them. In addition, as Kansas City Mayor Emanuel Cleaver III and Karen Lawson, executive director of the Leadership Conference Education Fund, indicated during their testimony at the Committee's March 19, 1996, hearing, the Act has also helped spur educational efforts aimed at enhancing goodwill in our communities.

While collecting data on hate crimes will not erase bigotry, it does provide a valuable tool in the fight against bias-motivated criminal conduct. The information collected pursuant to this Act is essential in identifying how law enforcement should focus its resources in dealing with hate crimes. The more informed we are about the scope and nature of our communities' problems with hate crimes, the better we will be able to develop effective prevention and prosecution strategies, as well as support structures for victims of these crimes. The Hate Crime Statistics Act has proven its usefulness and deserves the permanent mandate that would be established by this bill.

VI. COMMITTEE ACTION

S. 1624 was introduced in the Senate on March 19, 1996, sponsored by Senators Hatch and Simon, and cosponsored by Senators Specter, Biden, Simpson, Kennedy, Grassley, Kohl, DeWine, Feinstein, McConnell, Johnston, D'Amato, Akaka, Bingaman, Boxer, Bradley, Campbell, Chafee, Cohen, Dodd, Inouye, Jeffords, Kassebaum, Kerry, Levin, Lieberman, Murray, Pell, Sarbanes, Wellstone, Harkin, Wyden, and Lautenberg.

The Committee on the Judiciary held a hearing on S. 1624 and the issue of the bias-motivated crimes and permanent reauthorization of the Hate Crime Statistics Act on March 19, 1996. Testimony was taken from Mr. Charles W. Archer, Assistant Director, Criminal Justice Information Services Division, Federal Bureau of Investigation; Hon. Emanuel Cleaver III, Mayor of Kansas City, MO, on behalf of the United States Conference of Mayors; Mr. Bobby Moody, Chief of Police, Covington, GA, on behalf of the International Association of Chiefs of Police; Mr. Stephen Arent, Anti-Defamation League; and Ms. Karen Lawson, executive director, Leadership Conference Education Fund.

The Senate Committee on the Judiciary, with a quorum present, met on Thursday, April 25, 1996, to mark up S. 1624. The Committee on the Judiciary passed S. 1624 by voice vote.

VII. REGULATORY IMPACT STATEMENT

Pursuant to paragraph 11(b), rule XXVI of the Standing Rules of the Senate, the Committee, after due consideration, concludes that S. 1624 will not have direct regulatory impact.

VIII. COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 7, 1996.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1624, a bill to reauthorize the Hate Crime Statistics Act, and for other purposes, as reported by the Senate Committee on the Judiciary on April 25, 1996. CBO estimates that enacting the bill would result in no significant costs to the federal government. S. 1624 would not affect direct spending or receipts, so pay-as-you-go procedures would not apply. The bill contains no intergovernmental or private sector mandates as defined in Public Law 104-4, and would impose no direct costs on state, local, or tribal governments.

S. 1624 would reauthorize the Hate Crime Statistics Act, which expired at the end of fiscal year 1994 and required the Federal Bureau of Investigation (FBI) to collect and report statistics on hate crimes. The FBI estimates that it spent less than \$500,000 in each of the fiscal years 1990 through 1996 to comply with the act. Thus, enacting S. 1624 would have no significant impact on federal spending.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

JUNE E. O'NEILL, *Director.*

IX. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the changes in existing law made by the bill as reported by the Committee, are shown as follows (existing law proposed to be omitted is enclosed in bold brackets, new matter is printed in italic, and existing law with no changes is printed in roman):

UNITED STATES CODE

* * * * *

**TITLE 28—JUDICIARY AND JUDICIAL
PROCEDURE**

* * * * *

CHAPTER 33—FEDERAL BUREAU OF INVESTIGATION

* * * * *

**§ 534. Acquisition, preservation, and exchange of identifica-
tion records and information; appointment of offi-
cials**

(a) The Attorney General shall—

* * * * *

(b)(1) Under the authority of section 534 of title 28, United States Code, the Attorney General shall acquire data, **[for the calendar year 1990 and each of the succeeding 4 calendar years]** *for each calendar year*, about crimes that manifest evidence of prejudice based on race, religion, disability, sexual orientation, or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter; forcible rape; aggravated assault, simple assault, intimidation; arson; and destruction, damage or vandalism of property.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section **[through fiscal year 1994]**.