



Helping Families Thrive

July 16, 2009

United States Senate
Washington, D.C. 20510

Dear Senator:

On behalf of the millions of individuals represented by our organization, we urge you to oppose “hate crimes” legislation being considered as an amendment of the Defense Authorization bill. Focus on the Family will score this vote.

A federal “hate crimes” law is unnecessary, unjust, constitutionally suspect, and opens the door for religiously-based prosecutions.

“Hate crimes” legislation is a clear violation of the 14th Amendment’s granting of equal protection to all American citizens under the law. The language of “hate crimes” grants special protection to individuals based on categories like sexual orientation or “gender identity,” either “actual or perceived.” By treating victims differently based on their identity, this bill creates a constitutionally problematic, preferred-victim ranking system. For example, if a self-identified homosexual man and a child are the victims of the same crime, the offender would be punished more severely for his motive behind assaulting the homosexual man. Surely this is unequal justice under the law.

Proponents of “hate crimes” legislation falsely claim that such acts pose a serious national problem, yet numbers for 2007, the latest released by the FBI, show no significant increase in “hate crimes” and certainly no kind of serious national epidemic. In fact, sexual orientation “hate crimes,” a category that proponents insist deserves special protection, have seen no dramatic increase over the years, either in raw numbers or percentage. And while the most violent incidents of alleged sexual orientation “hate crimes” garner much media attention, the latest numbers show that seventy-five percent of all reported sexual orientation “hate crimes” fall into categories such as vandalism, name-calling and pushing or shoving.

Significantly, “hate crimes” legislation does not even define the class it seeks to protect. “Sexual orientation” remains undefined in the legislation, and “gender identity” only loosely defined. Proponents erroneously claim that the existing “hate crimes” statistics law definition of “sexual orientation” somehow applies. In reality, the lack of definition opens the door for mental health identity group activists and courts to further expand the definition of sexual orientation.

Moreover, the inclusion of “gender identity” is a dangerous step toward enshrining cross-dressing (transvestic fetish) and other sexual and gender identity disorders into protected legal status. The concept of “gender identity” necessarily includes “transgenderism” – a condition with characteristics that overlap with Gender Identity Disorder, as described by the American Psychiatric Association. Including as protected classes what can legitimately be considered as mental health disorders opens the door for other disorders and paraphilias—like pedophilia—to eventually be considered as “sexual orientations” or “gender identities.”

Perhaps most disturbing is that passage of this “hate crimes” legislation will pave the way for prosecution of speech. Under the federal inducement statute, a person who induces a federal crime may also be prosecuted. Would a pastor preaching from the Bible be prosecuted for “inducing” a federal hate crime if one of his listeners was violent towards a self-identified homosexual? The truth is that “hate crimes” laws have already been used to target and punish religious speech.

For example:

- The City and County of San Francisco indirectly blamed religious speech as inciting the murder of Billy Jack Gaither in Alabama following a reported unwanted gay sexual advance. Resolution No. 234-99 called for the “Religious Right to take accountability for the impact of their long-standing rhetoric denouncing gays and lesbians, which leads to a climate of mistrust and discrimination that can open the door to horrible crimes such as those committed against Mr. Gaither.”
- The 9th Circuit Court of Appeals in the *Poway* case cited a California anti-harassment statute as support for squelching a Christian student's t-shirt message opposing homosexuality, saying that law's purpose was to meet "an urgent need to prevent and respond to acts of hate violence and bias-related incidents that are occurring at an increasing rate in California's public schools."

Proponents of “hate crimes” legislation argue that the bill contains sufficient protections for free speech. But merely inserting language that reiterates the 1st Amendment does nothing to prevent the government from intruding into pastors’ If enacted, this bill has the potential to transform religious beliefs into “hate speech.”

We urge you to **OPPOSE** the hate crimes language that will be offered as an amendment to the Defense Authorization bill.

Sincerely,



Tom Minnery
Senior Vice President
Government and Public Policy
Focus on the Family