

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