

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3670

To provide a civil claim for individuals who are victims of crimes motivated by actual or perceived race, color, gender, religion, national origin, ethnicity, sexual orientation, or physical or mental disability.

---

## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 22, 1993

Mr. NADLER (for himself and Mrs. SCHROEDER) introduced the following bill;  
which was referred to the Committee on the Judiciary

---

## A BILL

To provide a civil claim for individuals who are victims of crimes motivated by actual or perceived race, color, gender, religion, national origin, ethnicity, sexual orientation, or physical or mental disability.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bias Crimes Com-  
5 pensation Act of 1993”.

6 **SEC. 2. CIVIL RIGHTS.**

7 (a) FINDINGS.—The Congress finds that—

1           (1) bias-motivated crimes of violence constitute  
2 crimes in violation of the victim's right to be free  
3 from discrimination on the basis of actual or per-  
4 ceived race, color, gender, religion, national origin,  
5 ethnicity, sexual orientation, or physical or mental  
6 disability;

7           (2) State and Federal criminal laws do not ade-  
8 quately protect against the bias element of bias-mo-  
9 tivated crimes of violence, which separates these  
10 crimes from acts of random violence, nor do those  
11 laws adequately provide victims of bias-motivated  
12 crimes of violence the opportunity to vindicate their  
13 interests;

14           (3) existing bias and discrimination in the  
15 criminal justice system often deprive victims of bias-  
16 motivated crimes of violence of equal protection of  
17 the laws and the redress to which they are entitled;

18           (4) bias-motivated crimes of violence have a  
19 substantial adverse effect on interstate commerce, by  
20 deterring potential victims from traveling interstate,  
21 from engaging in employment in interstate business,  
22 and from transacting with business, and in places  
23 involved, in interstate commerce;

24           (5) bias-motivated crimes of violence have a  
25 substantial adverse effect on interstate commerce, by

1       diminishing national productivity, increasing medical  
2       and other costs, and decreasing the supply of and  
3       the demand for interstate products;

4           (6) a Federal civil rights claim, as created in  
5       this section, is necessary to guarantee equal protec-  
6       tion of the laws and to reduce the substantial ad-  
7       verse effects of bias-motivated crimes of violence on  
8       interstate commerce; and

9           (7) victims of bias-motivated crimes of violence  
10       have a right to equal protection of the laws, includ-  
11       ing a system of justice that is unaffected by bias or  
12       discrimination and that, at every relevant stage,  
13       treats such crimes as seriously as other violent  
14       crimes.

15       (b) RIGHT.—All individuals within the United States,  
16       and the special maritime and territorial jurisdiction of the  
17       United States, shall have the right to be free from bias-  
18       motivated crimes of violence.

19       (c) CLAIM.—Any person, including a person who acts  
20       under color of any statute, ordinance, regulation, custom,  
21       or usage of any State, who deprives an individual of the  
22       right secured by subsection (b) shall be liable to the indi-  
23       vidual injured, in a civil action in any court of competent  
24       jurisdiction, for compensatory damages of not less than

1 \$100,000, punitive damages, injunctive relief, declaratory  
2 relief, or any combination thereof.

3 (d) LIMITATION, PROCEDURE, AND RULE OF CON-  
4 STRUCTION.—

5 (1) LIMITATION.—Nothing in this section enti-  
6 tles an individual to a claim under subsection (c) for  
7 random acts of violence unrelated to bias or for acts  
8 that cannot be demonstrated, by a preponderance of  
9 the evidence, to be bias-motivated crimes of violence.

10 (2) NO PRIOR CRIMINAL ACTION.—Nothing in  
11 this section requires a prior criminal complaint,  
12 prosecution, or conviction to establish the necessary  
13 elements of a claim under subsection (c).

14 (3) CONCURRENT JURISDICTION.—The Federal  
15 and State courts shall have concurrent jurisdiction  
16 over actions brought pursuant to this section.

17 (4) RULE OF CONSTRUCTION.—Neither section  
18 1367 of title 28 of the United States Code nor sub-  
19 section (c) of this section shall be construed, by rea-  
20 son of a claim arising under such subsection, to con-  
21 fer on the courts of the United States supplemental  
22 jurisdiction of any State law claim seeking the estab-  
23 lishment of a divorce, alimony, equitable distribution  
24 of marital property, or child custody decree.

25 (e) DEFINITIONS.—For purposes of this section—

1           (1) the term “bias-motivated” means committed  
2 because of, on the basis of, and due to (at least in  
3 part) an animus based on, actual or perceived race,  
4 color, gender, religion, national origin, ethnicity, sex-  
5 ual orientation, or physical or mental disability of  
6 the victim;

7           (2) the term “crime of violence” means—

8                   (A) an act or series of acts that would con-  
9 stitute State or Federal offense of a kind de-  
10 scribed in section 16 of title 18, United States  
11 Code, and punishable by a maximum term of  
12 imprisonment exceeding one year, but excludes  
13 an offense against property that presents no se-  
14 rious risk of physical or mental disability injury  
15 to an individual; or

16                   (B) one or more actions that would con-  
17 stitute such offense but for the relationship be-  
18 tween the person who takes such actions and  
19 the individual against whom such actions are  
20 taken;

21 whether or not such offense or such actions result in  
22 criminal charges, prosecution, or conviction and  
23 whether or not such actions were taken within the  
24 United States or the special maritime and territorial  
25 jurisdiction of the United States;

1           (3) the term “disability” has the meaning given  
2           it in section 3(2) of the Americans With Disabilities  
3           Act of 1990 (42 U.S.C. 12102(2)); and

4           (4) the term “special maritime and territorial  
5           jurisdiction of the United States” has the meaning  
6           given such term in section 7 of title 18, United  
7           States Code.

8           (f) LIMITATION ON REMOVAL.—Section 1445 of title  
9           28, United States Code, is amended by adding at the end  
10          the following:

11          “(d) A civil action in any State court arising under  
12          section 2 of the Bias Crimes Compensation Act of 1993  
13          may not be removed to any district court of the United  
14          States.”.

15          (g) AUTHORITY TO AWARD ATTORNEY’S FEE.—Sec-  
16          tion 722(b) of the Revised Statutes of the United States  
17          (42 U.S.C. 1988(b)) is amended by inserting “section 2  
18          of the Bias Crimes Compensation Act of 1993,” after  
19          “Public Law 92–318,”.

○