

May 7, 2007 Last week, the House of Representatives acted with disdain for the Constitution and individual liberty by passing HR 1592, a bill creating new federal programs to combat so-called "hate crimes." The legislation defines a hate crime as an act of violence committed against an individual because of the victim's race, religion, national origin, gender, sexual orientation, gender identity, or disability. Federal hate crime laws violate the Tenth Amendment's limitations on federal power. Hate crime laws may also violate the First Amendment guaranteed freedom of speech and religion by criminalizing speech federal bureaucrats define as "hateful." There is no evidence that local governments are failing to apprehend and prosecute criminals motivated by prejudice, in comparison to the apprehension and conviction rates of other crimes. Therefore, new hate crime laws will not significantly reduce crime. Instead of increasing the effectiveness of law enforcement, hate crime laws undermine equal justice under the law by requiring law enforcement and judicial system officers to give priority to investigating and prosecuting hate crimes. Of course, all decent people should condemn criminal acts motivated by prejudice. But why should an assault victim be treated by the legal system as a second-class citizen because his assailant was motivated by greed instead of hate? HR 1592, like all hate crime laws, imposes a longer sentence on a criminal motivated by hate than on someone who commits the same crime with a different motivation. Increasing sentences because of motivation goes beyond criminalizing acts; it makes it a crime to think certain thoughts. Criminalizing even the vilest hateful thoughts--as opposed to willful criminal acts--is inconsistent with a free society. HR 1592 could lead to federal censorship of religious or political speech on the grounds that the speech incites hate. Hate crime laws have been used to silence free speech and even the free exercise of religion. For example, a Pennsylvania hate crime law has been used to prosecute peaceful religious demonstrators on the grounds that their public Bible readings could incite violence. One of HR 1592's supporters admitted that this legislation could allow the government to silence a preacher if one of the preacher's parishioners commits a hate crime. More evidence that hate crime laws lead to censorship came recently when one member of Congress suggested that the Federal Communications Commission ban hate speech from the airwaves. Hate crime laws not only violate the First Amendment, they also violate the Tenth Amendment. Under the United States Constitution, there are only three federal crimes: piracy, treason, and counterfeiting. All other criminal matters are left to the individual states. Any federal legislation dealing with criminal matters not related to these three issues usurps state authority over criminal law and takes a step toward turning the states into mere administrative units of the federal government. Because federal hate crime laws criminalize thoughts, they are incompatible with a free society. Fortunately, President Bush has pledged to veto HR 1592. Of course, I would vote to uphold the president's veto.