

Mazū K Hirono

HC PG 3

Pending

AMENDMENT NO. _____ Calendar No. _____

Purpose: To improve the bill.

I _____, 1st Sess.

AMENDMENT N^o 1445

By Schumer for Hirono

To: _____ e crimes,

S. 937

21

Page(s)

and

GPO: 2020 42-568 (mac)

AMENDMENT intended to be proposed by Ms. HIRONO (for herself and Ms. COLLINS)

Viz:

1 Strike all after the first word and insert the following:

2 **1. SHORT TITLE.**

3 This Act may be cited as the "COVID-19 Hate
4 Crimes Act".

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) Following the spread of COVID-19 in
8 2020, there has been a dramatic increase in hate
9 crimes and violence against Asian-Americans and
10 Pacific Islanders.

11 (2) According to a recent report, there were
12 nearly 3,800 reported cases of anti-Asian discrimina-

1 tion and incidents related to COVID-19 between
2 March 19, 2020, and February 28, 2021, in all 50
3 States and the District of Columbia.

4 (3) During this time frame, race has been cited
5 as the primary reason for discrimination, making up
6 over 90 percent of incidents, and the United States
7 condemns and denounces any and all anti-Asian and
8 Pacific Islander sentiment in any form.

9 (4) Roughly 36 percent of these incidents took
10 place at a business and more than 2,000,000 Asian-
11 American businesses have contributed to the diverse
12 fabric of American life.

13 (5) More than 1,900,000 Asian-American and
14 Pacific Islander older adults, particularly those older
15 adults who are recent immigrants or have limited
16 English proficiency, may face even greater chal-
17 lenges in dealing with the COVID-19 pandemic, in-
18 cluding discrimination, economic insecurity, and lan-
19 guage isolation.

20 (6) In the midst of this alarming surge in anti-
21 Asian hate crimes and incidents, a shooter murdered
22 the following 8 people in the Atlanta, Georgia re-
23 gion, 7 of whom were women and 6 of whom were
24 women of Asian descent:

25 (A) Xiaojie Tan.

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2
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7

(B) Daoyou Feng.

(C) Delaina Ashley Yaun González.

(D) Paul Andre Michels.

(E) Soon Chung Park.

(F) ^{Jung} Hyun Grant.

(G) Suncha Kim.

(H) Yong Ae Yue.

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8 (7) The people of the United States will always
9 remember the victims of these shootings and stand
10 in solidarity with those affected by this senseless
11 tragedy and incidents of hate that have affected the
12 Asian and Pacific Islander communities.

13 **SEC. 3. REVIEW OF HATE CRIMES.**

14 (a) IN GENERAL.—Not later than 7 days after the
15 date of enactment of this Act, the Attorney General shall
16 designate an officer or employee of the Department of
17 Justice whose responsibility during the applicable period
18 shall be to facilitate the expedited review of hate crimes
19 (as described in section 249 of title 18, United States
20 Code) and reports of any such crime to Federal, State,
21 local, or Tribal law enforcement agencies.

22 (b) APPLICABLE PERIOD DEFINED.—In this section,
23 the term “applicable period” means the period beginning
24 on the date on which the officer or employee is designated
25 under subsection (a), and ending on the date that is 1

1 year after the date on which the emergency period de-
2 scribed in subparagraph (B) of section 1135(g)(1) of the
3 Social Security Act (42 U.S.C. 1320b-5(g)(1)) ends, ex-
4 cept that the Attorney General may extend such period
5 as appropriate.

6 **SEC. 4. GUIDANCE.**

7 (a) **GUIDANCE FOR LAW ENFORCEMENT AGEN-**
8 **CIES.**—The Attorney General shall issue guidance for
9 State, local, and Tribal law enforcement agencies, pursu-
10 ant to this Act and other applicable law, on how to—

11 (1) establish online reporting of hate crimes or
12 incidents, and to have online reporting that is equal-
13 ly effective for people with disabilities as for people
14 without disabilities available in multiple languages as
15 determined by the Attorney General;

16 (2) collect data disaggregated by the protected
17 characteristics described in section 249 of title 18,
18 United States Code; and

19 (3) expand public education campaigns aimed
20 at raising awareness of hate crimes and reaching
21 victims, that are equally effective for people with dis-
22 abilities as for people without disabilities.

23 (b) **GUIDANCE RELATING TO COVID-19 PAN-**
24 **DEMIC.**—The Attorney General and the Secretary of
25 Health and Human Services, in coordination with the

1 COVID-19 Health Equity Task Force and community-
2 based organizations, shall issue guidance aimed at raising
3 awareness of hate crimes during the COVID-19 pan-
4 demic.

5 **SEC. 5. JABARA-HEYER NO HATE ACT.**

6 (a) **SHORT TITLE.**—This section may be cited as the
7 “Khalid Jabara and Heather Heyer National Opposition
8 to Hate, Assault, and Threats to Equality Act of 2021”
9 or the “Jabara-Heyer NO HATE Act”.

10 (b) **FINDINGS.**—Congress finds the following:

11 (1) The incidence of violence known as hate
12 crimes, or crimes motivated by bias, poses a serious
13 national problem.

14 (2) According to data obtained by the Federal
15 Bureau of Investigation, the incidence of such vio-
16 lence increased in 2019, the most recent year for
17 which data is available.

18 (3) In 1990, Congress enacted the Hate Crime
19 Statistics Act (Public Law 101-275; 28 U.S.C. 534
20 note) to provide the Federal Government, law en-
21 forcement agencies, and the public with data regard-
22 ing the incidence of hate crime. The Hate Crime
23 Statistics Act and the Matthew Shepard and James
24 Byrd, Jr. Hate Crimes Prevention Act (division E of
25 Public Law 111-84; 123 Stat. 2835) have enabled

1 Federal authorities to understand and, where appro-
2 priate, investigate and prosecute hate crimes.

3 (4) A more complete understanding of the na-
4 tional problem posed by hate crime is in the public
5 interest and supports the Federal interest in eradi-
6 cating bias-motivated violence referenced in section
7 249(b)(1)(C) of title 18, United States Code.

8 (5) However, a complete understanding of the
9 national problem posed by hate crimes is hindered
10 by incomplete data from Federal, State, and local
11 jurisdictions through the Uniform Crime Reports
12 program authorized under section 534 of title 28,
13 United States Code, and administered by the Fed-
14 eral Bureau of Investigation.

15 (6) Multiple factors contribute to the provision
16 of inaccurate and incomplete data regarding the in-
17 cidence of hate crime through the Uniform Crime
18 Reports program. A significant contributing factor is
19 the quality and quantity of training that State and
20 local law enforcement agencies receive on the identi-
21 fication and reporting of suspected bias-motivated
22 crimes.

23 (7) The problem of crimes motivated by bias is
24 sufficiently serious, widespread, and interstate in na-

1 ture as to warrant Federal financial assistance to
2 States and local jurisdictions.

3 (8) Federal financial assistance with regard to
4 certain violent crimes motivated by bias enables Fed-
5 eral, State, and local authorities to work together as
6 partners in the investigation and prosecution of such
7 crimes.

8 (c) DEFINITIONS.—In this section:

9 (1) HATE CRIME.—The term “hate crime”
10 means an act described in section 245, 247, or 249
11 of title 18, United States Code, or in section 901 of
12 the Civil Rights Act of 1968 (42 U.S.C. 3631).

13 (2) PRIORITY AGENCY.—The term “priority
14 agency” means—

15 (A) a law enforcement agency of a unit of
16 local government that serves a population of not
17 less than 100,000, as computed by the Federal
18 Bureau of Investigation; or

19 (B) a law enforcement agency of a unit of
20 local government that—

21 (i) serves a population of not less than
22 50,000 and less than 100,000, as com-
23 puted by the Federal Bureau of Investiga-
24 tion; and

1 (ii) has reported no hate crimes
2 through the Uniform Crime Reports pro-
3 gram in each of the 3 most recent calendar
4 years for which such data is available.

5 (3) STATE.—The term “State” has the mean-
6 ing given the term in section 901 of title I of the
7 Omnibus Crime Control and Safe Streets Act of
8 1968 (34 U.S.C. 10251).

9 (4) UNIFORM CRIME REPORTS.—The term
10 “Uniform Crime Reports” means the reports author-
11 ized under section 534 of title 28, United States
12 Code, and administered by the Federal Bureau of
13 Investigation that compile nationwide criminal sta-
14 tistics for use—

15 (A) in law enforcement administration, op-
16 eration, and management; and

17 (B) to assess the nature and type of crime
18 in the United States.

19 (5) UNIT OF LOCAL GOVERNMENT.—The term
20 “unit of local government” has the meaning given
21 the term in section 901 of title I of the Omnibus
22 Crime Control and Safe Streets Act of 1968 (34
23 U.S.C. 10251).

24 (d) REPORTING OF HATE CRIMES.—

25 (1) IMPLEMENTATION GRANTS.—

1 (A) IN GENERAL.—The Attorney General
2 may make grants to States and units of local
3 government to assist the State or unit of local
4 government in implementing the National Inci-
5 dent-Based Reporting System, including to
6 train employees in identifying and classifying
7 hate crimes in the National Incident-Based Re-
8 porting System.

9 (B) PRIORITY.—In making grants under
10 subparagraph (A), the Attorney General shall
11 give priority to States and units of local govern-
12 ment that develop and implement the programs
13 and activities described in subsection (f)(2)(A).

14 (2) REPORTING.—

15 (A) COMPLIANCE.—

16 (i) IN GENERAL.—Except as provided
17 in clause (ii), in each fiscal year beginning
18 after the date that is 3 years after the date
19 on which a State or unit of local govern-
20 ment first receives a grant under para-
21 graph (1), the State or unit of local gov-
22 ernment shall provide to the Attorney Gen-
23 eral, through the Uniform Crime Report-
24 ing system, information pertaining to hate

1 crimes committed in that jurisdiction dur-
2 ing the preceding fiscal year.

3 (ii) EXTENSIONS; WAIVER.—The At-
4 torney General—

5 (I) may provide a 120-day exten-
6 sion to a State or unit of local govern-
7 ment that is making good faith efforts
8 to comply with clause (i); and

9 (II) shall waive the requirements
10 of clause (i) if compliance with that
11 subparagraph by a State or unit of
12 local government would be unconstitu-
13 tional under the constitution of the
14 State or of the State in which the unit
15 of local government is located, respec-
16 tively.

17 (B) FAILURE TO COMPLY.—If a State or
18 unit of local government that receives a grant
19 under paragraph (1) fails to substantially com-
20 ply with subparagraph (A) of this paragraph,
21 the State or unit of local government shall
22 repay the grant in full, plus reasonable interest
23 and penalty charges allowable by law or estab-
24 lished by the Attorney General.

1 (e) GRANTS FOR STATE-RUN HATE CRIME HOT-
2 LINES.—

3 (1) GRANTS AUTHORIZED.—

4 (A) IN GENERAL.—The Attorney General
5 shall make grants to States to create State-run
6 hate crime reporting hotlines.

7 (B) GRANT PERIOD.—A grant made under
8 subparagraph (A) shall be for a period of not
9 more than 5 years.

10 (2) HOTLINE REQUIREMENTS.—A State shall
11 ensure, with respect to a hotline funded by a grant
12 under paragraph (1), that—

13 (A) the hotline directs individuals to—

14 (i) law enforcement if appropriate;

15 and

16 (ii) local support services;

17 (B) any personally identifiable information
18 that an individual provides to an agency of the
19 State through the hotline is not directly or indi-
20 rectly disclosed, without the consent of the indi-
21 vidual, to—

22 (i) any other agency of that State;

23 (ii) any other State;

24 (iii) the Federal Government; or

25 (iv) any other person or entity;

1 (C) the staff members who operate the
2 hotline are trained to be knowledgeable about—

3 (i) applicable Federal, State, and local
4 hate crime laws; and

5 (ii) local law enforcement resources
6 and applicable local support services; and

7 (D) the hotline is accessible to—

8 (i) individuals with limited English
9 proficiency, where appropriate; and

10 (ii) individuals with disabilities.

11 (3) BEST PRACTICES.—The Attorney General
12 shall issue guidance to States on best practices for
13 implementing the requirements of paragraph (2).

14 (f) INFORMATION COLLECTION BY STATES AND
15 UNITS OF LOCAL GOVERNMENT.—

16 (1) DEFINITIONS.—In this subsection:

17 (A) COVERED AGENCY.—The term “cov-
18 ered agency” means—

19 (i) a State law enforcement agency;

20 and

21 (ii) a priority agency.

22 (B) ELIGIBLE ENTITY.—The term “eligible
23 entity” means—

24 (i) a State; or

1 (ii) a unit of local government that
2 has a priority agency.

3 (2) GRANTS.—

4 (A) IN GENERAL.—The Attorney General
5 may make grants to eligible entities to assist
6 covered agencies within the jurisdiction of the
7 eligible entity in conducting law enforcement ac-
8 tivities or crime reduction programs to prevent,
9 address, or otherwise respond to hate crime,
10 particularly as those activities or programs re-
11 late to reporting hate crimes through the Uni-
12 form Crime Reports program, including—

13 (i) adopting a policy on identifying,
14 investigating, and reporting hate crimes;

15 (ii) developing a standardized system
16 of collecting, analyzing, and reporting the
17 incidence of hate crime;

18 (iii) establishing a unit specialized in
19 identifying, investigating, and reporting
20 hate crimes;

21 (iv) engaging in community relations
22 functions related to hate crime prevention
23 and education such as—

1 (I) establishing a liaison with for-
2 mal community-based organizations or
3 leaders; and

4 (II) conducting public meetings
5 or educational forums on the impact
6 of hate crimes, services available to
7 hate crime victims, and the relevant
8 Federal, State, and local laws per-
9 taining to hate crimes; and

10 (v) providing hate crime trainings for
11 agency personnel.

12 (B) SUBGRANTS.—A State that receives a
13 grant under subparagraph (A) may award a
14 subgrant to a unit of local government within
15 the State for the purposes under that subpara-
16 graph, except that a unit of local government
17 may provide funding from such a subgrant to
18 any law enforcement agency of the unit of local
19 government.

20 (3) INFORMATION REQUIRED OF STATES AND
21 UNITS OF LOCAL GOVERNMENT.—

22 (A) IN GENERAL.—For each fiscal year in
23 which a State or unit of local government re-
24 ceives a grant or subgrant under paragraph (2),
25 the State or unit of local government shall—

1 (i) collect information from each law
2 enforcement agency that receives funding
3 from the grant or subgrant summarizing
4 the law enforcement activities or crime re-
5 duction programs conducted by the agency
6 to prevent, address, or otherwise respond
7 to hate crime, particularly as those activi-
8 ties or programs relate to reporting hate
9 crimes through the Uniform Crime Reports
10 program; and

11 (ii) submit to the Attorney General a
12 report containing the information collected
13 under clause (i).

14 (B) SEMIANNUAL LAW ENFORCEMENT
15 AGENCY REPORT.—

16 (i) IN GENERAL.—In collecting the in-
17 formation required under subparagraph
18 (A)(i), a State or unit of local government
19 shall require each law enforcement agency
20 that receives funding from a grant or
21 subgrant awarded to the State or unit of
22 local government under paragraph (2) to
23 submit a semiannual report to the State or
24 unit of local government that includes a
25 summary of the law enforcement activities

1 or crime reduction programs conducted by
2 the agency during the reporting period to
3 prevent, address, or otherwise respond to
4 hate crime, particularly as those activities
5 or programs relate to reporting hate
6 crimes through the Uniform Crime Reports
7 program.

8 (ii) CONTENTS.—In a report sub-
9 mitted under clause (i), a law enforcement
10 agency shall, at a minimum, disclose—

11 (I) whether the agency has
12 adopted a policy on identifying, inves-
13 tigating, and reporting hate crimes;

14 (II) whether the agency has de-
15 veloped a standardized system of col-
16 lecting, analyzing, and reporting the
17 incidence of hate crime;

18 (III) whether the agency has es-
19 tablished a unit specialized in identi-
20 fying, investigating, and reporting
21 hate crimes;

22 (IV) whether the agency engages
23 in community relations functions re-
24 lated to hate crime, such as—

1 (aa) establishing a liaison
2 with formal community-based or-
3 ganizations or leaders; and

4 (bb) conducting public meet-
5 ings or educational forums on the
6 impact of hate crime, services
7 available to hate crime victims,
8 and the relevant Federal, State,
9 and local laws pertaining to hate
10 crime; and

11 (V) the number of hate crime
12 trainings for agency personnel, includ-
13 ing the duration of the trainings, con-
14 ducted by the agency during the re-
15 porting period.

16 (4) COMPLIANCE AND REDIRECTION OF
17 FUNDS.—

18 (A) IN GENERAL.—Except as provided in
19 subparagraph (B), beginning not later than 1
20 year after the date of this Act, a State or unit
21 of local government receiving a grant or
22 subgrant under paragraph (2) shall comply with
23 paragraph (3).

24 (B) EXTENSIONS; WAIVER.—The Attorney
25 General—

1 (i) may provide a 120-day extension
2 to a State or unit of local government that
3 is making good faith efforts to collect the
4 information required under paragraph (3);
5 and

6 (ii) shall waive the requirements of
7 paragraph (3) for a State or unit of local
8 government if compliance with that sub-
9 section by the State or unit of local gov-
10 ernment would be unconstitutional under
11 the constitution of the State or of the
12 State in which the unit of local government
13 is located, respectively.

14 (g) REQUIREMENTS OF THE ATTORNEY GENERAL.—

15 (1) INFORMATION COLLECTION AND ANALYSIS;
16 REPORT.—In order to improve the accuracy of data
17 regarding the incidence of hate crime provided
18 through the Uniform Crime Reports program, and
19 promote a more complete understanding of the na-
20 tional problem posed by hate crime, the Attorney
21 General shall—

22 (A) collect and analyze the information
23 provided by States and units of local govern-
24 ment under subsection (f) for the purpose of
25 developing policies related to the provision of

1 accurate data obtained under the Hate Crime
2 Statistics Act (Public Law 101-275; 28 U.S.C.
3 534 note) by the Federal Bureau of Investiga-
4 tion; and

5 (B) for each calendar year beginning after
6 the date of enactment of this Act, publish and
7 submit to Congress a report based on the infor-
8 mation collected and analyzed under subpara-
9 graph (A).

10 (2) CONTENTS OF REPORT.—A report sub-
11 mitted under paragraph (1) shall include—

12 (A) a qualitative analysis of the relation-
13 ship between—

14 (i) the number of hate crimes reported
15 by State law enforcement agencies or other
16 law enforcement agencies that received
17 funding from a grant or subgrant awarded
18 under paragraph (2) through the Uniform
19 Crime Reports program; and

20 (ii) the nature and extent of law en-
21 forcement activities or crime reduction pro-
22 grams conducted by those agencies to pre-
23 vent, address, or otherwise respond to hate
24 crime; and

1 (B) a quantitative analysis of the number
2 of State law enforcement agencies and other
3 law enforcement agencies that received funding
4 from a grant or subgrant awarded under para-
5 graph (2) that have—

6 (i) adopted a policy on identifying, in-
7 vestigating, and reporting hate crimes;

8 (ii) developed a standardized system
9 of collecting, analyzing, and reporting the
10 incidence of hate crime;

11 (iii) established a unit specialized in
12 identifying, investigating, and reporting
13 hate crimes;

14 (iv) engaged in community relations
15 functions related to hate crime, such as—

16 (I) establishing a liaison with for-
17 mal community-based organizations or
18 leaders; and

19 (II) conducting public meetings
20 or educational forums on the impact
21 of hate crime, services available to
22 hate crime victims, and the relevant
23 Federal, State, and local laws per-
24 taining to hate crime; and

1 (v) conducted hate crime trainings for
2 agency personnel during the reporting pe-
3 riod, including—

4 (I) the total number of trainings
5 conducted by each agency; and

6 (II) the duration of the trainings
7 described in subclause (I).

8 (h) ALTERNATIVE SENTENCING.—Section 249 of
9 title 18, United States Code, is amended by adding at the
10 end the following:

11 “(e) SUPERVISED RELEASE.—If a court includes, as
12 a part of a sentence of imprisonment imposed for a viola-
13 tion of subsection (a), a requirement that the defendant
14 be placed on a term of supervised release after imprison-
15 ment under section 3583, the court may order, as an ex-
16 plicit condition of supervised release, that the defendant
17 undertake educational classes or community service di-
18 rectly related to the community harmed by the defendant’s
19 offense.”.