

Mr. Chairman and Members of the Judiciary Committee,

My name is Tanya Ditty, and I am the State Director for Concerned Women for America (CWA) of Georgia. CWA is the largest public policy women's organization in the nation with more than 500,000 members. We are here today in opposition to HB 660.

While the bill might sound good on the surface (nobody is for hate crimes) it violates the constitutional concept of equal protection under the law. The 14th Amendment of the U.S. Constitution affords equal protection to every citizen under the law. HB 660 will create a multi-tiered system of justice, in which some crime victims' cases are taken more seriously than others. Under a "hate crime" law, an elderly man who is mugged for his Social Security check is told, essentially, that what happened to him is less serious than what happened to another victim who was mugged because of his status as a government-preferred victim. This is simply a denial of equal protection that all crime victims should enjoy under the Constitution. "Hate crime" laws also ensure unequal justice. They empower some groups of victims at the expense of others.

While the intent-based evaluation for murder examines intent and treats all criminals equally, "hate crimes" laws require an evaluation of a criminal's thoughts and treats victims differently based on their identity. According to the FBI's annual report on "hate crimes," identifying feelings is beyond law enforcement's ability and jurisdiction. The determination of thoughts and feelings involves enormous possibility of error. To maintain order and justice, government must judge actions – not feelings.

All "hate crimes" laws attempt to read people's thoughts, motives and attitudes violating Freedom of Speech by silencing and punishing all opposing viewpoints. According to some experts in the law some jurisdictions have defined as "hate" not just violent physical acts but verbal acts as well; in fact, most so-called "hate crimes" are intimidation and name-calling rather than physical acts of violence. The FBI statistics show that there were only 6121 hate crimes reported in 2016; of these 1577 were listed as intimidation; 1458 were listed as "simple assault"; 684 were listed as aggravated assault compared to national statistics that show there were 803,007 aggravated assaults against all persons in the U.S. This is 0.00085 percent of all aggravated assaults. [FBI Crime in the United States 2016, Aggravated Assault]

In general, "hate crimes" laws give the government, judges and bureaucrats the opportunity to interpret and classify speech and thoughts as unlawful. It gives penalties based on what people think, feel or believe. That is a direct assault on the Constitution itself and the common sense, strength of character and founding principles upon which this great nation and state were built. It will lead to chaos in the courts which, of course, comes at a high cost to taxpayers. Possibilities of frivolous civil law suits will be endless and costly.

Further, those "class" privileges under the "sexual orientation" and "gender identity" definitions would have a significant impact on the constitutional rights of Georgians who may have a moral objection to certain sexual behavior. Both federal and Georgia law already prohibits sex discrimination and sexual harassment. If HB 660 becomes law, it will communicate to the citizens of Georgia that the political agenda of a few is more important than the time-honored and cherished First Amendment principles upon which our country was founded and promised to

everyone. The liberties we now all enjoy, regardless of sexual preferences, will all stand defenseless against this discriminatory proposed law.

A crime is a crime – there should be no elite groups, creating a hierarchy of victims.

No one knows for sure what is in somebody's heart. And punishing some perpetrators because of their views or ideas violates freedom of speech – a First Amendment right that protects even hateful speech. The motive is irrelevant. A crime is a crime no matter what the criminal thinks of the victim. By adding sentencing enhancement for some crimes, based on the motive or perceptions of the offender, we would move toward a system found commonly in totalitarian regimes, which punish thoughts or beliefs not sanctioned by the government. In effect, a suspect is convicted not only of the crime but also convicted of the crime of having a particular belief.

When considering the data, HB 660 plays into the false narrative that there is a “hate crimes” epidemic. The data doesn't back this claim. So-called “hate crimes” constitute less than one-tenth of one percent of all crimes. According to the 2016 FBI crime reports, of the approximate 9.2 million crimes committed nationally<sup>i</sup>, only about 6,000 were labeled “hate crimes.” Of those 6,000 “hate crimes,” most involved lesser offenses, such as intimidation or simple assault, which could be nothing more than name-calling or a perceived threat.<sup>ii</sup> Here in Georgia, of the approximate 351,000 crimes committed in 2016<sup>iii</sup>, only 39 were labeled “hate crimes.” Of those 39 “hate crimes,” most involved lesser offenses, such as intimidation or simple assault<sup>iv</sup>. Bias-motivated crimes are on the decline nationally, and in Georgia as reported by CNN<sup>v</sup> and the *Atlanta Journal Constitution*,<sup>vi</sup> respectively.

We would like to conclude with comments from Canadian columnist Lorne Gunter:

Hate-crimes laws are based on the fallacious premise that we may be punished for our thoughts and feelings, not just our actions. And insisting the state has the ability to look into our hearts and minds and adjust the contents is a very dangerous line to cross. It gives legislators, the courts, and human-rights tribunals far too much power to decide what emotions and beliefs are acceptable and, more ominously, which are not.

Such power will inevitably be corrupted to the service of keeping legitimate opposition quiet. The corruption may be gradual, even subconscious. Today it will only be used against obvious cases of prejudice, but by tomorrow it may seem reasonable to use it to silence those who offer contrary views from those held by favored special interests. To ensure it is never used-willfully or unintentionally-against those merely with discomfiting opinions, it must never be used against those who have been arbitrarily deemed hateful or bigoted.<sup>vii</sup>

Allow me to state that it should be the personal duty of all citizens to behave in a respectful manner towards our fellow citizens, without being compelled or directed by law, so as to afford all the right to life, liberty, pursuit of happiness, as well as freedom of speech. We should all strive to behave so.

We, again, urge you to vote against HB 660. Your consideration of this request is appreciated.

Sincerely,

Tanya Ditty  
State Director

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<sup>i</sup> United States Department of Justice, Federal Bureau of Investigation. (September 2017). Crime in the United States, 2016. Retrieved January 8, 2018, from <https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s.-2016>

<sup>ii</sup> United States Department of Justice, Federal Bureau of Investigation. (September 2017). Hate Crime in the United States, 2016. Retrieved January 8, 2018, from <https://ucr.fbi.gov/hate-crime/2016>.

<sup>iii</sup> United States Department of Justice, Federal Bureau of Investigation. (September 2017). Crime in the United States, 2016. Retrieved January 8, 2018, from <https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s.-2016>.

<sup>iv</sup> United States Department of Justice, Federal Bureau of Investigation. (September 2017). Hate Crime in the United States, 2016. Retrieved January 8, 2018, from <https://ucr.fbi.gov/hate-crime/2016>.

<sup>v</sup> <http://www.cnn.com/2017/01/05/health/hate-crimes-tracking-history-fbi/index.html>

<sup>vi</sup> <https://www.myajc.com/news/crime--law/fbi-georgia-sees-decrease-hate-crimes-most-reported-cobb-county/KxAdWROxumNvXMa5FG2cIN>

<sup>vii</sup> Lorne Gunter, "Hate Crimes Process Only Serves to Eventually Outlaw Oppression," *The Edmonton Journal*, July 10, 2005, p. A-18