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NEWS

CINCINNATI'S ADDITION OF SEXUAL ORIENTATION TO HATE CRIME SPARKS CONTROVERSY

By Molly Mack

When University of Wyoming college student Matthew Shepard was violently murdered because of his sexual orientation, a number of organizations and government officials began encouraging the addition of "sexual orientation" to hate crime laws in an attempt to curb hate crimes against homosexuals. On February 5, 2003, Cincinnati joined a

28003(a) (2003). However, under current federal law, the Justice Department has historically had marked difficulty prosecuting hate crimes because two very specific things must be shown; first, that the victim was enjoying a federally protected activity and second, the victim was a member of a protected class. 18 U.S.C. §245 (2003). Prevention of hate crimes is made difficult, if not

government agencies, would have included homosexuality in the protected class. The amendment would have also removed the six "federally protected activities" that a person must be participating in before being considered a victim of a hate crime, essentially making the prosecution of hate crimes easier. While the HCPA was not successful, its proposition severely impacted the creation

A change in Ohio's law is supported by the recent passage of a similar amendment to Cincinnati's municipal code which added "sexual orientation" as a protected class under the city's hate crime definition.

national trend by amending its hate crime legislation to protect, "gays, lesbians, bisexual, and transgender" citizens. Opponents of the amendment question the appropriateness of protecting sexual orientation and advocates are skeptical of the impact the amendment will have on the problem.

According to the Violent Crimes Enforcement Act, a hate crime is defined as "a crime in which the defendant...intentionally selects a victim... because of their actual or perceived race, color, national origin, ethnicity, gender, disability, or sexual orientation..." 28 U.S.C. §

impossible, because expressions of animosity toward individuals is protected by the First Amendment.

In 1999, to increase the federal government's authority to prosecute hate crimes, then-President Bill Clinton unsuccessfully urged the passage of the Hate Crime Prevention Act (HCPA). The HCPA would have amended the 1969 hate-crimes law that bans the use of force or threat against a person "because of his race, color, religion, or national origin," by adding gender, disability, and "sexual orientation." "Sexual orientation," defined differently by various organizations and

of individual state's own hate crimes.

For instance, Illinois' hate crime legislation includes criminal actions taken against a person by reason of an actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin of another. 720 ILCS 5/12-7.1 (2002). While the Federal hate crime legislation demands that victims are participating in federally protected activities, Illinois' act is slightly easier to prosecute under because it allows for an increased penalty

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