

**(3) Jail**

The term “jail” means a confinement facility of a Federal, State, or local law enforcement agency to hold—

(A) persons pending adjudication of criminal charges; or

(B) persons committed to confinement after adjudication of criminal charges for sentences of 1 year or less.

**(4) HIV**

The term “HIV” means the human immunodeficiency virus.

**(5) Oral sodomy**

The term “oral sodomy” means contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus.

**(6) Police lockup**

The term “police lockup” means a temporary holding facility of a Federal, State, or local law enforcement agency to hold—

(A) inmates pending bail or transport to jail;

(B) inebriates until ready for release; or

(C) juveniles pending parental custody or shelter placement.

**(7) Prison**

The term “prison” means any confinement facility of a Federal, State, or local government, whether administered by such government or by a private organization on behalf of such government, and includes—

(A) any local jail or police lockup; and

(B) any juvenile facility used for the custody or care of juvenile inmates.

**(8) Prison rape**

The term “prison rape” includes the rape of an inmate in the actual or constructive control of prison officials.

**(9) Rape**

The term “rape” means—

(A) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person’s will;

(B) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person’s will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity; or

(C) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.

**(10) Sexual assault with an object**

The term “sexual assault with an object” means the use of any hand, finger, object, or other instrument to penetrate, however slightly, the genital or anal opening of the body of another person.

**(11) Sexual fondling**

The term “sexual fondling” means the touching of the private body parts of another

person (including the genitalia, anus, groin, breast, inner thigh, or buttocks) for the purpose of sexual gratification.

**(12) Exclusions**

The terms and conditions described in paragraphs (9) and (10) shall not apply to—

(A) custodial or medical personnel gathering physical evidence, or engaged in other legitimate medical treatment, in the course of investigating prison rape;

(B) the use of a health care provider’s hands or fingers or the use of medical devices in the course of appropriate medical treatment unrelated to prison rape; or

(C) the use of a health care provider’s hands or fingers and the use of instruments to perform body cavity searches in order to maintain security and safety within the prison or detention facility, provided that the search is conducted in a manner consistent with constitutional requirements.

(Pub. L. 108-79, §10, Sept. 4, 2003, 117 Stat. 987.)

**Editorial Notes**

## CODIFICATION

Section was formerly classified to section 15609 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**CHAPTER 305—HATE CRIMES**

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**§ 30501. Findings**

Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.

(4) Existing Federal law is inadequate to address this problem.

(5) A prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the family and friends of the victim, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including the following:

(A) The movement of members of targeted groups is impeded, and members of such

groups are forced to move across State lines to escape the incidence or risk of such violence.

(B) Members of targeted groups are prevented from purchasing goods and services, obtaining or sustaining employment, or participating in other commercial activity.

(C) Perpetrators cross State lines to commit such violence.

(D) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(E) Such violence is committed using articles that have traveled in interstate commerce.

(7) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(8) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct “races”. Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(9) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(10) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States, local jurisdictions, and Indian tribes.

(Pub. L. 111-84, div. E, §4702, Oct. 28, 2009, 123 Stat. 2835.)

#### Editorial Notes

##### CODIFICATION

Section was formerly classified as a note under section 249 of Title 18, Crimes and Criminal Procedure, prior to editorial reclassification and renumbering as this section.

#### § 30502. Definitions

In this division—

(1) the term “crime of violence” has the meaning given that term in section 16 of title 18;

(2) the term “hate crime” has the meaning given that term in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 2096), as amended by this Act;

(3) the term “local” means a county, city, town, township, parish, village, or other general purpose political subdivision of a State; and

(4) the term “State” includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States.

(Pub. L. 111-84, div. E, §4703(b), Oct. 28, 2009, 123 Stat. 2836.)

#### Editorial Notes

##### REFERENCES IN TEXT

This division, referred to in text, is division E of Pub. L. 111-84, Oct. 28, 2009, 123 Stat. 2835, known as the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act. For complete classification of division E to the Code, see Short Title of 2009 Act note set out under section 10101 of this title and Tables.

Section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 2096), as amended by this Act, referred to in par. (2), is section 280003(a) of Pub. L. 103-322, Sept. 13, 1994, 108 Stat. 2096, as amended by Pub. L. 111-84, which enacted provisions listed in a table relating to sentencing guidelines set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure.

##### CODIFICATION

Section is comprised of subsec. (b) of section 4703 of Pub. L. 111-84. Subsec. (a) of section 4703 of Pub. L. 111-84 amended provisions listed in a Table of Provisions for Review, Promulgation, or Amendment of Federal Sentencing Guidelines set out under section 994 of Title 28, Judiciary and Judicial Procedure.

Section was formerly classified as a note under section 3716 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

#### § 30503. Support for criminal investigations and prosecutions by State, local, and tribal law enforcement officials

##### (a) Assistance other than financial assistance

###### (1) In general

At the request of a State, local, or tribal law enforcement agency, the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(A) constitutes a crime of violence;

(B) constitutes a felony under the State, local, or tribal laws; and

(C) is motivated by prejudice based on the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of the victim, or is a violation of the State, local, or tribal hate crime laws.

###### (2) Priority

In providing assistance under paragraph (1), the Attorney General shall give priority to crimes committed by offenders who have committed crimes in more than one State and to rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.