

noted that Court packing was a “bonehead idea” and “a terrible, terrible mistake” that “put in question for an entire decade the independence of the most significant body—including the Congress, in my view—the most significant body in this country, the Supreme Court of the United States of America”;

Whereas, in 2005 during a speech on the Senate floor, then-Senator Joe Biden praised members of the Democrat Party for their “act of courage” in opposing the Court-packing plan of President Roosevelt, which he described as a “power grab”;

Whereas, in 2019, the late Justice Ruth Bader Ginsburg stated, “I think it was a bad idea when President Franklin Roosevelt tried to pack the Court”, and that “if anything would make the Court look partisan, it would be that”;

Whereas, in 2021, Justice Stephen Breyer urged supporters of court packing to “think long and hard” about undermining the independence of the court, noting that it is imperative the public “trust that the court is guided by legal principle, not politics” and that “structural alteration motivated by the perception of political influence can only feed that latter perception, further eroding that trust”;

Whereas the Constitution of the United States is based on the principle of separation of powers to provide for checks and balances on each branch of the Federal Government and expanding the Supreme Court of the United States purely for political advantage threatens the separation of powers and the system of checks and balances established in the Constitution of the United States;

Whereas the Federal judiciary is insulated from political influence through lifetime appointments and other measures to preserve its independence and an attempt to expand the Supreme Court of the United States purely for political purposes threatens the independence and integrity of the Supreme Court and, thus, the entirety of the judiciary it oversees; and

Whereas any attempt to increase the number of justices of the Supreme Court of the United States or “pack the Court” would undermine the democratic institutions and destroy the credibility of the highest court in the United States: Now, therefore, be it

*Resolved*, That the Senate opposes any attempt to increase the number of justices of the Supreme Court of the United States or otherwise pack the Court.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1445. Mr. SCHUMER (for Ms. HIRONO (for herself, Ms. COLLINS, Mr. BLUMENTHAL, and Mr. WARNOCK)) proposed an amendment to the bill S. 937, to facilitate the expedited review of COVID-19 hate crimes, and for other purposes.

SA 1446. Mr. WARNOCK submitted an amendment intended to be proposed by him to the bill S. 937, *supra*; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 1445.** Mr. SCHUMER (for Ms. HIRONO (for herself, Ms. COLLINS, Mr. BLUMENTHAL, and Mr. WARNOCK)) proposed an amendment to the bill S. 937, to facilitate the expedited review of COVID-19 hate crimes, and for other purposes; as follows:

Strike all after the first word and insert the following:

##### 1. SHORT TITLE.

This Act may be cited as the “COVID-19 Hate Crimes Act”.

##### SEC. 2. FINDINGS.

Congress finds the following:

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

(2) According to a recent report, there were nearly 3,800 reported cases of anti-Asian discrimination and incidents related to COVID-19 between March 19, 2020, and February 28, 2021, in all 50 States and the District of Columbia.

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

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

(5) More than 1,900,000 Asian-American and Pacific Islander older adults, particularly those older adults who are recent immigrants or have limited English proficiency, may face even greater challenges in dealing with the COVID-19 pandemic, including discrimination, economic insecurity, and language isolation.

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

- (A) Xiaojie Tan.
- (B) Daoyou Feng.
- (C) Delaina Ashley Yaun González.
- (D) Paul Andre Michels.
- (E) Soon Chung Park.
- (F) Hyun Jung Grant.
- (G) Suncha Kim.
- (H) Yong Ae Yue.

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

##### SEC. 3. REVIEW OF HATE CRIMES.

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

(b) **APPLICABLE PERIOD DEFINED.**—In this section, the term “applicable period” means the period beginning on the date on which the officer or employee is designated under subsection (a), and ending on the date that is 1 year after the date on which the emergency period described in subparagraph (B) of section 1135(g)(1) of the Social Security Act (42 U.S.C. 1320b-5(g)(1)) ends, except that the Attorney General may extend such period as appropriate.

##### SEC. 4. GUIDANCE.

(a) **GUIDANCE FOR LAW ENFORCEMENT AGENCIES.**—The Attorney General shall issue guidance for State, local, and Tribal law enforcement agencies, pursuant to this Act and other applicable law, on how to—

(1) establish online reporting of hate crimes or incidents, and to have online reporting that is equally effective for people with disabilities as for people without disabilities available in multiple languages as determined by the Attorney General;

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

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

(b) **GUIDANCE RELATING TO COVID-19 PANDEMIC.**—The Attorney General and the Secretary of Health and Human Services, in coordination with the COVID-19 Health Equity Task Force and community-based organizations, shall issue guidance aimed at raising awareness of hate crimes during the COVID-19 pandemic.

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

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

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

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

(2) According to data obtained by the Federal Bureau of Investigation, the incidence of such violence increased in 2019, the most recent year for which data is available.

(3) In 1990, Congress enacted the Hate Crime Statistics Act (Public Law 101-275; 28 U.S.C. 534 note) to provide the Federal Government, law enforcement agencies, and the public with data regarding the incidence of hate crime. The Hate Crime Statistics Act and the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (division E of Public Law 111-84; 123 Stat. 2835) have enabled Federal authorities to understand and, where appropriate, investigate and prosecute hate crimes.

(4) A more complete understanding of the national problem posed by hate crime is in the public interest and supports the Federal interest in eradicating bias-motivated violence referenced in section 249(b)(1)(C) of title 18, United States Code.

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

(6) Multiple factors contribute to the provision of inaccurate and incomplete data regarding the incidence of hate crime through the Uniform Crime Reports program. A significant contributing factor is the quality and quantity of training that State and local law enforcement agencies receive on the identification and reporting of suspected bias-motivated crimes.

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

(8) Federal financial assistance with regard to 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.

(c) **DEFINITIONS.**—In this section:

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

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

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

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

(i) serves a population of not less than 50,000 and less than 100,000, as computed by the Federal Bureau of Investigation; and

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

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

(4) UNIFORM CRIME REPORTS.—The term “Uniform Crime Reports” means the reports authorized under section 534 of title 28, United States Code, and administered by the Federal Bureau of Investigation that compile nationwide criminal statistics for use—

(A) in law enforcement administration, operation, and management; and

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

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

(d) REPORTING OF HATE CRIMES.—

(1) IMPLEMENTATION GRANTS.—

(A) IN GENERAL.—The Attorney General may make grants to States and units of local government to assist the State or unit of local government in implementing the National Incident-Based Reporting System, including to train employees in identifying and classifying hate crimes in the National Incident-Based Reporting System.

(B) PRIORITY.—In making grants under subparagraph (A), the Attorney General shall give priority to States and units of local government that develop and implement the programs and activities described in subsection (f)(2)(A).

(2) REPORTING.—

(A) COMPLIANCE.—

(i) IN GENERAL.—Except as provided in clause (ii), in each fiscal year beginning after the date that is 3 years after the date on which a State or unit of local government first receives a grant under paragraph (1), the State or unit of local government shall provide to the Attorney General, through the Uniform Crime Reporting system, information pertaining to hate crimes committed in that jurisdiction during the preceding fiscal year.

(ii) EXTENSIONS; WAIVER.—The Attorney General—

(I) may provide a 120-day extension to a State or unit of local government that is making good faith efforts to comply with clause (i); and

(II) shall waive the requirements of clause (i) if compliance with that subparagraph by a State or unit of local government would be unconstitutional under the constitution of the State or of the State in which the unit of local government is located, respectively.

(B) FAILURE TO COMPLY.—If a State or unit of local government that receives a grant under paragraph (1) fails to substantially comply with subparagraph (A) of this paragraph, the State or unit of local government shall repay the grant in full, plus reasonable interest and penalty charges allowable by law or established by the Attorney General.

(c) GRANTS FOR STATE-RUN HATE CRIME HOTLINES.—

(1) GRANTS AUTHORIZED.—

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

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

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

(A) the hotline directs individuals to—

(i) law enforcement if appropriate; and  
(ii) local support services;

(B) any personally identifiable information that an individual provides to an agency of the State through the hotline is not directly or indirectly disclosed, without the consent of the individual, to—

(i) any other agency of that State;  
(ii) any other State;  
(iii) the Federal Government; or  
(iv) any other person or entity;

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

(i) applicable Federal, State, and local hate crime laws; and  
(ii) local law enforcement resources and applicable local support services; and  
(D) the hotline is accessible to—

(i) individuals with limited English proficiency, where appropriate; and  
(ii) individuals with disabilities.

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

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

(1) DEFINITIONS.—In this subsection:

(A) COVERED AGENCY.—The term “covered agency” means—

(i) a State law enforcement agency; and  
(ii) a priority agency.

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

(i) a State; or  
(ii) a unit of local government that has a priority agency.

(2) GRANTS.—

(A) IN GENERAL.—The Attorney General may make grants to eligible entities to assist covered agencies within the jurisdiction of the eligible entity in conducting law enforcement activities or crime reduction programs to prevent, address, or otherwise respond to hate crime, particularly as those activities or programs relate to reporting hate crimes through the Uniform Crime Reports program, including—

(i) adopting a policy on identifying, investigating, and reporting hate crimes;  
(ii) developing a standardized system of collecting, analyzing, and reporting the incidence of hate crime;  
(iii) establishing a unit specialized in identifying, investigating, and reporting hate crimes;  
(iv) engaging in community relations functions related to hate crime prevention and education such as—

(I) establishing a liaison with formal community-based organizations or leaders; and

(II) conducting public meetings or educational forums on the impact of hate crimes, services available to hate crime victims, and the relevant Federal, State, and local laws pertaining to hate crimes; and  
(v) providing hate crime trainings for agency personnel.

(B) SUBGRANTS.—A State that receives a grant under subparagraph (A) may award a subgrant to a unit of local government within the State for the purposes under that subparagraph, except that a unit of local government may provide funding from such a subgrant to any law enforcement agency of the unit of local government.

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

(A) IN GENERAL.—For each fiscal year in which a State or unit of local government receives a grant or subgrant under paragraph (2), the State or unit of local government shall—

(i) collect information from each law enforcement agency that receives funding from the grant or subgrant summarizing the law enforcement activities or crime reduction programs conducted by the agency to pre-

vent, address, or otherwise respond to hate crime, particularly as those activities or programs relate to reporting hate crimes through the Uniform Crime Reports program; and

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

(B) SEMI-ANNUAL LAW ENFORCEMENT AGENCY REPORT.—

(i) IN GENERAL.—In collecting the information required under subparagraph (A)(i), a State or unit of local government shall require each law enforcement agency that receives funding from a grant or subgrant awarded to the State or unit of local government under paragraph (2) to submit a semi-annual report to the State or unit of local government that includes a summary of the law enforcement activities or crime reduction programs conducted by the agency during the reporting period to prevent, address, or otherwise respond to hate crime, particularly as those activities or programs relate to reporting hate crimes through the Uniform Crime Reports program.

(ii) CONTENTS.—In a report submitted under clause (i), a law enforcement agency shall, at a minimum, disclose—

(I) whether the agency has adopted a policy on identifying, investigating, and reporting hate crimes;

(II) whether the agency has developed a standardized system of collecting, analyzing, and reporting the incidence of hate crime;

(III) whether the agency has established a unit specialized in identifying, investigating, and reporting hate crimes;

(IV) whether the agency engages in community relations functions related to hate crime, such as—

(aa) establishing a liaison with formal community-based organizations or leaders; and

(bb) conducting public meetings or educational forums on the impact of hate crime, services available to hate crime victims, and the relevant Federal, State, and local laws pertaining to hate crime; and

(V) the number of hate crime trainings for agency personnel, including the duration of the trainings, conducted by the agency during the reporting period.

(4) COMPLIANCE AND REDIRECTION OF FUNDS.—

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

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

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

(ii) shall waive the requirements of paragraph (3) for a State or unit of local government if compliance with that subsection by the State or unit of local government would be unconstitutional under the constitution of the State or of the State in which the unit of local government is located, respectively.

(g) REQUIREMENTS OF THE ATTORNEY GENERAL.—

(1) INFORMATION COLLECTION AND ANALYSIS; REPORT.—In order to improve the accuracy of data regarding the incidence of hate crime provided through the Uniform Crime Reports program, and promote a more complete understanding of the national problem posed by hate crime, the Attorney General shall—

(A) collect and analyze the information provided by States and units of local government under subsection (f) for the purpose of developing policies related to the provision of accurate data obtained under the Hate

Crime Statistics Act (Public Law 101-275; 28 U.S.C. 534 note) by the Federal Bureau of Investigation; and

(B) for each calendar year beginning after the date of enactment of this Act, publish and submit to Congress a report based on the information collected and analyzed under subparagraph (A).

(2) CONTENTS OF REPORT.—A report submitted under paragraph (1) shall include—

(A) a qualitative analysis of the relationship between—

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

(ii) the nature and extent of law enforcement activities or crime reduction programs conducted by those agencies to prevent, address, or otherwise respond to hate crime; and

(B) a quantitative analysis of the number of State law enforcement agencies and other law enforcement agencies that received funding from a grant or subgrant awarded under paragraph (2) that have—

(i) adopted a policy on identifying, investigating, and reporting hate crimes;

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

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

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

(I) establishing a liaison with formal community-based organizations or leaders; and

(II) conducting public meetings or educational forums on the impact of hate crime, services available to hate crime victims, and the relevant Federal, State, and local laws pertaining to hate crime; and

(v) conducted hate crime trainings for agency personnel during the reporting period, including—

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

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

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

“(e) SUPERVISED RELEASE.—If a court includes, as a part of a sentence of imprisonment imposed for a violation of subsection (a), a requirement that the defendant be placed on a term of supervised release after imprisonment under section 3583, the court may order, as an explicit condition of supervised release, that the defendant undertake educational classes or community service directly related to the community harmed by the defendant’s offense.”.

**SA 1446.** Mr. WARNOCK submitted an amendment intended to be proposed by him to the bill S. 937, to facilitate the expedited review of COVID-19 hate crimes, and for other purposes; which was ordered to lie on the table; as follows:

After section 1, insert the following:

## SEC. 2. FINDINGS.

Congress finds the following:

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

(2) According to a recent report, there were nearly 3,800 reported cases of anti-Asian discrimination and incidents related to COVID-19 between March 19, 2020, and February 28, 2021, in all 50 States and the District of Columbia.

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

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

(5) More than 1,900,000 Asian-American and Pacific Islander older adults, particularly those older adults who are recent immigrants or have limited English proficiency, may face even greater challenges in dealing with the COVID-19 pandemic, including discrimination, economic insecurity, and language isolation.

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

(A) Xiaojie Tan.

(B) Daoyou Feng.

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

## AUTHORITY FOR COMMITTEES TO MEET

Mr. PADILLA. Mr. President, I have a request for one committee to meet during today’s session of the Senate. It has the approval of the Majority and Minority leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committee is authorized to meet during today’s session of the Senate:

### COMMITTEE ON FOREIGN RELATIONS

The Committee on Foreign Relations is authorized to meet during the session of the Senate on Monday, April 19, 2021, at 6 p.m., to conduct a hearing.

## NOMINATION REFERRAL

Mr. SCHUMER. Madam President, I ask unanimous consent that, as if in executive session, the nomination of Shannon Estenoz, of Florida, to be Assistant Secretary for Fish and Wildlife, sent to the Senate by the President on April 19, 2021, be referred jointly to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

## APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 96-388, as amended by Public Law 97-84, and Public Law 106-292, reappoints the

following Senators to the United States Holocaust Memorial Council for the 117th Congress: The Honorable MARCO RUBIO of Florida and The Honorable TIM SCOTT of South Carolina.

## MEASURES READ THE FIRST TIME—S. 1216 AND H.R. 7

Mr. SCHUMER. Madam President, I understand that there are two bills at the desk, and I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will read the bills by title for the first time en bloc.

The senior assistant legislative clerk read as follows:

A bill (S. 1216) to extend the temporary scheduling order for fentanyl-related substances.

A bill (H.R. 7) to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

Mr. SCHUMER. I now ask for a second reading, and I object to my own request, all en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will be read for the second time on the next legislative day.

## ORDERS FOR TUESDAY, APRIL 20, 2021

Mr. SCHUMER. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Tuesday, April 20; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and morning business be closed; that upon the conclusion of morning business, the Senate resume consideration of S. 937, the COVID-19 Hate Crimes legislation; that at 12 noon, the Senate proceed to executive session to resume consideration of the Gensler nomination and the Senate vote on the motion to invoke cloture on the nomination; that the Senate recess following the cloture vote on the Gensler nomination until 2:15 p.m. to allow for the weekly caucus meetings; further, that if cloture is invoked on the Gensler nomination, all postcloture time be considered expired at 2:15 p.m.; that if confirmed, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate’s action; finally, that following the confirmation vote, the Senate resume legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.