

The 2002 Senate and a Hate Crimes bill: The GOP's intolerance toward gays continues

February 4, 2007

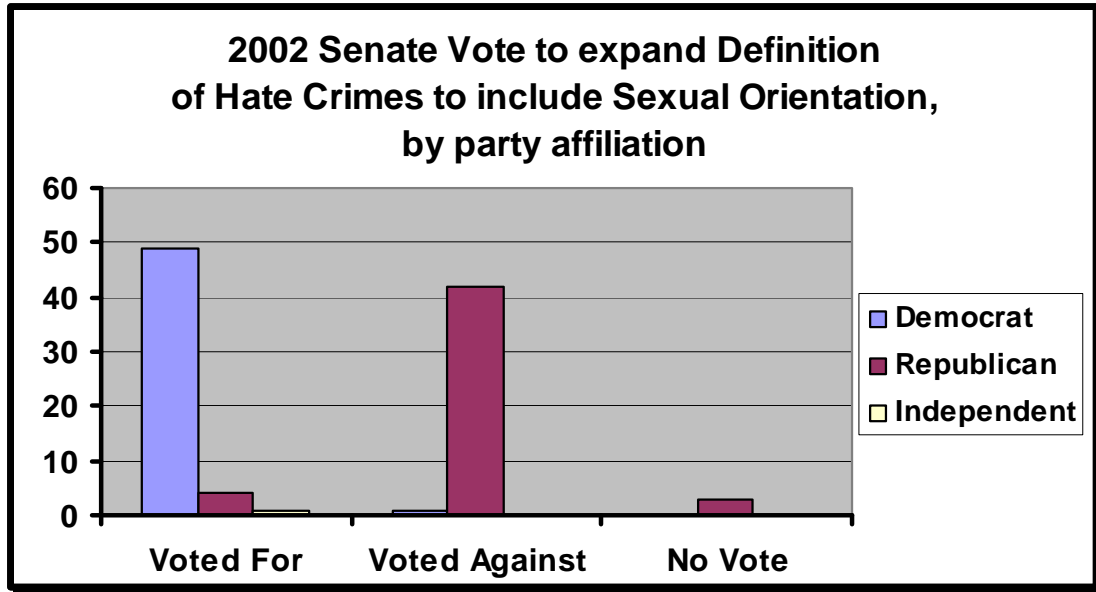
As had occurred two years earlier, in 2002 the United States Senate voted to expand the national hate crimes act to include *sexual orientation bias* as a hate crime category. The bill—S. 625 called the “Local Law Enforcement Act of 2001” and sponsored by Senator Edward Kennedy of Massachusetts—would expand the definition of hate crimes to incorporate acts committed because of a victim's sex, sexual orientation or disability; and it would permit the federal government to help states prosecute hate crimes even if no federally protected action was implicated. The type of Senate vote on June 11, 2002, was a Motion to Invoke Cloture. If the cloture motion would have been agreed to, debate would have been limited and a vote on the bill would have occurred. But, the cloture motion was rejected; thus, debate on S. 625 could continue indefinitely (although typically when a cloture motion is rejected, the bill in question is usually set aside). Hence a Yes vote on the “Local Law Enforcement Act of 2001” Cloture Motion in essence supported the expansion of the definition of hate crimes, and a No vote in essence supported keeping the existing definition which does not include *sexual orientation bias* as a hate crime category. Three-fifths of the Senate, or 60 members, is required to invoke cloture.

It is important to look at who voted for and against S. 625 in June, 2002 and issues related to preventing the expansion of the definition of hate crimes to include *sexual orientation bias*. Such an examination is an examination of who does not want to punish criminal acts due to anti-homosexual hatred and who wants to instead ignore the existence of such hate-driven crimes and minimize their deleterious impact on society. Very similarly to the June, 2000 vote to expand the definition of hate crimes, the June, 2002 vote on the “Local Law Enforcement Act of 2001” went along party lines with Democrats largely voting to accept the cloture motion, and the Republican senators largely voting to reject it. A total of 54 senators voted for the cloture motion, 43 senators voted against it, and the remaining three senators (Republican senators Bond from Missouri, Crapo from Idaho, and Helms from North Carolina) did not vote. Thus, the amendment was tabled because it fell short of the required 60 needed votes. The following graph shows the breakdown of the vote by party affiliation. South Dakota senator Daschle was the lone Democrat to vote against S. 625, and senators Jeffords (Independent from Vermont), Chafee (Rhode Island), Collins (Maine), Smith (Oregon), and Snowe (Maine) were the only non-Democrats to vote for the bill. Only about 8% of the Republican senators voted to accept the cloture motion, whereas 98% of the Democratic senators voted to accept it. Approximately 85.7% of Republican senators voted against the cloture motion.

The senators voting to accept the Cloture Motion on S. 625 were (alphabetically): Akaka; Baucus; Bayh; Biden; Bingaman; Boxer; Breaux; Byrd; Cantwell; Carnahan; Carper; Chafee; Cleland; Clinton; Collins; Conrad; Corzine; Dayton; Dodd; Dorgan; Durbin; Edwards; Feingold; Feinstein; Graham; Harkin; Hollings; Inouye; Jeffords;

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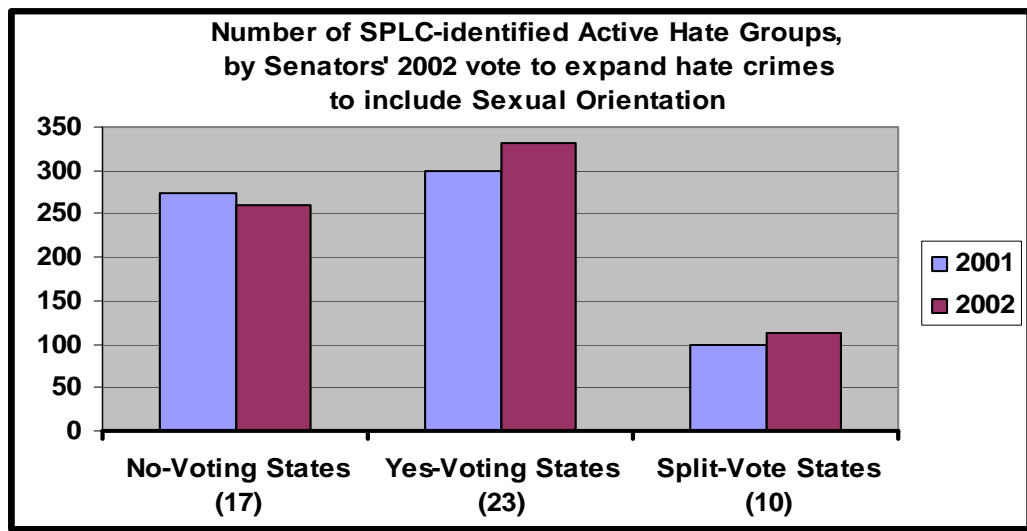
Johnson; Kennedy; Kerry; Kohl; Landrieu; Leahy; Levin; Lieberman; Lincoln; Mikulski; Miller; Murray; Nelson (Florida); Nelson (Nebraska); Reed; Reid; Rockefeller; Sarbanes; Schumer; Smith; Snowe; Stabenow; Torricelli; Wellstone; and, Wyden. The senators voting to reject the motion were: Allard; Allen; Bennett; Brownback; Bunning; Burns; Campbell; Cochran; Craig; Daschle; DeWine; Domenici; Ensign; Enzi; Fitzgerald; Frist; Gramm; Grassley; Gregg; Hagel; Hatch; Hutchinson; Hutchison; Inhofe; Kyl; Lott; Lugar; McCain; McConnell; Murkowski; Nickles; Roberts; Santorum; Sessions; Shelby; Smith; Specter; Stevens; Thomas; Thompson; Thurmond; Voinovich; and, Warner.



Looking closer at the interwoven issues of intolerance toward homosexuals in the United States, crimes targeting homosexuals, and (almost exclusively Republican) senators who vote to keep the prosecutorial powers regarding, and the punishment of perpetrators of crimes targeting homosexuals as minimal as possible, one ought to examine whether or not an association exists between the number of active hate groups (most of which explicitly single out homosexuals as targets of their hatred) across the country and how senators voted on the “Local Law Enforcement Act of 2001” Cloture Motion. The number of active hate groups in a state during any given year serves as a marker of community (and voter) intolerance, including intolerance toward homosexuals, especially since most hate groups are vehemently anti-homosexual. In the following graph information from the Southern Poverty Law Center (SPLC) shows how many hate groups were active the year before (2001) and the year of the 2002 Senate vote on S. 625 in relation to the Senate voting record of that bill on June 11, 2002. There were 17 “No-Voting States” which included Idaho (only one senator from that state voted, and a No vote was cast), there were 23 “Yes-Voting States” which included Missouri and North Carolina (only one senator from each of those states voted, and the votes cast were Yes votes), and there were 10 “Split-Vote States”.

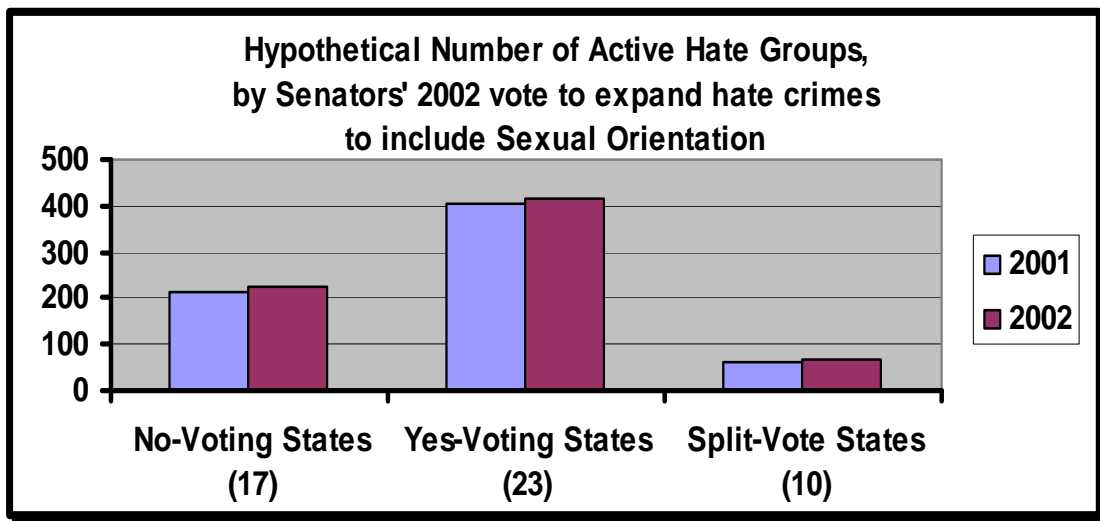
The 17 “No-Voting States” were (alphabetically): Alabama; Alaska; Arizona; Colorado; Idaho; Kansas; Kentucky; Mississippi; New Hampshire; Ohio; Oklahoma; Pennsylvania;

Tennessee; Texas; Utah; Virginia; and, Wyoming. The 23 “Yes-Voting States” were: California; Connecticut; Delaware; Florida; Georgia; Hawaii; Louisiana; Maine; Maryland; Massachusetts; Michigan; Minnesota; Missouri; New Jersey; New York; North Carolina; North Dakota; Oregon; Rhode Island; Vermont; Washington; West Virginia; and, Wisconsin. The ten “Split-Vote States” were: Arkansas; Illinois; Indiana; Iowa; Montana; Nebraska; Nevada; New Mexico; South Carolina; and, South Dakota.

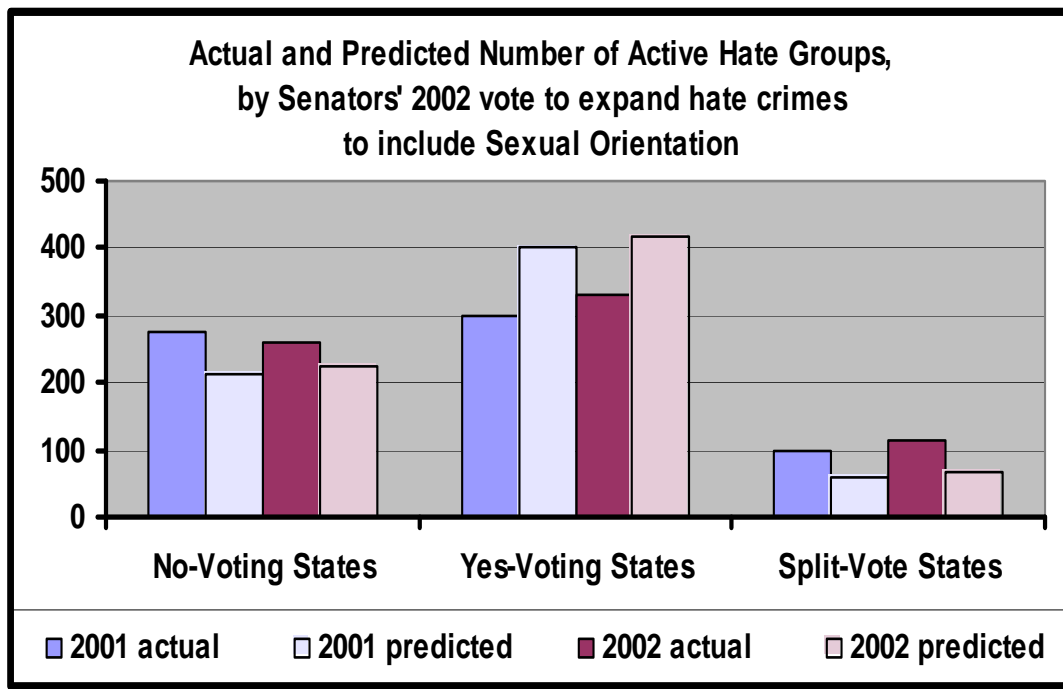


Examining this graph, one might erroneously conclude that senators who voted against S. 625 did so because they understood that hate groups apt to target homosexuals (among other groups of citizens) were not as relatively active in their states as they were elsewhere. These senators might have reasoned then that the issue of hate crimes against homosexuals was not much of a menace in their states, and therefore, that *sexual orientation bias* does not need to be added to the list of categories considered when defining what constitutes a hate crime. One might erroneously conclude this because, after all, the graph indicates that there were more active hate groups in the states where senators voted for expanding the hate crimes act to included *sexual orientation bias* (“Yes-Voting States”) than there were in states where senators voted against the S. 625 Cloture Motion (“No-Voting States”) or where there was a split vote between senators representing the same state. Presumably, the senators who voted for S. 625 did so at least in part because of their understanding of the presence of hate groups in their home states—hate groups that are prone to target homosexuals.

Yet, the preceding graph is misleading because it does not take into account the population covered in the three groups of states. One might reasonably expect fewer active hate groups in less populated areas of the United States. When one corrects for population—that is, when one takes into account how populated the three groups of states are—then a very different picture emerges. Using population estimates, in 2001 the “No-Voting States” had an estimated 31.55% of the total United States population (76,103,194 persons), the “Yes-Voting States” had 59.75% (144,144,637 persons), and the remaining 8.70% of the population was estimated to have lived in the “Split-Vote States” (20,979,769 persons). In 2002, the “No-Voting States” had an estimated 31.79% of the total United States population (78,418,423 persons), the “Yes-Voting States” had 58.97% (145,453,747 persons), and the remaining 9.24% of the population was estimated to have lived in the “Split-Vote States” (22,803,615 persons). Assuming an equal distribution of active hate groups throughout the United States based on population and using the number of active hate groups as reported by the SPLC in 2001 and 2002 (viz., 673 and 705, respectively), the next graph shows the number of active hate groups that *ought to have been operating* in 2001 and 2002 by the type of senate voting state.



To fully understand the meaning of the data in the two preceding graphs, it is necessary to combine them. By doing so, it will be easy to compare how many hate groups *ought to have been active* in 2001 and 2002 in the three groups of states and how many hate groups *actually were active* during those two years. The following graph shows these comparisons.



Upon inspection of the data in the preceding graph, it is obvious that in the “No-Voting States” there was a *higher than expected number of active hate groups* in the year of and in the year preceding the Senate’s 2002 Cloture Motion vote on Senator Kennedy’s “Local Law Enforcement Act of 2001”. This was also true for the “Split-Vote States”. However, the opposite was true for the “Yes-Voting States”: they had fewer active hate groups than expected for both 2001 and 2002. A close look at this graph shows that although the “No-Voting” and “Yes-Voting” states had almost the same number of active hate groups, the “Yes-Voting States” were predicted to have almost twice as many such hate groups as the “No-Voting States” given the population figures for those states. In 2001, for example, the “No-Voting States” were expected to have 212 active hate groups, whereas the “Yes-Voting States” were expected to have 402 such groups, almost twice as many. The voting Senate of 2002—and especially those senators who voted against the amendment’s movement toward passage—ought to have known that as community markers of intolerance toward homosexuals are concerned, there are some states that are more likely to promote a community atmosphere overtly hostile to non-heterosexuals.

It is possible—although not highly likely—that senators are not aware of the magnitude of active hate groups nationally or in their home states. However, senators voting on a hate crimes bill ought to have working knowledge of the Federal Bureau of Investigation’s annual crime reports regarding biased-based (i.e., hate-based) crimes. Since 1995 the FBI has been reporting voluntarily-provided information about hate crime incidents including incidents due to *sexual orientation bias* (even though sexual orientation bias is not included in the Violent Crime Control and Law Enforcement Act of 1994). From 1995 through 2001—that is, in the seven years preceding the 2002 Senate Cloture Motion vote on S. 625—the FBI reported 9,901 hate crime incidents based on *sexual orientation bias*. Of these incidents, the FBI also published data showing

that 9,759 of these hate crime incidents (or 98.6% of them) were due to homosexual/bisexual bias. The FBI data is clear and this should have been clear to the voting Senate: crimes specifically targeting homosexuals and bisexuals are not rare occurrences; rather, they occur, on average, several times daily in the United States.

In summary, here are the facts surrounding the June, 2002 vote of Senator Edward Kennedy's "Local Law Enforcement Act of 2001" (S. 625). First, Republicans successfully tabled the amendment that would have expanded the hate crimes act to include *sexual orientation bias*. Overwhelmingly, Republicans voted against S. 625. A total of 42 of 43 senators who voted against the bill (over 97%) were Republican senators. Only one of 49 Republican senators (just 2% of all Republican senators) voted for the hate crime amendment to move closer to passage into law, whereas 48 of 49 Democratic senators (98% of all Democratic senators) voted for it. Second, known, active hate groups were not equally distributed throughout the United States. In reality, in 2001 and in 2002 there were more active hate groups than expected in the states where there were two Republican senators in office; and, there were more active hate groups than expected in states that had at least one Republican senator during those two years. Conversely, in states where senate representation in 2002 included only Democratic senators, there were fewer active hate groups than expected in 2001 and in 2002. Third, crimes against non-heterosexuals are not rare occurrences in the United States. The FBI reported almost 10,000 crimes due to *sexual orientation bias* in the seven years leading up to the 2002 Senate vote, and nearly all of them (98.6%) were due to bias against homosexuals/bisexuals. Since the data described here is of public record, nearly every Republican senator who voted against S. 625 ought to have known that in their state there were a relatively large number of hate groups, most of which are apt to target homosexuals—the group of citizens the Republican senators failed to protect by voting to reject cloture to S. 625. Given that active hate groups are markers of community intolerance toward homosexuals, Republican senators ought to have known that their states leave members of their constituency vulnerable to hate-based crimes. Every Republican senator in 2002 also ought to have known that the FBI reported scores of crimes against homosexuals in their states, crimes committed solely because of the victims' sexual orientation. In other words, every Republican senator in 2002 should have known that hate-based crimes occur against their own constituents. Fourth, while representing only 17 of 50 states which included less than a third of the country's population, the Republican senators who voted against S. 625 were able to stop a bill that would have better protected citizens nationally and that was aimed at reducing crime throughout the country. Thus, the Republican senators of 2002 failed to listen to the needs of the nation in that they failed to protect a group of citizens in their own home states and elsewhere. These same senators actively worked to vote an amendment down, one created to help reduce hate crimes in their home states and nationally. Once again the Republican party's most influential elected federal officials showed the nation that their party is the party of intolerance and hate.

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