

## FREEDOM OF SPEECH

The Freedom of Speech is one of the integral concepts of the founding of America, and it is protected by the [First Amendment](#) to our Constitution:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

Our Nation’s Freedom of Speech protects many different types of speech:

- **Pure Speech** – words that are spoken or written
- **Symbolic Speech** – action that is meant to convey a message
- **Speech Plus Conduct** – free speech that includes some type of conduct

However, not all speech is protected under the First Amendment. Exceptions to Freedom of Speech include:

- Obscenity
- Defamation
- Incitement
- Incitement to riot or imminent lawless action
- Fighting words
- Fraud

### Hate Speech

One Freedom of Speech area that we encounter often in the Courts is the idea of hate speech. House Bill 1319, also known as the Local Law Enforcement and Hate Crimes Prevention Act of 2009, includes crimes motivated by a victim’s “sexual orientation” and “gender identity.” The term “gender identity” is broadly defined within the Bill to include “actual or perceived gender-related characteristics” while the term “sexual orientation” is left undefined. This Bill was originally introduced as the Matthew Sheppard Act in 2007 in response to the murder of a homosexual male in an anti-gay hate crime that occurred in Wyoming.

Opponents of the Bill claim that such broad language could lead to the protection of up to thirty sexual orientations (as defined by the American Psychiatric Association), including behaviors such as bestiality and voyeurism which are illegal in most states.

Others opposed the Bill due to the fact that it could be used to intimidate and prosecute pastors and other persons of faith for expressing their moral and biblical concerns about homosexuality. While an exemption for First Amendment speech is written into the Bill, it is unclear whether such a provision will be sufficient to overcome its chilling effect on religious speech. Time will tell how this legislation will be used and will impact the future of our Nation and our Freedom of Speech. Currently, the United States is rather unique among other countries in that hate speech is mostly protected by the First Amendment.