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## Report: Congress makes too many vague laws

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A conservative think tank and criminal defense lawyers are forming an unusual alliance to try to get Congress to quit writing criminal laws so loosely that they subject innocent people to unjust prosecution and prison.

A new study by the Heritage Foundation and the National Association of Criminal Defense Lawyers finds that nearly two dozen federal laws enacted in 2005 and 2006 to combat nonviolent crime lack an adequate provision that someone accused of violating the laws must have had a "guilty mind," or criminal intent.

"It is a fundamental principle of criminal law that, before criminal punishment can be imposed, the government must prove both a guilty act and a guilty mind," the groups said in the report.

Even when Congress includes a "guilty mind" provision in a law, "it is often so weak that it does not protect defendants from punishment for making honest mistakes," or committing minor transgressions, the report said.

The Supreme Court is reviewing three cases involving prosecution under a federal fraud statute that Justice Antonin Scalia has described as a potent tool in the hands of "headline-grabbing prosecutors" in pursuit of behavior that may be unappealing or ethically questionable, but not necessarily criminal.

Scalia said the law is so vague it could be employed against a mayor for using political clout to get a good table at a restaurant or a salaried employee who phones in sick to go to a ballgame.

Rep. Bobby Scott, D-Va., chairman of the House Crime, Terrorism and Homeland Security Subcommittee, said too many bills get through Congress without enough study or refinement.

"You can't prosecute somebody for something they didn't know was a crime," Scott said. He and Rep. Louie Gohmert, R-Texas, the senior Republican on the panel, held a hearing on the issue last year.

Among examples of the problem, the Paid Family and Medical Leave Act of 2005 makes it a crime to include false statements in an application for leave and could be applied to simple mistakes, such as a woman entering the wrong year when asked for her hiring date, the report said.

Heritage and the defense lawyers say lawmakers can take a few steps to improve matters, including requiring the House and Senate judiciary committees to review all proposed criminal laws and writing into law that defendants should get the benefit of the doubt when laws are not written clearly.



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