

SB1486



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1486

Introduced 2/13/2019, by Sen. Paul Schimpf

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-7.1

from Ch. 38, par. 12-7.1

Amends the Criminal Code of 2012. Provides that a person also commits a hate crime when, by reason of the actual or perceived employment as a peace officer, correctional institution employee, probation officer, parole officer, firefighter, or emergency medical services personnel of another individual or group of individuals, regardless of the existence of any other motivating factor or factors, he or she commits assault, battery, aggravated assault, misdemeanor theft, criminal trespass to residence, misdemeanor criminal damage to property, criminal trespass to vehicle, criminal trespass to real property, mob action, disorderly conduct, harassment by telephone, or harassment through electronic communications.

LRB101 05110 SLF 50121 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Section 12-7.1 as follows:

6 (720 ILCS 5/12-7.1) (from Ch. 38, par. 12-7.1)

7 Sec. 12-7.1. Hate crime.

8 (a) A person commits hate crime when, by reason of the
9 actual or perceived race, color, creed, religion, ancestry,
10 gender, sexual orientation, physical or mental disability, or
11 national origin of another individual or group of individuals,
12 or by reason of the actual or perceived employment as a peace
13 officer, correctional institution employee, probation officer,
14 parole officer, firefighter, or emergency medical services
15 personnel of another individual or group of individuals,
16 regardless of the existence of any other motivating factor or
17 factors, he or she commits assault, battery, aggravated
18 assault, intimidation, stalking, cyberstalking, misdemeanor
19 theft, criminal trespass to residence, misdemeanor criminal
20 damage to property, criminal trespass to vehicle, criminal
21 trespass to real property, mob action, disorderly conduct,
22 transmission of obscene messages, harassment by telephone, or
23 harassment through electronic communications as these crimes

1 are defined in Sections 12-1, 12-2, 12-3(a), 12-7.3, 12-7.5,
2 16-1, 19-4, 21-1, 21-2, 21-3, 25-1, 26-1, 26.5-1, 26.5-2,
3 paragraphs (a)(1), (a)(2), and (a)(3) of Section 12-6, and
4 paragraphs (a)(2) and (a)(5) of Section 26.5-3 of this Code,
5 respectively.

6 (b) Except as provided in subsection (b-5), hate crime is a
7 Class 4 felony for a first offense and a Class 2 felony for a
8 second or subsequent offense.

9 (b-5) Hate crime is a Class 3 felony for a first offense
10 and a Class 2 felony for a second or subsequent offense if
11 committed:

12 (1) in, or upon the exterior or grounds of, a church,
13 synagogue, mosque, or other building, structure, or place
14 identified or associated with a particular religion or used
15 for religious worship or other religious purpose;

16 (2) in a cemetery, mortuary, or other facility used for
17 the purpose of burial or memorializing the dead;

18 (3) in a school or other educational facility,
19 including an administrative facility or public or private
20 dormitory facility of or associated with the school or
21 other educational facility;

22 (4) in a public park or an ethnic or religious
23 community center;

24 (5) on the real property comprising any location
25 specified in clauses (1) through (4) of this subsection
26 (b-5); or

1 (6) on a public way within 1,000 feet of the real
2 property comprising any location specified in clauses (1)
3 through (4) of this subsection (b-5).

4 (b-10) Upon imposition of any sentence, the trial court
5 shall also either order restitution paid to the victim or
6 impose a fine in an amount to be determined by the court based
7 on the severity of the crime and the injury or damages suffered
8 by the victim. In addition, any order of probation or
9 conditional discharge entered following a conviction or an
10 adjudication of delinquency shall include a condition that the
11 offender perform public or community service of no less than
12 200 hours if that service is established in the county where
13 the offender was convicted of hate crime. In addition, any
14 order of probation or conditional discharge entered following a
15 conviction or an adjudication of delinquency shall include a
16 condition that the offender enroll in an educational program
17 discouraging hate crimes involving the protected class
18 identified in subsection (a) that gave rise to the offense the
19 offender committed. The educational program must be attended by
20 the offender in-person and may be administered, as determined
21 by the court, by a university, college, community college,
22 non-profit organization, the Illinois Holocaust and Genocide
23 Commission, or any other organization that provides
24 educational programs discouraging hate crimes, except that
25 programs administered online or that can otherwise be attended
26 remotely are prohibited. The court may also impose any other

1 condition of probation or conditional discharge under this
2 Section. If the court sentences the offender to imprisonment or
3 periodic imprisonment for a violation of this Section, as a
4 condition of the offender's mandatory supervised release, the
5 court shall require that the offender perform public or
6 community service of no less than 200 hours and enroll in an
7 educational program discouraging hate crimes involving the
8 protected class identified in subsection (a) that gave rise to
9 the offense the offender committed.

10 (c) Independent of any criminal prosecution or the result
11 of a criminal prosecution, any person suffering injury to his
12 or her person, damage to his or her property, intimidation as
13 defined in paragraphs (a)(1), (a)(2), and (a)(3) of Section
14 12-6 of this Code, stalking as defined in Section 12-7.3 of
15 this Code, cyberstalking as defined in Section 12-7.5 of this
16 Code, disorderly conduct as defined in paragraph (a)(1) of
17 Section 26-1 of this Code, transmission of obscene messages as
18 defined in Section 26.5-1 of this Code, harassment by telephone
19 as defined in Section 26.5-2 of this Code, or harassment
20 through electronic communications as defined in paragraphs
21 (a)(2) and (a)(5) of Section 26.5-3 of this Code as a result of
22 a hate crime may bring a civil action for damages, injunction
23 or other appropriate relief. The court may award actual
24 damages, including damages for emotional distress, as well as
25 punitive damages. The court may impose a civil penalty up to
26 \$25,000 for each violation of this subsection (c). A judgment

1 in favor of a person who brings a civil action under this
2 subsection (c) shall include attorney's fees and costs. After
3 consulting with the local State's Attorney, the Attorney
4 General may bring a civil action in the name of the People of
5 the State for an injunction or other equitable relief under
6 this subsection (c). In addition, the Attorney General may
7 request and the court may impose a civil penalty up to \$25,000
8 for each violation under this subsection (c). The parents or
9 legal guardians, other than guardians appointed pursuant to the
10 Juvenile Court Act or the Juvenile Court Act of 1987, of an
11 unemancipated minor shall be liable for the amount of any
12 judgment for all damages rendered against such minor under this
13 subsection (c) in any amount not exceeding the amount provided
14 under Section 5 of the Parental Responsibility Law.

15 (d) In this Section:

16 "Emergency medical services personnel" has the meaning
17 ascribed to it in Section 3.5 of the Emergency Medical
18 Services (EMS) Systems Act.

19 "Firefighter" means a person employed by a fire
20 department or fire protection district or any volunteer
21 firefighter in this State.

22 "Sexual orientation" has the meaning ascribed to it in
23 paragraph (O-1) of Section 1-103 of the Illinois Human
24 Rights Act.

25 (Source: P.A. 99-77, eff. 1-1-16; 100-197, eff. 1-1-18;
26 100-260, eff. 1-1-18; 100-863, eff. 8-14-18.)