



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3711

by Rep. Litesa E. Wallace

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 hate crime when, by reason of the actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin of another individual or group of individuals, regardless of the existence of any other motivating factor or factors, he or she commits intimidation, stalking, cyberstalking, or transmission of obscene messages. Provides that independent of any criminal prosecution or the result of a criminal prosecution, any person suffering intimidation, stalking, cyberstalking, disorderly conduct, transmission of obscene messages, harassment by telephone, or harassment through electronic communications may bring a civil action for damages, injunction or other appropriate relief. Provides that the Attorney General may bring an action for civil damages for a hate crime in the name of the People of the State. Provides that the court shall impose a civil penalty of \$25,000 for each violation of the hate crime statute.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

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 regardless of the existence of any other motivating factor or
13 factors, he or she commits assault, battery, aggravated
14 assault, intimidation, stalking, cyberstalking, misdemeanor
15 theft, criminal trespass to residence, misdemeanor criminal
16 damage to property, criminal trespass to vehicle, criminal
17 trespass to real property, mob action, disorderly conduct,
18 transmission of obscene messages, harassment by telephone, or
19 harassment through electronic communications as these crimes
20 are defined in Sections 12-1, 12-2, 12-3(a), 12-6, 12-7.3,
21 12-7.5, 16-1, 19-4, 21-1, 21-2, 21-3, 25-1, 26-1, 26.5-1,
22 26.5-2, and paragraphs (a)(2) and (a)(5) of Section 26.5-3 of
23 this Code, respectively.

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

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

7 (1) in a church, synagogue, mosque, or other building,
8 structure, or place used for religious worship or other
9 religious purpose;

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

12 (3) in a school or other educational facility,
13 including an administrative facility or public or private
14 dormitory facility of or associated with the school or
15 other educational facility;

16 (4) in a public park or an ethnic or religious
17 community center;

18 (5) on the real property comprising any location
19 specified in clauses (1) through (4) of this subsection
20 (b-5); or

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

24 (b-10) Upon imposition of any sentence, the trial court
25 shall also either order restitution paid to the victim or
26 impose a fine up to \$1,000. In addition, any order of probation

1 or conditional discharge entered following a conviction or an
2 adjudication of delinquency shall include a condition that the
3 offender perform public or community service of no less than
4 200 hours if that service is established in the county where
5 the offender was convicted of hate crime. In addition, any
6 order of probation or conditional discharge entered following a
7 conviction or an adjudication of delinquency shall include a
8 condition that the offender enroll in an educational program
9 discouraging hate crimes if the offender caused criminal damage
10 to property consisting of religious fixtures, objects, or
11 decorations. The educational program may be administered, as
12 determined by the court, by a university, college, community
13 college, non-profit organization, or the Holocaust and
14 Genocide Commission. Nothing in this subsection (b-10)
15 prohibits courses discouraging hate crimes from being made
16 available online. The court may also impose any other condition
17 of probation or conditional discharge under this Section.

18 (c) Independent of any criminal prosecution or the result
19 of a criminal prosecution thereof, any person suffering injury
20 to his or her person, ~~or~~ damage to his or her property,
21 intimidation as defined in Section 12-6 of this Code, stalking
22 as defined in Section 12-7.3 of this Code, cyberstalking as
23 defined in Section 12-7.5 of this Code, disorderly conduct as
24 defined in paragraph (a)(1) of Section 26-1 of this Code,
25 transmission of obscene messages as defined in Section 26.5-1
26 of this Code, harassment by telephone as defined in Section

1 26.5-2 of this Code, or harassment through electronic
2 communications as defined in paragraphs (a)(2) and (a)(5) of
3 Section 26.5-3 of this Code as a result of hate crime, or the
4 Attorney General in the name of the People of the State, may
5 bring a civil action for damages, injunction or other
6 appropriate relief. The court may award actual damages,
7 including damages for emotional distress, or punitive damages.
8 The court shall impose a civil penalty of \$25,000 for each
9 violation of this Section. A judgment may include attorney's
10 fees and costs. The parents or legal guardians, other than
11 guardians appointed pursuant to the Juvenile Court Act or the
12 Juvenile Court Act of 1987, of an unemancipated minor shall be
13 liable for the amount of any judgment for actual damages
14 rendered against such minor under this subsection (c) in any
15 amount not exceeding the amount provided under Section 5 of the
16 Parental Responsibility Law.

17 (d) "Sexual orientation" has the meaning ascribed to it in
18 paragraph (O-1) of Section 1-103 of the Illinois Human Rights
19 Act.

20 (Source: P.A. 99-77, eff. 1-1-16.)