

# HB3715



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB3715

Introduced 2/22/2021, by Rep. Andrew S. Chesney

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-7.1

from Ch. 38, par. 12-7.1

Amends the Criminal Code of 2012. Provides that it is also a hate crime by reason of the actual or perceived employment as a peace officer or status as a retired peace officer, regardless of the existence of any other motivating factor or factors to commit 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.

LRB102 15454 KMF 20817 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  
5 changing 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 or status as a retired peace officer, regardless of  
14 the existence of any other motivating factor or factors, he or  
15 she commits assault, battery, aggravated assault,  
16 intimidation, stalking, cyberstalking, misdemeanor theft,  
17 criminal trespass to residence, misdemeanor criminal damage to  
18 property, criminal trespass to vehicle, criminal trespass to  
19 real property, mob action, disorderly conduct, transmission of  
20 obscene messages, harassment by telephone, or harassment  
21 through electronic communications as these crimes are defined  
22 in Sections 12-1, 12-2, 12-3(a), 12-7.3, 12-7.5, 16-1, 19-4,  
23 21-1, 21-2, 21-3, 25-1, 26-1, 26.5-1, 26.5-2, paragraphs

1 (a) (1), (a) (2), and (a) (3) of Section 12-6, and paragraphs  
2 (a) (2) and (a) (5) of Section 26.5-3 of this Code,  
3 respectively.

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

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

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

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

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

20 (4) in a public park or an ethnic or religious  
21 community center;

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

25 (6) on a public way within 1,000 feet of the real  
26 property comprising any location specified in clauses (1)

1 through (4) of this subsection (b-5).

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

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

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

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

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

16 (Source: P.A. 99-77, eff. 1-1-16; 100-197, eff. 1-1-18;  
17 100-260, eff. 1-1-18; 100-863, eff. 8-14-18.)