

HB3738



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3738

Introduced 2/17/2023, by Rep. Frances Ann Hurley

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-7.1

from Ch. 38, par. 12-7.1

Amends the hate crime provisions of the Criminal Code of 2012. Provides that a person commits hate crime if the person commits specified offenses against another individual by reason of the other individual's actual or perceived employment as a peace officer of another individual.

LRB103 27098 RLC 53466 b

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,
11 citizenship, immigration status, or national origin of another
12 individual or group of individuals, or by reason of the actual
13 or perceived employment as a peace officer of another
14 individual, regardless of the existence of any other
15 motivating factor or factors, he or she commits assault,
16 battery, aggravated assault, intimidation, stalking,
17 cyberstalking, misdemeanor theft, criminal trespass to
18 residence, misdemeanor criminal damage to property, criminal
19 trespass to vehicle, criminal trespass to real property, mob
20 action, disorderly conduct, transmission of obscene messages,
21 harassment by telephone, or harassment through electronic
22 communications as these crimes are defined in Sections 12-1,
23 12-2, 12-3(a), 12-7.3, 12-7.5, 16-1, 19-4, 21-1, 21-2, 21-3,

1 25-1, 26-1, 26.5-1, 26.5-2, paragraphs (a)(1), (a)(2), and
2 (a)(3) of Section 12-6, and paragraphs (a)(2) and (a)(5) of
3 Section 26.5-3 of this Code, 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),
15 (a)(4), (a)(5), or (a)(6) of Section 26-1 of this Code,
16 transmission of obscene messages as defined in Section 26.5-1
17 of this Code, harassment by telephone as defined in Section
18 26.5-2 of this Code, or harassment through electronic
19 communications as defined in paragraphs (a)(2) and (a)(5) of
20 Section 26.5-3 of this Code as a result of a hate crime may
21 bring a civil action for damages, injunction or other
22 appropriate relief. The court may award actual damages,
23 including damages for emotional distress, as well as punitive
24 damages. The court may impose a civil penalty up to \$25,000 for
25 each violation of this subsection (c). A judgment in favor of a
26 person who brings a civil action under this subsection (c)

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

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

17 (Source: P.A. 102-235, eff. 1-1-22; 102-468, eff. 1-1-22;
18 102-813, eff. 5-13-22.)