

# SB1708



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB1708

Introduced 2/9/2011, by Sen. Ira I. Silverstein

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-7.1

from Ch. 38, par. 12-7.1

Amends the Criminal Code of 1961. Provides that any order of probation or conditional discharge entered following a conviction or an adjudication of delinquency for hate crime shall include a condition that the offender enroll in an educational program discouraging hate crimes if the offender caused criminal damage to property consisting of religious fixtures, objects, or decorations. Provides that the educational program may be administered, as determined by the court, by a university, college, community college, non-profit organization, or the Holocaust and Genocide Commission. Effective January 1, 2012.

LRB097 07097 RLC 47195 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 1961 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 commits assault, battery, aggravated assault,  
14 misdemeanor theft, criminal trespass to residence, misdemeanor  
15 criminal damage to property, criminal trespass to vehicle,  
16 criminal trespass to real property, mob action or disorderly  
17 conduct as these crimes are defined in Sections 12-1, 12-2,  
18 12-3, 16-1, 19-4, 21-1, 21-2, 21-3, 25-1, and 26-1 of this  
19 Code, respectively, or harassment by telephone as defined in  
20 Section 1-1 of the Harassing and Obscene Communications Act, or  
21 harassment through electronic communications as defined in  
22 clauses (a) (2) and (a) (4) of Section 1-2 of the Harassing and  
23 Obscene Communications Act.

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. The court may also impose any other  
15 condition of probation or conditional discharge under this  
16 Section.

17 (c) Independent of any criminal prosecution or the result  
18 thereof, any person suffering injury to his person or damage to  
19 his property as a result of hate crime may bring a civil action  
20 for damages, injunction or other appropriate relief. The court  
21 may award actual damages, including damages for emotional  
22 distress, or punitive damages. A judgment may include  
23 attorney's fees and costs. The parents or legal guardians,  
24 other than guardians appointed pursuant to the Juvenile Court  
25 Act or the Juvenile Court Act of 1987, of an unemancipated  
26 minor shall be liable for the amount of any judgment for actual

1 damages rendered against such minor under this subsection (c)  
2 in any amount not exceeding the amount provided under Section 5  
3 of the Parental Responsibility Law.

4 (d) "Sexual orientation" means heterosexuality,  
5 homosexuality, or bisexuality.

6 (Source: P.A. 93-463, eff. 8-8-03; 93-765, eff. 7-19-04; 94-80,  
7 eff. 6-27-05.)

8 Section 99. Effective date. This Act takes effect January  
9 1, 2012.