

AN ACT concerning criminal law.

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

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

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

Sec. 12-7.1. Hate crime.

(a) A person commits hate crime when, by reason of the actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, citizenship, immigration status, 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 assault, battery, aggravated assault, intimidation, stalking, cyberstalking, misdemeanor theft, criminal trespass to residence, misdemeanor criminal damage to property, criminal trespass to vehicle, criminal trespass to real property, mob action, disorderly conduct, transmission of obscene messages, harassment by telephone, or harassment through electronic communications as these crimes are defined in Sections 12-1, 12-2, 12-3(a), 12-7.3, 12-7.5, 16-1, 19-4, 21-1, 21-2, 21-3, 25-1, 26-1, 26.5-1, 26.5-2, paragraphs (a)(1), (a)(2), and (a)(3) of Section 12-6, and paragraphs

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

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

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

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

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

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

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

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

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

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

condition of the offender's mandatory supervised release, the court shall require that the offender perform public or community service of no less than 200 hours and enroll in an educational program discouraging hate crimes involving the protected class identified in subsection (a) that gave rise to the offense the offender committed.

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

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

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

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