



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5478

by Rep. Monica Bristow

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-7.1

from Ch. 38, par. 12-7.1

Amends the Criminal Code of 2012. Provides that, in addition to the other elements of the offense, a person commits a hate crime if by reason of the actual or perceived employment as a peace officer of another individual, regardless of the existence of any other motivating factor or factors, he or she commits any of the specified offenses in the statute. Penalty is a Class 4 felony for a first offense and a Class 2 felony for a second or subsequent offense, unless committed in certain specified locations in which case the penalty is a Class 3 felony for a first offense and a Class 2 felony for a second or subsequent offense.

LRB101 17409 RLC 66815 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 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 or by reason of the actual or perceived employment as a peace
13 officer of another individual, regardless of the existence of
14 any other motivating factor or factors, he or she commits
15 assault, battery, aggravated assault, intimidation, stalking,
16 cyberstalking, misdemeanor theft, criminal trespass to
17 residence, misdemeanor criminal damage to property, criminal
18 trespass to vehicle, criminal trespass to real property, mob
19 action, disorderly conduct, transmission of obscene messages,
20 harassment by telephone, or harassment through electronic
21 communications as these crimes are defined in Sections 12-1,
22 12-2, 12-3(a), 12-7.3, 12-7.5, 16-1, 19-4, 21-1, 21-2, 21-3,
23 25-1, 26-1, 26.5-1, 26.5-2, paragraphs (a)(1), (a)(2), and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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