



Rep. Jerry Costello, II

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LRB100 10386 RLC 24128 a

1 AMENDMENT TO HOUSE BILL 3832

2 AMENDMENT NO. _____. Amend House Bill 3832 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 2012 is amended by
5 changing Sections 12-7.1 and 21-3 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, aggravated criminal

1 trespass to real property, mob action, disorderly conduct,
2 harassment by telephone, or harassment through electronic
3 communications as these crimes are defined in Sections 12-1,
4 12-2, 12-3(a), 16-1, 19-4, 21-1, 21-2, 21-3, 25-1, 26-1,
5 26.5-2, and paragraphs (a)(2) and (a)(5) of Section 26.5-3 of
6 this Code, respectively.

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

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

13 (1) in a church, synagogue, mosque, or other building,
14 structure, or place used for religious worship or other
15 religious purpose;

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

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

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

24 (5) on the real property comprising any location
25 specified in clauses (1) through (4) of this subsection

26 (b-5); or

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

4 (b-10) Upon imposition of any sentence, the trial court
5 shall also either order restitution paid to the victim or
6 impose a fine up to \$1,000. In addition, any order of probation
7 or 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 a
13 conviction or an adjudication of delinquency shall include a
14 condition that the offender enroll in an educational program
15 discouraging hate crimes if the offender caused criminal damage
16 to property consisting of religious fixtures, objects, or
17 decorations. The educational program may be administered, as
18 determined by the court, by a university, college, community
19 college, non-profit organization, or the Holocaust and
20 Genocide Commission. Nothing in this subsection (b-10)
21 prohibits courses discouraging hate crimes from being made
22 available online. The court may also impose any other condition
23 of probation or conditional discharge under this Section.

24 (c) Independent of any criminal prosecution or the result
25 thereof, any person suffering injury to his person or damage to
26 his property as a result of hate crime may bring a civil action

1 for damages, injunction or other appropriate relief. The court
2 may award actual damages, including damages for emotional
3 distress, or punitive damages. A judgment may include
4 attorney's fees and costs. The parents or legal guardians,
5 other than guardians appointed pursuant to the Juvenile Court
6 Act or the Juvenile Court Act of 1987, of an unemancipated
7 minor shall be liable for the amount of any judgment for actual
8 damages rendered against such minor under this subsection (c)
9 in any amount not exceeding the amount provided under Section 5
10 of the Parental Responsibility Law.

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

14 (Source: P.A. 99-77, eff. 1-1-16.)

15 (720 ILCS 5/21-3) (from Ch. 38, par. 21-3)

16 Sec. 21-3. Criminal trespass to real property; aggravated
17 criminal trespass to real property.

18 (a) A person commits criminal trespass to real property
19 when he or she:

20 (1) knowingly and without lawful authority enters or
21 remains within or on a building;

22 (2) enters upon the land of another, after receiving,
23 prior to the entry, notice from the owner or occupant that
24 the entry is forbidden;

25 (3) remains upon the land of another, after receiving

1 notice from the owner or occupant to depart;

2 (3.5) presents false documents or falsely represents
3 his or her identity orally to the owner or occupant of a
4 building or land in order to obtain permission from the
5 owner or occupant to enter or remain in the building or on
6 the land;

7 (3.7) intentionally removes a notice posted on
8 residential real estate as required by subsection (1) of
9 Section 15-1505.8 of Article XV of the Code of Civil
10 Procedure before the date and time set forth in the notice;
11 or

12 (4) enters a field used or capable of being used for
13 growing crops, an enclosed area containing livestock, an
14 agricultural building containing livestock, or an orchard
15 in or on a motor vehicle (including an off-road vehicle,
16 motorcycle, moped, or any other powered two-wheel vehicle)
17 after receiving, prior to the entry, notice from the owner
18 or occupant that the entry is forbidden or remains upon or
19 in the area after receiving notice from the owner or
20 occupant to depart.

21 For purposes of item (1) of this subsection, this Section
22 shall not apply to being in a building which is open to the
23 public while the building is open to the public during its
24 normal hours of operation; nor shall this Section apply to a
25 person who enters a public building under the reasonable belief
26 that the building is still open to the public.

1 (a-5) A person commits aggravated criminal trespass to real
2 property when he or she knowingly enters upon the land of
3 another without permission of the owner or occupant with the
4 intent to take any game species regulated under the Wildlife
5 Code.

6 (b) A person has received notice from the owner or occupant
7 within the meaning of subsection ~~Subsection~~ (a) if he or she
8 has been notified personally, either orally or in writing
9 including a valid court order as defined by subsection (7) of
10 Section 112A-3 of the Code of Criminal Procedure of 1963
11 granting remedy (2) of subsection (b) of Section 112A-14 of
12 that Code, or if a printed or written notice forbidding such
13 entry has been conspicuously posted or exhibited at the main
14 entrance to the land or the forbidden part thereof.

15 (b-5) Subject to the provisions of subsection (b-10), as an
16 alternative to the posting of real property as set forth in
17 subsection (b), the owner or lessee of any real property may
18 post the property by placing identifying purple marks on trees
19 or posts around the area to be posted. Each purple mark shall
20 be:

21 (1) A vertical line of at least 8 inches in length and
22 the bottom of the mark shall be no less than 3 feet nor
23 more than 5 feet high. Such marks shall be placed no more
24 than 100 feet apart and shall be readily visible to any
25 person approaching the property; or

26 (2) A post capped or otherwise marked on at least its

1 top 2 inches. The bottom of the cap or mark shall be not
2 less than 3 feet but not more than 5 feet 6 inches high.
3 Posts so marked shall be placed not more than 36 feet apart
4 and shall be readily visible to any person approaching the
5 property. Prior to applying a cap or mark which is visible
6 from both sides of a fence shared by different property
7 owners or lessees, all such owners or lessees shall concur
8 in the decision to post their own property.

9 Nothing in this subsection (b-5) shall be construed to
10 authorize the owner or lessee of any real property to place any
11 purple marks on any tree or post or to install any post or
12 fence if doing so would violate any applicable law, rule,
13 ordinance, order, covenant, bylaw, declaration, regulation,
14 restriction, contract, or instrument.

15 (b-10) Any owner or lessee who marks his or her real
16 property using the method described in subsection (b-5) must
17 also provide notice as described in subsection (b) of this
18 Section. The public of this State shall be informed of the
19 provisions of subsection (b-5) of this Section by the Illinois
20 Department of Agriculture and the Illinois Department of
21 Natural Resources. These Departments shall conduct an
22 information campaign for the general public concerning the
23 interpretation and implementation of subsection (b-5). The
24 information shall inform the public about the marking
25 requirements and the applicability of subsection (b-5)
26 including information regarding the size requirements of the

1 markings as well as the manner in which the markings shall be
2 displayed. The Departments shall also include information
3 regarding the requirement that, until the date this subsection
4 becomes inoperative, any owner or lessee who chooses to mark
5 his or her property using paint, must also comply with one of
6 the notice requirements listed in subsection (b). The
7 Departments may prepare a brochure or may disseminate the
8 information through agency websites. Non-governmental
9 organizations including, but not limited to, the Illinois
10 Forestry Association, Illinois Tree Farm and the Walnut Council
11 may help to disseminate the information regarding the
12 requirements and applicability of subsection (b-5) based on
13 materials provided by the Departments. This subsection (b-10)
14 is inoperative on and after January 1, 2013.

15 (b-15) Subsections (b-5) and (b-10) do not apply to real
16 property located in a municipality of over 2,000,000
17 inhabitants.

18 (c) This Section does not apply to any person, whether a
19 migrant worker or otherwise, living on the land with permission
20 of the owner or of his or her agent having apparent authority
21 to hire workers on this land and assign them living quarters or
22 a place of accommodations for living thereon, nor to anyone
23 living on the land at the request of, or by occupancy, leasing
24 or other agreement or arrangement with the owner or his or her
25 agent, nor to anyone invited by the migrant worker or other
26 person so living on the land to visit him or her at the place he

1 is so living upon the land.

2 (d) A person shall be exempt from prosecution under this
3 Section if he or she beautifies unoccupied and abandoned
4 residential and industrial properties located within any
5 municipality. For the purpose of this subsection, "unoccupied
6 and abandoned residential and industrial property" means any
7 real estate (1) in which the taxes have not been paid for a
8 period of at least 2 years; and (2) which has been left
9 unoccupied and abandoned for a period of at least one year; and
10 "beautifies" means to landscape, clean up litter, or to repair
11 dilapidated conditions on or to board up windows and doors.

12 (e) No person shall be liable in any civil action for money
13 damages to the owner of unoccupied and abandoned residential
14 and industrial property which that person beautifies pursuant
15 to subsection (d) of this Section.

16 (e-5) Mortgagee or agent of the mortgagee exceptions.

17 (1) A mortgagee or agent of the mortgagee shall be
18 exempt from prosecution for criminal trespass for
19 entering, securing, or maintaining an abandoned
20 residential property.

21 (2) No mortgagee or agent of the mortgagee shall be
22 liable to the mortgagor or other owner of an abandoned
23 residential property in any civil action for negligence or
24 civil trespass in connection with entering, securing, or
25 maintaining the abandoned residential property.

26 (3) For the purpose of this subsection (e-5) only,

1 "abandoned residential property" means mortgaged real
2 estate that the mortgagee or agent of the mortgagee
3 determines in good faith meets the definition of abandoned
4 residential property set forth in Section 15-1200.5 of
5 Article XV of the Code of Civil Procedure.

6 (f) This Section does not prohibit a person from entering a
7 building or upon the land of another for emergency purposes.
8 For purposes of this subsection (f), "emergency" means a
9 condition or circumstance in which an individual is or is
10 reasonably believed by the person to be in imminent danger of
11 serious bodily harm or in which property is or is reasonably
12 believed to be in imminent danger of damage or destruction.

13 (g) Paragraph (3.5) of subsection (a) does not apply to a
14 peace officer or other official of a unit of government who
15 enters a building or land in the performance of his or her
16 official duties.

17 (h) Sentence. A violation of subdivision (a)(1), (a)(2),
18 (a)(3), or (a)(3.5) is a Class B misdemeanor. A violation of
19 subdivision (a)(4) is a Class A misdemeanor. A violation of
20 subsection (a-5) is a Class A misdemeanor.

21 (i) Civil liability. A person may be liable in any civil
22 action for money damages to the owner of the land he or she
23 entered upon with a motor vehicle as prohibited under paragraph
24 (4) of subsection (a) of this Section. A person may also be
25 liable to the owner for court costs and reasonable attorney's
26 fees. The measure of damages shall be: (i) the actual damages,

1 but not less than \$250, if the vehicle is operated in a nature
2 preserve or registered area as defined in Sections 3.11 and
3 3.14 of the Illinois Natural Areas Preservation Act; (ii) twice
4 the actual damages if the owner has previously notified the
5 person to cease trespassing; or (iii) in any other case, the
6 actual damages, but not less than \$50. If the person operating
7 the vehicle is under the age of 16, the owner of the vehicle
8 and the parent or legal guardian of the minor are jointly and
9 severally liable. For the purposes of this subsection (i):

10 "Land" includes, but is not limited to, land used for
11 crop land, fallow land, orchard, pasture, feed lot, timber
12 land, prairie land, mine spoil nature preserves and
13 registered areas. "Land" does not include driveways or
14 private roadways upon which the owner allows the public to
15 drive.

16 "Owner" means the person who has the right to
17 possession of the land, including the owner, operator or
18 tenant.

19 "Vehicle" has the same meaning as provided under
20 Section 1-217 of the Illinois Vehicle Code.

21 (j) This Section does not apply to the following persons
22 while serving process:

23 (1) a person authorized to serve process under Section
24 2-202 of the Code of Civil Procedure; or

25 (2) a special process server appointed by the circuit
26 court.

1 (Source: P.A. 97-184, eff. 7-22-11; 97-477, eff. 8-22-11;
2 97-813, eff. 7-13-12; 97-1108, eff. 1-1-13; 97-1164, eff.
3 6-1-13.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.".