



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

**HB4481**

by Rep. John M. Cabello

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-7.1

from Ch. 38, par. 12-7.1

Amends the Criminal Code of 2012. Provides that it is also a hate crime by reason of the actual or perceived employment as a peace officer, firefighter, emergency medical services personnel of another individual or group of individuals, or by reason of the actual or perceived military status of another individual or group of individuals, regardless of the existence of any other motivating factor or factors to commit assault, battery, aggravated assault, misdemeanor theft, criminal trespass to residence, misdemeanor criminal damage to property, criminal trespass to vehicle, criminal trespass to real property, mob action, disorderly conduct, harassment by telephone, or harassment through electronic communications.

LRB100 16203 RLC 31326 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, firefighter, emergency medical services personnel of  
14 another individual or group of individuals, or by reason of the  
15 actual or perceived military status of another individual or  
16 group of individuals, regardless of the existence of any other  
17 motivating factor or factors, he or she commits assault,  
18 battery, aggravated assault, intimidation, stalking,  
19 cyberstalking, misdemeanor theft, criminal trespass to  
20 residence, misdemeanor criminal damage to property, criminal  
21 trespass to vehicle, criminal trespass to real property, mob  
22 action, disorderly conduct, transmission of obscene messages,  
23 harassment by telephone, or harassment through electronic

1 communications as these crimes are defined in Sections 12-1,  
2 12-2, 12-3(a), 12-7.3, 12-7.5, 16-1, 19-4, 21-1, 21-2, 21-3,  
3 25-1, 26-1, 26.5-1, 26.5-2, paragraphs (a)(1), (a)(2), and  
4 (a)(3) of Section 12-6, and paragraphs (a)(2) and (a)(5) of  
5 Section 26.5-3 of this Code, respectively.

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

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

12 (1) in, or upon the exterior or grounds of, a church,  
13 synagogue, mosque, or other building, structure, or place  
14 identified or associated with a particular religion or used  
15 for religious worship or other 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 in an amount to be determined by the court based  
7           on the severity of the crime and the injury or damages suffered  
8           by the victim. In addition, any order of probation or  
9           conditional discharge entered following a conviction or an  
10          adjudication of delinquency shall include a condition that the  
11          offender perform public or community service of no less than  
12          200 hours if that service is established in the county where  
13          the offender was convicted of hate crime. In addition, any  
14          order of probation or conditional discharge entered following a  
15          conviction or an adjudication of delinquency shall include a  
16          condition that the offender enroll in an educational program  
17          discouraging hate crimes involving the protected class  
18          identified in subsection (a) that gave rise to the offense the  
19          offender committed. The educational program must be attended by  
20          the offender in-person and may be administered, as determined  
21          by the court, by a university, college, community college,  
22          non-profit organization, the Illinois Holocaust and Genocide  
23          Commission, or any other organization that provides  
24          educational programs discouraging hate crimes, except that  
25          programs administered online or that can otherwise be attended  
26          remotely are prohibited. The court may also impose any other

1 condition of probation or conditional discharge under this  
2 Section. If the court sentences the offender to imprisonment or  
3 periodic imprisonment for a violation of this Section, as a  
4 condition of the offender's mandatory supervised release, the  
5 court shall require that the offender perform public or  
6 community service of no less than 200 hours and enroll in an  
7 educational program discouraging hate crimes involving the  
8 protected class identified in subsection (a) that gave rise to  
9 the offense the offender committed.

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

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

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

18 (Source: P.A. 99-77, eff. 1-1-16; 100-197, eff. 1-1-18;  
19 100-260, eff. 1-1-18; revised 10-5-17.)