

SB2345



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2345

Introduced 1/15/2020, by Sen. Iris Y. Martinez

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-7.1

from Ch. 38, par. 12-7.1

Amends the Criminal Code of 2012. Includes as a hate crime, the commission of the specified criminal acts against a person because of the actual or perceived citizenship or immigration status of the person. Effective immediately.

LRB101 16172 RLC 65542 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,
11 citizenship, immigration status, or national origin of another
12 individual or group of individuals, regardless of the existence
13 of any other motivating factor or factors, he or she commits
14 assault, battery, aggravated assault, intimidation, stalking,
15 cyberstalking, misdemeanor theft, criminal trespass to
16 residence, misdemeanor criminal damage to property, criminal
17 trespass to vehicle, criminal trespass to real property, mob
18 action, disorderly conduct, transmission of obscene messages,
19 harassment by telephone, or harassment through electronic
20 communications as these crimes are defined in Sections 12-1,
21 12-2, 12-3(a), 12-7.3, 12-7.5, 16-1, 19-4, 21-1, 21-2, 21-3,
22 25-1, 26-1, 26.5-1, 26.5-2, paragraphs (a)(1), (a)(2), and
23 (a)(3) of Section 12-6, and paragraphs (a)(2) and (a)(5) of

1 Section 26.5-3 of this Code, respectively.

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

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

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

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

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

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

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

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

26 (b-10) Upon imposition of any sentence, the trial court

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

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

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

1 the State for an injunction or other equitable relief under
2 this subsection (c). In addition, the Attorney General may
3 request and the court may impose a civil penalty up to \$25,000
4 for each violation under this subsection (c). The parents or
5 legal guardians, other than guardians appointed pursuant to the
6 Juvenile Court Act or the Juvenile Court Act of 1987, of an
7 unemancipated minor shall be liable for the amount of any
8 judgment for all damages rendered against such minor under this
9 subsection (c) in any amount not exceeding the amount provided
10 under Section 5 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; 100-197, eff. 1-1-18;
15 100-260, eff. 1-1-18; 100-863, eff. 8-14-18.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.