

# Senate File 73 - Introduced

SENATE FILE 73

BY McCOY

## A BILL FOR

1 An Act modifying the elements defining hate crimes, and  
2 providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 729A.2, Code 2017, is amended to read as  
2 follows:

3 **729A.2 Violation of individual rights — hate crime.**

4 1. As used in this section:

5 a. “Gender expression” means actual or perceived  
6 gender-related characteristics.

7 b. “Gender identity” means a gender-related identity of a  
8 person, regardless of the person’s assigned sex at birth.

9 2. “Hate crime” means one of the following public offenses  
10 when committed against a person or a person’s property because  
11 of the person’s race, color, religion, ancestry, national  
12 origin, political affiliation, gender identity, gender  
13 expression, sex, sexual orientation, age, or disability, or the  
14 person’s association with a person of a certain race, color,  
15 religion, ancestry, national origin, political affiliation,  
16 gender identity, gender expression, sex, sexual orientation,  
17 age, or disability:

18 ~~1. a.~~ Assault in violation of individual rights under  
19 section 708.2C.

20 ~~2. b.~~ Violations of individual rights under [section 712.9](#).

21 ~~3. c.~~ Criminal mischief in violation of individual rights  
22 under [section 716.6A](#).

23 ~~4. d.~~ Trespass in violation of individual rights under  
24 section 716.8, subsections 3 and 4.

25 EXPLANATION

26 The inclusion of this explanation does not constitute agreement with  
27 the explanation’s substance by the members of the general assembly.

28 This bill includes additional, alternative elements defining  
29 the various offenses labeled as hate crimes.

30 The bill amends Code section 729A.2 by modifying a “hate  
31 crime” to include offenses committed against a person or  
32 person’s property because of the person’s gender identity or  
33 gender expression or because of the person’s association with a  
34 person of a certain gender identity or gender expression.

35 The bill defines “gender identity” to mean a gender-related

1 identity of a person, regardless of the person's assigned sex  
2 at birth. The bill defines "gender expression" to mean actual  
3 or perceived gender-related characteristics.

4 If a person commits an offense classified as a hate crime  
5 under the bill against a person or person's property because  
6 of the person's gender identity or gender expression or  
7 because of the person's association with a person of a certain  
8 gender identity or gender expression, the person commits one  
9 of the following criminal offenses: assault in violation of  
10 individual rights under Code section 708.2C; violations of  
11 individual rights under Code section 712.9; criminal mischief  
12 in violation of individual rights under Code section 716.6A; or  
13 trespass in violation of individual rights under Code section  
14 716.8(3) and (4).

15 The penalty for a person who commits a hate crime classified  
16 as an assault in violation of individual rights under Code  
17 section 708.2C ranges from a serious misdemeanor to a class "D"  
18 felony depending on the circumstances of the offense.

19 The penalty for a person who commits a hate crime that is  
20 a violation of individual rights under Code section 712.9 is  
21 reclassified and punished as an offense one degree higher than  
22 the underlying offense, resulting in the following punishments:  
23 for violations of Code sections 712.3 (arson in the second  
24 degree) punishable as a class "B" felony, 712.4 (arson in the  
25 third degree) punishable as a class "D" felony, 715.5 (reckless  
26 use of fire or explosives) punishable as an aggravated  
27 misdemeanor, 712.6 (explosive or incendiary materials or  
28 devices) punishable from an aggravated misdemeanor to a class  
29 "B" felony, 712.7 (false reports) punishable as a class "C"  
30 felony, or 712.8 (threats) punishable as a class "C" felony.

31 The penalty for a person who commits a hate crime that is  
32 criminal mischief in violation of individual rights under Code  
33 section 716.6A is reclassified and punished as an offense one  
34 degree higher than the underlying offense, resulting in the  
35 following punishments: for violations of Code section 716.5

1 (criminal mischief in the third degree) punishable as a class  
2 "D" felony, and 716.6 (criminal mischief in the fourth or fifth  
3 degrees) punishable as an aggravated misdemeanor or serious  
4 misdemeanor, respectively.

5     The penalty for a person who commits a hate crime that is a  
6 trespass in violation of individual rights under Code section  
7 716.8(3) is a serious misdemeanor and a person who commits a  
8 hate crime that is a trespass in violation of individual rights  
9 under Code section 716.8(4) commits an aggravated misdemeanor.