

Senate File 2120 - Introduced

SENATE FILE 2120

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 2016, 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 external manifestations of a
6 person's gender identity, usually expressed through masculine,
7 feminine, or gender-variant behavior.

8 b. "Gender identity" means a person's internal and personal
9 sense of being male or female regardless of a person's
10 birth-assigned sex.

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

20 ~~1. a.~~ Assault in violation of individual rights under
21 section 708.2C.

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

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

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

27 EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

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

32 The bill amends Code section 729A.2 by modifying a "hate
33 crime" to include offenses committed against a person or
34 person's property because of the person's gender identity or
35 gender expression or because of the person's association with a

1 person of a certain gender identity or gender expression.

2 The bill defines "gender identity" to mean a person's
3 internal and personal sense of being male or female regardless
4 of a person's birth-assigned sex. The bill defines "gender
5 expression" to mean external manifestations of a person's
6 gender identity, usually expressed through masculine, feminine,
7 or gender-variant behavior.

8 If a person commits an offenses classified as a hate crime
9 under the bill against a person or person's property because
10 of the person's gender identity or gender expression or
11 because of the person's association with a person of a certain
12 gender identity or gender expression, the person commits one
13 of the following criminal offenses: assault in violation of
14 individual rights under Code section 708.2C; violations of
15 individual rights under Code section 712.9; criminal mischief
16 in violation of individual rights under Code section 716.6A; or
17 trespass in violation of individual rights under Code section
18 716.8(3) and (4).

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

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

35 The penalty for a person who commits a hate crime that is

1 criminal mischief in violation of individual rights under Code
2 section 716.6A is reclassified and punished as an offense one
3 degree higher than the underlying offense, resulting in the
4 following punishments: for violations of Code section 716.5
5 (criminal mischief in the third degree) punishable as a class
6 "D" felony, and 716.6 (criminal mischief in the fourth or fifth
7 degrees) punishable as an aggravated misdemeanor or serious
8 misdemeanor, respectively.

9 The penalty for a person who commits a hate crime that is a
10 trespass in violation of individual rights under Code section
11 716.8(3) is a serious misdemeanor and a person who commits a
12 hate crime that is a trespass in violation of individual rights
13 under Code section 716.8(4) commits an aggravated misdemeanor.