A BILL FOR

An Act modifying the elements defining hate crimes, and providing penalties.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
Section 1. Section 729A.2, Code 2016, is amended to read as follows:

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

1. As used in this section:
   a. "Gender expression" means actual or perceived gender-related characteristics.
   b. "Gender identity" means a gender-related identity of a person, regardless of the person’s assigned sex at birth.

2. "Hate crime" means one of the following public offenses when committed against a person or a person’s property because of the person’s race, color, religion, ancestry, national origin, political affiliation, gender identity, gender expression, sex, sexual orientation, age, or disability, or the person’s association with a person of a certain race, color, religion, ancestry, national origin, political affiliation, gender identity, gender expression, sex, sexual orientation, age, or disability:
   1. a. Assault in violation of individual rights under section 708.2C.
   2. b. Violations of individual rights under section 712.9.
   3. c. Criminal mischief in violation of individual rights under section 716.6A.
   4. d. Trespass in violation of individual rights under section 716.8, subsections 3 and 4.

EXPLANATION

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

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

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

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

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

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

The penalty for a person who commits a hate crime that is reclassified and punished as an offense one degree higher than the underlying offense, resulting in the following punishments:

- for violations of Code sections 712.3 (arson in the second degree) punishable as a class "B" felony, 712.4 (arson in the third degree) punishable as a class "D" felony, 715.5 (reckless use of fire or explosives) punishable as an aggravated misdemeanor, 712.6 (explosive or incendiary materials or devices) punishable from an aggravated misdemeanor to a class "B" felony, 712.7 (false reports) punishable as a class "C" felony, or 712.8 (threats) punishable as a class "C" felony.

The penalty for a person who commits a hate crime that is criminal mischief in violation of individual rights under Code section 716.6A is reclassified and punished as an offense one degree higher than the underlying offense, resulting in the 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.