

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 460 Session of 2005

INTRODUCED BY GINGRICH, CALTAGIRONE, CAUSER, CORNELL, FABRIZIO, FORCIER, FRANKEL, GEIST, GILLESPIE, GOOD, GOODMAN, HERMAN, HUTCHINSON, JAMES, LEACH, LEDERER, MANN, MUNDY, O'NEILL, PISTELLA, ROSS, SANTONI, SEMMEL, E. Z. TAYLOR, WATSON AND YOUNGBLOOD, FEBRUARY 14, 2005

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 14, 2005

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for action for
3 gender-motivated violence.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 42 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 8317. Action for gender-motivated violence.

9 (a) Civil cause of action.--Except as otherwise provided in
10 subsection (b), a person claiming to be injured by an individual
11 who committed a crime of violence motivated by gender shall have
12 a cause of action against the individual for any or all of the
13 following relief:

14 (1) Compensatory and punitive damages.

15 (2) Injunctive and declaratory relief.

16 (3) Attorney fees and costs.

17 (4) Such other relief as the court may deem appropriate.

1 (b) Limitations.--

2 (1) A civil action under this section must be commenced
3 within five years after the alleged crime of violence
4 motivated by gender occurred, or two years after the
5 completion of a criminal prosecution of the individual for
6 the alleged crime of violence motivated by gender, whichever
7 is later. However, if, due to injury or disability resulting
8 from an act giving rise to a cause of action under this
9 section or to infancy, a person entitled to commence an
10 action under this section is unable to do so at the time the
11 cause of action accrues, the time within which the action
12 must be commenced shall be extended to five years after the
13 inability to commence the action ceases, or two years after
14 the completion of a criminal prosecution of the individual
15 for the alleged crime of violence motivated by gender,
16 whichever is later.

17 (2) Nothing in this section requires a prior criminal
18 complaint, prosecution or conviction to establish the
19 elements of a cause of action under subsection (a).

20 (3) Nothing in this section entitles a person to a cause
21 of action for random acts of violence unrelated to gender or
22 for acts that cannot be demonstrated, by a preponderance of
23 the evidence, to be a crime of violence motivated by gender.

24 (c) Burden of proof.--Conviction of a felony arising out of
25 the same transaction, occurrence or event which gives rise to a
26 cause of action under this section shall establish a rebuttable
27 presumption that the act did occur. However, the conviction does
28 not establish a rebuttable presumption that the act was a crime
29 of violence motivated by gender, which must be proven by a
30 preponderance of the evidence.

1 (d) Definitions.--As used in this section, the following
2 words and phrases shall have the meanings given to them in this
3 subsection:

4 "Crime of violence." An act or series of acts that would
5 constitute a misdemeanor or felony against the person or against
6 property if the conduct presented a serious risk of physical
7 injury to another, regardless of whether the act or acts have
8 actually resulted in criminal charges, prosecution or
9 conviction.

10 "Crime of violence motivated by gender." A crime of violence
11 committed on the basis of a specific animus toward the victim's
12 gender.

13 Section 2. This act shall take effect in 60 days.