

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2755 Session of 2022

INTRODUCED BY FRANKEL, BRIGGS, ISAACSON, HOHENSTEIN, HILL-EVANS, BURGOS, SANCHEZ, HANBIDGE, GALLOWAY, CONKLIN, DELLOSO, McNEILL, FREEMAN, SCHLOSSBERG, N. NELSON, LEE, HOWARD, SHUSTERMAN, DEASY, SIMS, A. DAVIS, O'MARA, GUZMAN, SCHWEYER, McCLINTON, STURLA, KOSIEROWSKI, SAPPEY, MULLINS, KIM, THOMAS, MALAGARI, GUENST, WEBSTER, T. DAVIS, INNAMORATO, GAINEY, MADDEN, BIZZARRO, KINKEAD, BENHAM, BULLOCK, KRUEGER, HARRIS, MARKOSEK, SAMUELSON, WARREN, DAWKINS AND D. MILLER, JULY 22, 2022

REFERRED TO COMMITTEE ON JUDICIARY, JULY 22, 2022

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, in assault, further providing for the offense of
4 ethnic intimidation; and, in particular rights and
5 immunities, further prohibiting civil rights violations.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 2710 heading, (a) and (c) of Title 18 of
9 the Pennsylvania Consolidated Statutes, amended by the act of
10 December 3, 2002 (P.L.1176, No.143), declared unconstitutional,
11 936 A.2d 188 (Pa. Commonwealth 2007), affirmed, 597 Pa. 371
12 (2008), are amended and the section is amended by adding a
13 subsection to read:

14 § 2710. [Ethnic] Hate-based intimidation.

15 (a) Offense defined.--A person commits [the offense of
16 ethnic intimidation if, with malicious intention toward the

1 race, color, religion or national origin of another individual
2 or group of individuals, he commits an offense under any other
3 provision of this article or under Chapter 33 (relating to
4 arson, criminal mischief and other property destruction)
5 exclusive of section 3307 (relating to institutional vandalism)
6 or under section 3503 (relating to criminal trespass) with
7 respect to such individual or his or her property or with
8 respect to one or more members of such group or to their
9 property.] a hate crime if that person intentionally selects the
10 person against whom the crime is committed or the property
11 damaged or otherwise affected by the crime, in whole or in part,
12 because of the actual or perceived race, color, religion,
13 national origin, ancestry, sex, gender, gender identity, gender
14 expression, sexual orientation or disability of an individual or
15 group of individuals and commits:

16 (1) A personal injury crime as defined in section 103 of
17 the act of November 24, 1998 (P.L.882, No.111), known as the
18 Crime Victims Act.

19 (2) An offense under Chapter 33 (relating to arson,
20 criminal mischief and other property destruction), exclusive
21 of section 3307 (relating to institutional vandalism).

22 (3) An offense under section 3503 (relating to criminal
23 trespass).

24 * * *

25 (b.1) Construction.--Nothing in this section may be
26 construed to prohibit, limit or punish religiously motivated
27 speech or conduct that is otherwise protected by the
28 Constitution of the United States, the Constitution of
29 Pennsylvania or the act of December 9, 2002 (P.L.1701, No.214),
30 known as the Religious Freedom Protection Act.

1 [(c) Definition.--As used in this section "malicious
2 intention" means the intention to commit any act, the commission
3 of which is a necessary element of any offense referred to in
4 subsection (a) motivated by hatred toward the race, color,
5 religion or national origin of another individual or group of
6 individuals.]

7 Section 2. Section 8309(a) of Title 42 is amended to read:
8 § 8309. Civil rights violations.

9 (a) Redress for personal injury.--

10 (1) A person who incurs injury to his or her person
11 [or], damage or loss to his or her property, has been placed
12 in reasonable fear of bodily injury or suffered substantial
13 emotional distress as a result of conduct described in 18
14 Pa.C.S. § 2710 (relating to [ethnic] hate-based intimidation)
15 or 3307 (relating to institutional vandalism) shall have a
16 right of action [against the actor] in the court of common
17 pleas for preliminary or permanent injunction, damages or
18 other appropriate civil or equitable relief~~[.]~~ against all of
19 the following:

20 (i) The actor.

21 (ii) A person who has solicited the actor to engage
22 in the conduct.

23 (iii) A person who has attempted to provide or
24 provided aid to the actor with the intent that the actor
25 engaged in the conduct.

26 (2) In the action, the issue of whether the defendant
27 engaged in the conduct alleged shall be determined according
28 to the burden of proof used in other civil actions for
29 similar relief.

30 (3) The plaintiff may seek recovery for any of the

1 following:

2 [(1)] (i) General and special damages, including
3 damages for emotional distress. Damages under this
4 paragraph shall be actual damages or \$500, whichever is
5 greater.

6 [(2)] (ii) Punitive damages.

7 [(3)] (iii) Reasonable attorney fees and costs.

8 [(4)] (iv) Injunctive and other equitable relief.

9 [(5)] (v) Such other relief which the court deems
10 necessary and proper.

11 * * *

12 Section 3. This act shall take effect in 60 days.