

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 477 Session of
2005

INTRODUCED BY BROWNE, WILT, TIGUE, B. SMITH, FICHTER, GODSHALL,
MANN, BAKER, CALTAGIRONE, READSHAW, WATERS, WALKO, THOMAS,
GRUCELA, GOOD, SAYLOR, YOUNGBLOOD, E. Z. TAYLOR, REICHLEY,
FRANKEL, SEMMEL, GEIST, MILLARD, CRAHALLA, SCAVELLO, STABACK,
ADOLPH, GILLESPIE, DENLINGER AND BELFANTI, FEBRUARY 14, 2005

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, MARCH 14, 2005

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, establishing a civil
3 action to recover damages caused by terrorism.

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. Terrorism action.~~

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9 ~~(a) General rule. In addition to any other right of action~~
10 ~~and any other remedy provided by law, an action may be brought~~
11 ~~to recover damages against the terrorist, terrorist organization~~
12 ~~or person who knowingly provided material support or resources~~
13 ~~to or aided a terrorist or terrorist organization for the death~~
14 ~~of an individual or for an injury to an individual or damage to~~
15 ~~or loss of property caused by an act of terrorism.~~

~~(b) Application of section. This section shall not apply to:~~

~~(1) A financial institution as defined by 31 U.S.C. § 5312(a)(2) (relating to definitions and application), including an operating or financial subsidiary, that complies with Federal laws and regulations relating to a financial transaction at the time the transaction occurs including, to the extent applicable, the International Money Laundering Abatement and Anti Terrorist Financing Act of 2001 (Title III of Public Law 107-56).~~

~~(2) Conduct by a party to a labor dispute as defined in the act of June 2, 1937 (P.L.1198, No.308), known as the Labor Anti Injunction Act, or to any constitutionally protected activity.~~

~~(c) Recovery. The plaintiff may seek recovery for any of the following:~~

~~(1) General and special damages, including damages for emotional distress.~~

~~(2) Punitive damages.~~

~~(3) Reasonable attorney fees and costs.~~

~~(4) Such other relief that the court deems necessary and proper.~~

~~(d) Assets. In making a recovery under this section, the plaintiff may enforce the judgment against the assets of the terrorist, terrorist organization or person who knowingly provided material support or resources to or aided the terrorist or terrorist organization.~~

~~(e) Definitions. As used in this section, the following words and phrases shall have the meanings given to them in this subsection:~~

~~"Act of terrorism." An act or acts constituting a specified offense under 18 Pa.C.S. Part II (relating to definition of specific offenses) that involve a violent act or an act dangerous to human life, including an attempt or conspiracy to commit any such offense, intended either to intimidate or coerce a civilian population; influence the policy of a government by intimidation or coercion; or affect the conduct of a government by mass destruction, assassination or kidnapping.~~

~~"Dangerous to human life." An act which is intended to or likely to cause death or serious bodily injury.~~

~~"Mass destruction." An act which is intended to or likely to destroy or cause serious damage to transportation related infrastructure or facilities, energy related infrastructure or facilities, public or private buildings, places of public accommodation or public works under circumstances evincing depraved indifference to human life or property.~~

~~"Material support or resources." Currency or other financial securities, financial services, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation and other physical assets, except medicine or religious materials.~~

§ 8317. TERRORISM ACTION.

(A) GENERAL RULE.--IN ADDITION TO ANY OTHER RIGHT OF ACTION AND ANY OTHER REMEDY PROVIDED BY LAW, AN ACTION MAY BE BROUGHT TO RECOVER DAMAGES AGAINST A TERRORIST, TERRORIST ORGANIZATION OR PERSON WHO KNOWINGLY PROVIDED MATERIAL SUPPORT OR RESOURCES TO OR AIDED A TERRORIST OR TERRORIST ORGANIZATION FOR THE DEATH OF AN INDIVIDUAL OR FOR AN INJURY TO AN INDIVIDUAL OR DAMAGE TO OR LOSS OF PROPERTY CAUSED BY AN ACT OF TERRORISM.

1 (B) APPLICATION OF SECTION.--THIS SECTION SHALL NOT APPLY
2 TO:

3 (1) A FINANCIAL INSTITUTION AS DEFINED BY 31 U.S.C. §
4 5312(A)(2) (RELATING TO DEFINITIONS AND APPLICATION),
5 INCLUDING AN OPERATING OR FINANCIAL SUBSIDIARY, THAT COMPLIES
6 WITH FEDERAL LAWS AND REGULATIONS RELATING TO A FINANCIAL
7 TRANSACTION AT THE TIME THE TRANSACTION OCCURS INCLUDING, TO
8 THE EXTENT APPLICABLE, THE INTERNATIONAL MONEY LAUNDERING
9 ABATEMENT AND ANTI-TERRORIST FINANCING ACT OF 2001 (TITLE III
10 OF PUBLIC LAW 107-56).

11 (2) CONDUCT BY A PARTY TO A LABOR DISPUTE AS DEFINED IN
12 THE ACT OF JUNE 2, 1937 (P.L.1198, NO.308), KNOWN AS THE
13 LABOR ANTI-INJUNCTION ACT, OR TO ANY CONSTITUTIONALLY
14 PROTECTED ACTIVITY.

15 (C) RECOVERY.--THE PLAINTIFF MAY SEEK RECOVERY FOR ANY OF
16 THE FOLLOWING:

17 (1) GENERAL AND SPECIAL DAMAGES, INCLUDING DAMAGES FOR
18 EMOTIONAL DISTRESS, LOSS OF CONSORTIUM, LOSS OF FILIAL
19 CONSORTIUM AND LOSS OF LIFE'S PLEASURES.

20 (2) PUNITIVE DAMAGES.

21 (3) REASONABLE ATTORNEY FEES AND COSTS.

22 (4) SUCH OTHER RELIEF THAT THE COURT DEEMS NECESSARY AND
23 PROPER.

24 (D) ASSETS.--IN MAKING A RECOVERY UNDER THIS SECTION, THE
25 PLAINTIFF MAY ENFORCE THE JUDGMENT AGAINST THE ASSETS OF THE
26 TERRORIST, TERRORIST ORGANIZATION OR PERSON WHO KNOWINGLY
27 PROVIDED MATERIAL SUPPORT OR RESOURCES TO OR AIDED THE TERRORIST
28 OR TERRORIST ORGANIZATION.

29 (E) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
30 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS

1 SUBSECTION:

2 "ACT OF TERRORISM." AN ACT OR ACTS CONSTITUTING AN OFFENSE
3 UNDER 18 PA.C.S. PART II (RELATING TO DEFINITION OF SPECIFIC
4 OFFENSES), INCLUDING AN ATTEMPT, CONSPIRACY OR SOLICITATION TO
5 COMMIT ANY SUCH OFFENSE, WHICH IS PUNISHABLE BY IMPRISONMENT OF
6 MORE THAN ONE YEAR AND INVOLVES AN ACT DANGEROUS TO HUMAN LIFE
7 OR PROPERTY, INTENDED EITHER TO INTIMIDATE OR COERCE A CIVILIAN
8 POPULATION; INFLUENCE THE POLICY OF A GOVERNMENT BY INTIMIDATION
9 OR COERCION; OR AFFECT THE CONDUCT OF A GOVERNMENT.

10 "DANGEROUS TO HUMAN LIFE OR PROPERTY." A VIOLENT ACT WHICH
11 IS INTENDED TO OR LIKELY TO CAUSE DEATH, SERIOUS BODILY INJURY
12 OR MASS DESTRUCTION.

13 "MASS DESTRUCTION." AN ACT WHICH IS INTENDED TO OR LIKELY TO
14 DESTROY OR CAUSE SERIOUS DAMAGE TO TRANSPORTATION-RELATED
15 INFRASTRUCTURE OR FACILITIES, ENERGY-RELATED INFRASTRUCTURE OR
16 FACILITIES, PUBLIC OR PRIVATE BUILDINGS, PLACES OF PUBLIC
17 ACCOMMODATION OR PUBLIC WORKS UNDER CIRCUMSTANCES EVINCING
18 DEPRAVED INDIFFERENCE TO HUMAN LIFE OR PROPERTY.

19 "MATERIAL SUPPORT OR RESOURCES." CURRENCY OR OTHER FINANCIAL
20 SECURITIES, FINANCIAL SERVICES, LODGING, TRAINING, SAFE HOUSES,
21 FALSE DOCUMENTATION OR IDENTIFICATION, COMMUNICATIONS EQUIPMENT,
22 FACILITIES, WEAPONS, LETHAL SUBSTANCES, EXPLOSIVES, PERSONNEL,
23 TRANSPORTATION AND OTHER PHYSICAL ASSETS, EXCEPT MEDICINE OR
24 RELIGIOUS MATERIALS.

25 "TERRORIST." A PERSON WHO COMMITS AN ACT OF TERRORISM.

26 "TERRORIST ORGANIZATION." A DOMESTIC OR FOREIGN ORGANIZATION
27 WHICH DIRECTLY ENGAGES IN THE PLANNING, PREPARATION, CARRYING
28 OUT OR AIDING OF AN ACT OF TERRORISM. THE TERM INCLUDES ANY
29 ORGANIZATION DESIGNATED AS A FOREIGN TERRORIST ORGANIZATION
30 UNDER SECTION 219 OF THE IMMIGRATION AND NATIONALITY ACT (66

1 STAT. 163, 8 U.S.C. § 1189) (RELATING TO DESIGNATION OF FOREIGN
2 TERRORIST ORGANIZATIONS).

3 Section 2. This act shall take effect immediately.