

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2013 Session of 2019

INTRODUCED BY FRANKEL, SCHLOSSBERG, BRIGGS, McCLINTON, YOUNGBLOOD, HILL-EVANS, KINSEY, KOSIEROWSKI, HOHENSTEIN, JOHNSON-HARRELL, O'MARA, FREEMAN, STEPHENS, KIRKLAND, McCARTER, McNEILL, SHUSTERMAN, SANCHEZ, MADDEN, ISAACSON, DEASY, DONATUCCI, PASHINSKI, CALTAGIRONE, OTTEN, DALEY, ULLMAN, BULLOCK, MARKOSEK, DeLUCA, ROZZI, GALLOWAY, SOLOMON, HOWARD, SCHWEYER, MULLINS, A. DAVIS, COMMITTA, WILLIAMS, MERSKI, KIM AND SIMS, OCTOBER 30, 2019

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 30, 2019

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, No.112 MAP 2007
12 (Pa. 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**] hate-based intimidation if, with malicious intention

1 toward the race, color, religion [or], national origin,
2 ancestry, sex, gender or gender identity, sexual orientation,
3 intellectual disability, physical or sensory disability or
4 behavioral or mental health of another individual or group of
5 individuals, [he commits an offense under any other provision of
6 this article or under Chapter 33 (relating to arson, criminal
7 mischief and other property destruction) exclusive of section
8 3307 (relating to institutional vandalism) or under section 3503
9 (relating to criminal trespass) with respect to such individual
10 or his or her property or with respect to one or more members of
11 such group or to their property.] the person:

12 (1) attempts to cause or causes bodily injury to an
13 individual by committing an offense under this article;

14 (2) attempts to cause or causes damage to property by
15 committing an offense under Chapter 33 (relating to arson,
16 criminal mischief and other property destruction) or 35
17 (relating to burglary and other criminal intrusion); or

18 (3) threatens an individual or group of individuals and
19 places the individual or members of the group of individuals
20 in reasonable fear of harm to a person or property.

21 * * *

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

28 (c) [Definition.--As used in this section "malicious
29 intention" means the] Definitions.--As used in this section, the
30 following words and phrases shall have the meanings given to

1 them in this subsection unless the context clearly indicates
2 otherwise:

3 "Malicious intention." The intention to commit any act, the
4 commission of which is a necessary element of any offense
5 referred to in subsection (a) motivated by hatred toward [the]
6 another individual's or group of individuals' actual or
7 perceived:

8 (1) race[,];

9 (2) color[,];

10 (3) religion [or];

11 (4) national origin [of another individual or group of
12 individuals.];

13 (5) ancestry;

14 (6) sex;

15 (7) gender or gender identity;

16 (8) sexual orientation;

17 (9) intellectual disability;

18 (10) physical or sensory disability; or

19 (11) behavioral or mental health.

20 "Threaten." To communicate, directly or indirectly, the
21 intent to:

22 (1) cause bodily injury immediately or in the future to
23 the individual threatened or to any other individual; or

24 (2) cause damage to the property of an individual
25 threatened or that of any other individual or group of
26 individuals.

27 Section 2. Section 8309(a) of Title 42 is amended to read:

28 § 8309. Civil rights violations.

29 (a) Redress for personal injury.--

30 (1) A person who incurs injury to his person [or],

1 damage or loss to his property, has been placed in reasonable
2 fear of bodily injury or suffered substantial emotional
3 distress as a result of conduct described in 18 Pa.C.S. §
4 2710 (relating to [ethnic] hate-based intimidation) or 3307
5 (relating to institutional vandalism) shall have a right of
6 action [against the actor] for preliminary or permanent
7 injunction, damages or other appropriate civil or equitable
8 relief[.] against all of the following:

9 (i) The actor.

10 (ii) A person who has solicited the actor to engage
11 in the conduct.

12 (iii) A person who has attempted to provide or
13 provided aid to the actor to engage in the conduct.

14 (2) In the action, the issue of whether the defendant
15 engaged in the conduct alleged shall be determined according
16 to the burden of proof used in other civil actions for
17 similar relief.

18 (3) The plaintiff may seek recovery for any of the
19 following:

20 [(1)] (i) General and special damages, including
21 damages for emotional distress. Damages under this
22 paragraph shall be actual damages or [\$500] \$15,000,
23 whichever is greater.

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

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

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

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

29 * * *

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