

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 947 Session of 2019

INTRODUCED BY FARNESE, A. WILLIAMS, HAYWOOD, FONTANA,
SANTARSIERO, COSTA, HUGHES, BOSCOLA, MUTH, STREET, SCHWANK,
BLAKE, COLLETT, BREWSTER, DINNIMAN, KEARNEY AND YUDICHAK,
NOVEMBER 12, 2019

REFERRED TO JUDICIARY, NOVEMBER 12, 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
17 toward the race, color, religion [**or**], national origin,
18 ancestry, sex, gender or gender identity, sexual orientation,

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

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

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

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

19 * * *

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

26 (c) [Definition.--As used in this section "malicious
27 intention" means the] Definitions.--As used in this section, the
28 following words and phrases shall have the meanings given to
29 them in this subsection unless the context clearly indicates
30 otherwise:

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

6 (1) race[,];

7 (2) color[,];

8 (3) religion [or];

9 (4) national origin [of another individual or group of
10 individuals.];

11 (5) ancestry;

12 (6) sex;

13 (7) gender or gender identity;

14 (8) sexual orientation;

15 (9) intellectual disability;

16 (10) physical or sensory disability; or

17 (11) behavioral or mental health.

18 "Threaten." To communicate, directly or indirectly, the
19 intent to:

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

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

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

26 § 8309. Civil rights violations.

27 (a) Redress for personal injury.--

28 (1) A person who incurs injury to his person [or],
29 damage or loss to his property, has been placed in reasonable
30 fear of bodily injury or suffered substantial emotional

1 distress as a result of conduct described in 18 Pa.C.S. §
2 2710 (relating to [ethnic] hate-based intimidation) or 3307
3 (relating to institutional vandalism) shall have a right of
4 action [against the actor] for preliminary or permanent
5 injunction, damages or other appropriate civil or equitable
6 relief[.] against all of the following:

7 (i) The actor.

8 (ii) A person who has solicited the actor to engage
9 in the conduct.

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

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

16 (3) The plaintiff may seek recovery for any of the
17 following:

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

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

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

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

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

27 * * *

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