

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1024 Session of 2023

INTRODUCED BY FRANKEL, N. NELSON, McNEILL, HANBIDGE, PISCIOTTANO, PIELLI, BRIGGS, MADDEN, SANCHEZ, SCHLOSSBERG, GUENST, HOHENSTEIN, DELLOSO, HILL-EVANS, HARKINS, FLEMING, STURLA, KINKEAD, FREEMAN, O'MARA, OTTEN, CEPEDA-FREYTIZ, BOROWSKI, D. WILLIAMS, CERRATO, KHAN, SIEGEL, MAYES, PROBST, ISAACSON, SCOTT, GIRAL, GALLAGHER, BENHAM, TAKAC, T. DAVIS, SMITH-WADE-EL, SALISBURY, SAMUELSON, BRENNAN, VITALI, WEBSTER, DALEY, SHUSTERMAN, DONAHUE, KENYATTA AND GUZMAN, APRIL 25, 2023

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JULY 7, 2023

AN ACT

1 Amending Titles 18 (Crimes and Offenses), 42 (Judiciary and  
2 Judicial Procedure) and 53 (Municipalities Generally) of the  
3 Pennsylvania Consolidated Statutes, in assault, further  
4 providing for ethnic intimidation; IN PARTICULAR RIGHTS AND <--  
5 IMMUNITIES, FURTHER PROVIDING FOR CIVIL RIGHTS VIOLATIONS;  
6 AND, in employees, further providing for definitions and  
7 providing for police ANNUAL officer training on hate-based <--  
8 intimidation; and making an editorial change. <--

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. Section 2710 heading, (a) and (c) of Title 18 of  
12 the Pennsylvania Consolidated Statutes, amended by the act of  
13 December 3, 2002 (P.L.1176, No.143), declared unconstitutional,  
14 936 A.2d 188 (Pa. Commonwealth 2007), affirmed, 951 A.2d 345  
15 (2008), are amended and the section is amended by adding a  
16 subsection to read:

17 ~~§ 2710. [Ethnic] Hate based intimidation.~~ <--

1       ~~(a) Offense defined. A person commits the offense of~~  
2 ~~[ethnic intimidation if, with malicious intention toward the~~  
3 ~~race, color, religion or national origin of another individual~~  
4 ~~or group of individuals, he commits an offense under any other~~  
5 ~~provision of this article or under Chapter 33 (relating to~~  
6 ~~arson, criminal mischief and other property destruction)~~  
7 ~~exclusive of section 3307 (relating to institutional vandalism)~~  
8 ~~or under section 3503 (relating to criminal trespass) with~~  
9 ~~respect to such individual or his or her property or with~~  
10 ~~respect to one or more members of such group or to their~~  
11 ~~property.] hate based intimidation if both of the following~~  
12 ~~occur:~~

13       ~~(1) The person commits any of the following offenses:~~

14             ~~(i) a personal injury crime as defined in section~~  
15             ~~103 of the act of November 24, 1998 (P.L.882, No.111),~~  
16             ~~known as the Crime Victims Act;~~

17             ~~(ii) an offense under Chapter 33 (relating to arson,~~  
18             ~~criminal mischief and other property destruction),~~  
19             ~~exclusive of section 3307 (relating to institutional~~  
20             ~~vandalism); or~~

21             ~~(iii) an offense under section 3503 (relating to~~  
22             ~~criminal trespass).~~

23       ~~(2) The person intentionally selected the person against~~  
24 ~~whom the offense under paragraph (1) was committed or the~~  
25 ~~property that was damaged or otherwise affected, in whole or~~  
26 ~~in substantial part, because of the actual or perceived race,~~  
27 ~~color, religion, national origin, ethnicity, ancestry, sex,~~  
28 ~~gender, gender identity, gender expression, sexual~~  
29 ~~orientation or disability of an individual or group of~~  
30 ~~individuals.~~

<--

1 § 2710. [ETHNIC] HATE-BASED INTIMIDATION.

2 (A) OFFENSE DEFINED.--A PERSON COMMITS THE OFFENSE OF  
3 [ETHNIC] HATE-BASED INTIMIDATION IF, WITH MALICIOUS INTENTION  
4 TOWARD THE RACE, COLOR, RELIGION [OR], NATIONAL ORIGIN,  
5 ETHNICITY, ANCESTRY, SEX, GENDER, GENDER IDENTITY, GENDER  
6 EXPRESSION, SEXUAL ORIENTATION OR DISABILITY OF ANOTHER  
7 INDIVIDUAL [OR], GROUP OF INDIVIDUALS[, HE COMMITS AN OFFENSE  
8 UNDER ANY OTHER PROVISION OF THIS ARTICLE OR] OR A PERSON WITH  
9 WHOM THE INDIVIDUAL OR GROUP IS ASSOCIATED, THE PERSON COMMITS A  
10 PERSONAL INJURY CRIME AS DEFINED IN SECTION 103 OF THE ACT OF  
11 NOVEMBER 24, 1998 (P.L.882, NO.111), KNOWN AS THE CRIME VICTIMS  
12 ACT, AN OFFENSE UNDER CHAPTER 33 (RELATING TO ARSON, CRIMINAL  
13 MISCHIEF AND OTHER PROPERTY DESTRUCTION) [EXCLUSIVE OF SECTION  
14 3307 (RELATING TO INSTITUTIONAL VANDALISM)] OR AN OFFENSE UNDER  
15 SECTION 3503 (RELATING TO CRIMINAL TRESPASS) WITH RESPECT TO  
16 SUCH INDIVIDUAL OR HIS OR HER PROPERTY OR WITH RESPECT TO ONE OR  
17 MORE MEMBERS OF SUCH GROUP OR TO THEIR PROPERTY.

18 \* \* \*

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

25 \* \* \*

26 †(c) Definition.--As used in this section "malicious  
27 intention" means the intention to commit any act, the commission  
28 of which is a necessary element of any offense referred to in  
29 subsection (a) motivated by hatred toward the race, color,  
30 religion [or], national origin, ETHNICITY, ANCESTRY, SEX,

<--

<--

1 GENDER, GENDER IDENTITY, GENDER EXPRESSION, SEXUAL ORIENTATION  
2 OR DISABILITY of another individual or group of individuals.† <--

3 Section 2. Section 8309(a) ~~introductory paragraph~~ of Title <--  
4 42 is amended AND THE SECTION IS AMENDED BY ADDING A SUBSECTION <--  
5 to read:

6 ~~§ 8309. Civil rights violations.~~ <--

7 ~~(a) Redress for personal injury. A person who incurs injury~~  
8 ~~to his person or damage or loss to his property as a result of~~  
9 ~~conduct described in 18 Pa.C.S. § 2710 (relating to [ethnic]~~  
10 ~~hate based intimidation) or 3307 (relating to institutional~~  
11 ~~vandalism) shall have a right of action against the actor for~~  
12 ~~injunction, damages or other appropriate civil or equitable~~  
13 ~~relief. In the action, the issue of whether the defendant~~  
14 ~~engaged in the conduct alleged shall be determined according to~~  
15 ~~the burden of proof used in other civil actions for similar~~  
16 ~~relief. The plaintiff may seek recovery for any of the~~  
17 ~~following:~~

18 \* \* \*

19 § 8309. CIVIL RIGHTS VIOLATIONS. <--

20 (A) REDRESS FOR PERSONAL INJURY.-- [A PERSON] AN INDIVIDUAL  
21 WHO INCURS INJURY TO HIS OR HER PERSON OR DAMAGE OR LOSS TO HIS  
22 OR HER PROPERTY HAS BEEN PLACED IN REASONABLE FEAR OF BODILY  
23 INJURY OR SUFFERED AN INTENTIONAL INFLICTION OF EMOTIONAL  
24 DISTRESS AS A RESULT OF CONDUCT DESCRIBED IN 18 PA.C.S. § 2710  
25 (RELATING TO [ETHNIC] HATE-BASED INTIMIDATION) OR 3307 (RELATING  
26 TO INSTITUTIONAL VANDALISM) SHALL HAVE A RIGHT OF ACTION  
27 [AGAINST THE ACTOR FOR] IN A COURT OF COMMON PLEAS FOR A  
28 PRELIMINARY OR PERMANENT INJUNCTION, DAMAGES OR OTHER  
29 APPROPRIATE CIVIL OR EQUITABLE RELIEF[.] AGAINST THE ACTOR, A  
30 PERSON WHO HAS SOLICITED THE ACTOR TO ENGAGE IN THE CONDUCT AND

1 A PERSON WHO HAS KNOWINGLY ATTEMPTED TO PROVIDE OR PROVIDED AID  
2 TO THE ACTOR WITH THE INTENT THAT THE ACTOR ENGAGE IN THE  
3 CONDUCT. IN THE ACTION, THE ISSUE OF WHETHER THE DEFENDANT  
4 ENGAGED IN THE CONDUCT ALLEGED SHALL BE DETERMINED ACCORDING TO  
5 THE BURDEN OF PROOF USED IN OTHER CIVIL ACTIONS FOR SIMILAR  
6 RELIEF. THE PLAINTIFF MAY SEEK RECOVERY FOR ANY OF THE  
7 FOLLOWING:

8 (1) GENERAL AND SPECIAL DAMAGES, INCLUDING DAMAGES FOR  
9 EMOTIONAL DISTRESS. DAMAGES UNDER THIS PARAGRAPH SHALL BE  
10 ACTUAL DAMAGES OR \$500, WHICHEVER IS GREATER.

11 (2) PUNITIVE DAMAGES.

12 (3) REASONABLE ATTORNEY FEES AND COSTS.

13 (4) INJUNCTIVE AND OTHER EQUITABLE RELIEF.

14 (5) SUCH OTHER RELIEF WHICH THE COURT DEEMS NECESSARY  
15 AND PROPER.

16 \* \* \*

17 (G) CONSTRUCTION.--NOTHING IN THIS SECTION MAY BE CONSTRUED  
18 TO PROHIBIT, LIMIT OR PUNISH RELIGIOUSLY MOTIVATED SPEECH OR  
19 CONDUCT THAT IS OTHERWISE PROTECTED BY THE CONSTITUTION OF THE  
20 UNITED STATES, THE CONSTITUTION OF PENNSYLVANIA OR THE ACT OF  
21 DECEMBER 9, 2002 (P.L.1701, NO.214), KNOWN AS THE RELIGIOUS  
22 FREEDOM PROTECTION ACT.

23 Section 3. Section 2162 of Title 53 is amended by adding a  
24 definition to read:

25 § 2162. Definitions.

26 The following words and phrases when used in this subchapter  
27 shall have the meanings given to them in this section unless the  
28 context clearly indicates otherwise:

29 \* \* \*

30 "Hate-based intimidation." An offense specified under 18

1 Pa.C.S. § 2710 (relating to hate-based intimidation).

2 \* \* \*

3 Section 4. Title 53 is amended by adding a section to read:

4 § 2173. ~~Police~~ ANNUAL officer training on hate-based <--  
5 intimidation.

6 ~~The~~ (A) TRAINING.--THE COMMISSION AND THE PENNSYLVANIA STATE <--

7 POLICE SHALL CONSULT WITH AND INCORPORATE FEEDBACK FROM RELEVANT

8 COMMUNITY-BASED AND FAITH-BASED STAKEHOLDERS AND GROUPS, AS WELL

9 AS RACIAL JUSTICE AND LEGAL STAKEHOLDERS AND GROUPS, TO DEVELOP

10 TRAINING UNDER THIS SECTION. AFTER THE CONSULTATION, THE

11 commission and the Pennsylvania State Police shall, in

12 consultation with the Pennsylvania Human Relations Commission

13 and the Attorney General, ~~develop and provide biennial training~~ <--

14 on hate based intimidation to police officers. The commission

15 and the Pennsylvania State Police may also consult with relevant

16 stakeholders in developing the training. DEVELOP, IMPLEMENT AND <--

17 PROVIDE ANNUAL TRAINING ON HATE-BASED INTIMIDATION TO OFFICERS.

18 The training shall include, but not be limited to:

19 (1) Identification of hate-based intimidation.

20 (2) Methods to address hate-based intimidation.

21 (3) Reporting of hate-based intimidation.

22 (4) Hate-based intimidation recordkeeping.

23 (5) ANY INSTRUCTION DEEMED NECESSARY IN RECOGNIZING <--

24 ENFORCEMENT RELATED BIAS.

25 (B) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING

26 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS

27 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

28 "OFFICER." ANY OF THE FOLLOWING:

29 (1) A FULL-TIME OR PART-TIME EMPLOYEE ASSIGNED TO

30 CRIMINAL OR TRAFFIC LAW ENFORCEMENT DUTIES OF ANY OF THE

1 FOLLOWING:

2 (I) A POLICE DEPARTMENT OF A COUNTY, CITY, BOROUGH,  
3 TOWN OR TOWNSHIP.

4 (II) ANY RAILROAD OR STREET RAILWAY POLICE.

5 (III) ANY CAMPUS OR UNIVERSITY POLICE DEPARTMENT,  
6 INCLUDING THE STATE SYSTEM OF HIGHER EDUCATION AND ITS  
7 MEMBER INSTITUTIONS.

8 (IV) THE CAPITOL POLICE.

9 (V) THE HARRISBURG INTERNATIONAL AIRPORT POLICE.

10 (VI) AN AIRPORT AUTHORITY POLICE DEPARTMENT.

11 (2) A DEPUTY SHERIFF OF A COUNTY OF THE SECOND CLASS.

12 (3) A SECURITY OFFICER OF A FIRST CLASS CITY HOUSING  
13 AUTHORITY OR A POLICE OFFICER OF A SECOND CLASS CITY HOUSING  
14 AUTHORITY.

15 (4) A COUNTY PARK POLICE OFFICER.

16 (5) PROBATION AND PAROLE OFFICERS.

17 THE TERM EXCLUDES A PERSON EMPLOYED TO CHECK PARKING METERS OR  
18 TO PERFORM ONLY ADMINISTRATIVE DUTIES AND AUXILIARY AND FIRE  
19 POLICE.

20 Section 5. This act shall take effect in 60 days.