

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 RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 30, 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 annual officer training on hate-based
8 intimidation.

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] hate-based intimidation if, with malicious intention
3 toward the race, color, religion [or], national origin,
4 ethnicity, ancestry, sex, gender, gender identity, gender
5 expression, sexual orientation or, disability, AGE OR AUTISM <--
6 SPECTRUM DISORDER of another individual [or], group of
7 individuals[, he commits an offense under any other provision of
8 this article or] or a person with whom the individual or group
9 is associated, the person commits a personal injury crime as
10 defined in section 103 of the act of November 24, 1998 (P.L.882,
11 No.111), known as the Crime Victims Act, WHICH RESULTS IN BODILY <--
12 INJURY, 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] DEFINITIONS.--As used in this section <--
27 ["malicious intention" means the], THE FOLLOWING WORDS AND <--
28 PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION
29 UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

30 "AGE." THE TERM INCLUDES THE LENGTH OF TIME THAT A PERSON

1 WHO IS 40 YEARS OF AGE OR OLDER HAS LIVED AND THE LENGTH OF TIME
2 THAT ANY OTHER PERSON HAS LIVED WHO IS PROTECTED UNDER 29 U.S.C.
3 CH. 14 (RELATING TO AGE DISCRIMINATION IN EMPLOYMENT).

4 "MALICIOUS INTENT." THE intention to commit any act, the
5 commission of which is a necessary element of any offense
6 referred to in subsection (a) motivated by hatred toward the
7 race, color, religion [or], national origin, ethnicity,
8 ancestry, sex, gender, gender identity, gender expression,
9 sexual orientation or, disability, AGE OR AUTISM SPECTRUM <--
10 DISORDER of another individual or group of individuals.

11 Section 2. Section 8309(a) of Title 42 is amended and the
12 section is amended by adding a subsection to read:

13 § 8309. Civil rights violations.

14 (a) Redress for personal injury.--[A person] An individual
15 who incurs injury to his or her person or damage or loss to his
16 or her property ~~has been placed in reasonable fear of bodily~~ <--
17 ~~injury or suffered an intentional infliction of emotional~~
18 ~~distress~~ as a result of conduct described in 18 Pa.C.S. § 2710
19 (relating to [ethnic] hate-based intimidation) or 3307 (relating
20 to institutional vandalism) shall have a right of action
21 [against the actor for] in a court of common pleas for a
22 preliminary or permanent injunction, damages or other
23 appropriate civil or equitable relief[.] against the actor, a
24 person who has solicited the actor to engage in the conduct and
25 a person who has knowingly attempted to provide or provided aid
26 to the actor with the intent that the actor engage in the
27 conduct. In the action, the issue of whether the defendant
28 engaged in the conduct alleged shall be determined according to
29 the burden of proof used in other civil actions for similar
30 relief. The plaintiff may seek recovery for any of the

1 following:

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

5 (2) Punitive damages.

6 (3) Reasonable attorney fees and costs.

7 (4) Injunctive and other equitable relief.

8 (5) Such other relief which the court deems necessary
9 and proper.

10 * * *

11 (g) Construction.--Nothing in this section may be construed
12 to prohibit, limit or punish religiously motivated speech or
13 conduct that is otherwise protected by the Constitution of the
14 United States, the Constitution of Pennsylvania or the act of
15 December 9, 2002 (P.L.1701, No.214), known as the Religious
16 Freedom Protection Act.

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

19 § 2162. Definitions.

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

23 * * *

24 "Hate-based intimidation." An offense specified under 18
25 Pa.C.S. § 2710 (relating to hate-based intimidation).

26 * * *

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

28 § 2173. Annual officer training on hate-based intimidation.

29 (a) Training.--The commission and the Pennsylvania State
30 Police shall consult with and incorporate feedback from relevant

1 community-based and faith-based stakeholders and groups, as well
2 as racial justice and legal stakeholders and groups, to develop
3 training under this section. After the consultation, the
4 commission and the Pennsylvania State Police shall, in
5 consultation with the Pennsylvania Human Relations Commission
6 and the Attorney General, develop, implement and provide annual
7 training on hate-based intimidation to officers. The training
8 shall include, but not be limited to:

- 9 (1) Identification of hate-based intimidation.
- 10 (2) Methods to address hate-based intimidation.
- 11 (3) Reporting of hate-based intimidation.
- 12 (4) Hate-based intimidation recordkeeping.
- 13 (5) Any instruction deemed necessary in recognizing
14 enforcement related bias.

15 (b) Definitions.--As used in this section, the following
16 words and phrases shall have the meanings given to them in this
17 subsection unless the context clearly indicates otherwise:

18 "Officer." Any of the following:

- 19 (1) A full-time or part-time employee assigned to
20 criminal or traffic law enforcement duties of any of the
21 following:
 - 22 (i) A police department of a county, city, borough,
23 town or township.
 - 24 (ii) Any railroad or street railway police.
 - 25 (iii) Any campus or university police department,
26 including the State System of Higher Education and its
27 member institutions.
 - 28 (iv) The Capitol Police.
 - 29 (v) The Harrisburg International Airport Police.
 - 30 (vi) An airport authority police department.

1 (2) A deputy sheriff of a county of the second class.

2 (3) A security officer of a first class city housing
3 authority or a police officer of a second class city housing
4 authority.

5 (4) A county park police officer.

6 (5) Probation and parole officers.

7 The term excludes a person employed to check parking meters or
8 to perform only administrative duties and auxiliary and fire
9 police.

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