

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1027 Session of 2023

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

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 25, 2023

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, 951 A.2d 345
12 (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 intimidation if, with malicious intention toward the
17 race, color, religion or national origin of another individual

1 or group of individuals, he commits an offense under any other
2 provision of this article or under Chapter 33 (relating to
3 arson, criminal mischief and other property destruction)
4 exclusive of section 3307 (relating to institutional vandalism)
5 or under section 3503 (relating to criminal trespass) with
6 respect to such individual or his or her property or with
7 respect to one or more members of such group or to their
8 property.] hate-based intimidation if both of the following
9 occur:

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

11 (i) a personal injury crime as defined in section
12 103 of the act of November 24, 1998 (P.L.882, No.111),
13 known as the Crime Victims Act;

14 (ii) an offense under Chapter 33 (relating to arson,
15 criminal mischief and other property destruction),
16 exclusive of section 3307 (relating to institutional
17 vandalism); or

18 (iii) an offense under section 3503 (relating to
19 criminal trespass).

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

28 * * *

29 (b.1) Construction.--Nothing in this section may be
30 construed to prohibit, limit or punish religiously motivated

1 speech or conduct that is otherwise protected by the
2 Constitution of the United States, the Constitution of
3 Pennsylvania or the act of December 9, 2002 (P.L.1701, No.214),
4 known as the Religious Freedom Protection Act.

5 [(c) Definition.--As used in this section "malicious
6 intention" means the intention to commit any act, the commission
7 of which is a necessary element of any offense referred to in
8 subsection (a) motivated by hatred toward the race, color,
9 religion or national origin of another individual or group of
10 individuals.]

11 Section 2. Section 8309(a) of Title 42 is amended to read:
12 § 8309. Civil rights violations.

13 (a) Redress for personal injury.--

14 (1) A person who incurs injury to his or her person
15 [or], damage or loss to his or her property, has been placed
16 in reasonable fear of bodily injury or suffered substantial
17 emotional distress as a result of conduct described in 18
18 Pa.C.S. § 2710 (relating to [ethnic] hate-based intimidation)
19 or 3307 (relating to institutional vandalism) shall have a
20 right of action [against the actor for] in a court of common
21 pleas for preliminary or permanent injunction, damages or
22 other appropriate civil or equitable relief[.] against all of
23 the following:

24 (i) The actor.

25 (ii) A person who has solicited the actor to engage
26 in the conduct.

27 (iii) A person who has knowingly attempted to
28 provide or provided aid to the actor with the intent that
29 the actor engage in the conduct.

30 (2) In the action, the issue of whether the defendant

1 engaged in the conduct alleged shall be determined according
2 to the burden of proof used in other civil actions for
3 similar relief.

4 (3) The plaintiff may seek recovery for any of the
5 following:

6 [(1)] (i) General and special damages, including
7 damages for emotional distress. Damages under this
8 paragraph shall be actual damages or \$500, whichever is
9 greater.

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

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

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

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

15 * * *

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