

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, PROBST, ISAACSON, SCOTT, GIRAL, GALLAGHER, BENHAM, TAKAC, T. DAVIS, SMITH-WADE-EL, SALISBURY, SAMUELSON, BRENNAN, VITALI, WEBSTER, DALEY, SHUSTERMAN, DONAHUE 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) 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~~

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

~~11 (1) The person commits any of the following offenses:~~

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

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

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

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

29 § 2710. [ETHNIC] HATE-BASED INTIMIDATION. <--

30 (A) OFFENSE DEFINED.--A PERSON COMMITS THE OFFENSE OF

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

16 * * *

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

23 †(c) Definition.--As used in this section "malicious <--
24 intention" means the intention to commit any act, the commission
25 of which is a necessary element of any offense referred to in
26 subsection (a) motivated by hatred toward the race, color,
27 religion, ETHNICITY, ANCESTRY, SEX, GENDER, GENDER IDENTITY, <--
28 GENDER EXPRESSION, SEXUAL ORIENTATION, DISABILITY or national
29 origin of another individual or group of individuals.† <--

30 Section 2. Section 8309(a) of Title 42 is amended AND THE <--

1 SECTION IS AMENDED BY ADDING A SUBSECTION to read:

2 § 8309. Civil rights violations.

3 (a) Redress for personal injury.--[A person] <--

4 (1) AN INDIVIDUAL who incurs injury to his or her person <--

5 [~~or~~], damage or loss to his or her property, has been placed

6 in reasonable fear of bodily injury or suffered ~~substantial~~ <--

7 AN INTENTIONAL INFLICTION OF emotional distress as a result <--

8 of conduct described in 18 Pa.C.S. § 2710 (relating to

9 [~~ethnic~~] hate-based intimidation) or 3307 (relating to

10 institutional vandalism) shall have a right of action

11 [~~against the actor for~~] in a court of common pleas for

12 preliminary or permanent injunction, damages or other

13 appropriate civil or equitable relief[.] against all of the

14 following:

15 (i) The actor.

16 (ii) A person who has solicited the actor to engage

17 in the conduct.

18 (iii) A person who has knowingly attempted to

19 provide or provided aid to the actor with the intent that

20 the actor engage in the conduct.

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

22 engaged in the conduct alleged shall be determined according

23 to the burden of proof used in other civil actions for

24 similar relief.

25 (3) The plaintiff may seek recovery for any of the

26 following:

27 [(1)] (i) General and special damages, including

28 damages for emotional distress. Damages under this

29 paragraph shall be actual damages or \$500, whichever is

30 greater.

- 1 [(2)] (ii) Punitive damages.
2 [(3)] (iii) Reasonable attorney fees and costs.
3 [(4)] (iv) Injunctive and other equitable relief.
4 [(5)] (v) Such other relief which the court deems
5 necessary and proper.

6 * * *

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

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