

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 RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 30, 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] hate-based intimidation if, with malicious intention

1 toward the race, color, religion [or], national origin,
2 ethnicity, ancestry, sex, gender, gender identity, gender
3 expression, sexual orientation or, disability, AGE OR AUTISM <--
4 SPECTRUM DISORDER of another individual [or], group of
5 individuals[, he commits an offense under any other provision of
6 this article or] or a person with whom the individual or group
7 is associated, commits a personal injury crime as defined in
8 section 103 of the act of November 24, 1998 (P.L.882, No.111),
9 known as the Crime Victims Act, WHICH RESULTS IN BODILY INJURY, <--
10 an offense under Chapter 33 (relating to arson, criminal
11 mischief and other property destruction) [exclusive of section
12 3307 (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] DEFINITIONS.--As used in this section <--
24 ["malicious intention" means the], THE FOLLOWING WORDS AND <--
25 PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION
26 UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

27 "AGE." THE TERM INCLUDES THE LENGTH OF TIME THAT A PERSON
28 WHO IS 40 YEARS OF AGE OR OLDER HAS LIVED AND THE LENGTH OF TIME
29 THAT ANY OTHER PERSON HAS LIVED WHO IS PROTECTED UNDER 29 U.S.C.
30 CH. 14 (RELATING TO AGE DISCRIMINATION IN EMPLOYMENT).

1 "MALICIOUS INTENT." 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 race, color, religion, ethnicity, ancestry, sex, gender, gender
5 identity, gender expression, sexual orientation, disability, <--
6 AGE, AUTISM SPECTRUM DISORDER or national origin of another
7 individual or group of individuals.

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

10 § 8309. Civil rights violations.

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

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

22 (i) The actor.

23 (ii) A person who has solicited the actor to engage
24 in the conduct.

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

28 (2) In the action, the issue of whether the defendant
29 engaged in the conduct alleged shall be determined according
30 to the burden of proof used in other civil actions for

1 similar relief.

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

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

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

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

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

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

13 * * *

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

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