

No. _____

LEGISLATIVE REFERENCE BUREAU

AN ACT

Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in assault, further providing for the offense of ethnic intimidation; and, in particular rights and immunities, further prohibiting civil rights violations.

INTRODUCED _____ 20 _____

By _____ District NO. _____

By _____ District NO. _____

By _____ District NO. _____

By _____ District NO. _____

See next page for additional co-sponsors.

Prior Session _____

Referred to Committee on	
Date _____	20 _____
Reported _____	20 _____
As Committed-Amended	
Recommendation	

By Hon. _____	

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, No.112 MAP 2007
12 (Pa. 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
17 toward the race, color, religion [or], national origin,
18 ancestry, sex, gender or gender identity, sexual orientation,
19 intellectual disability, physical or sensory disability or

1 behavioral or mental health of another individual or group of
2 individuals, [he commits an offense under any other provision of
3 this article or under Chapter 33 (relating to arson, criminal
4 mischief and other property destruction) exclusive of section
5 3307 (relating to institutional vandalism) or under section 3503
6 (relating to criminal trespass) with respect to such individual
7 or his or her property or with respect to one or more members of
8 such group or to their property.] the person:

- 9 (1) attempts to cause or causes bodily injury to an
10 individual by committing an offense under this article;
11 (2) attempts to cause or causes damage to property by
12 committing an offense under Chapter 33 (relating to arson,
13 criminal mischief and other property destruction) or 35
14 (relating to burglary and other criminal intrusion); or
15 (3) threatens an individual or group of individuals and
16 places the individual or members of the group of individuals
17 in reasonable fear of harm to a person or 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 United
22 States Constitution, the Constitution of Pennsylvania or the act
23 of December 9, 2002 (P.L.1701, No.214), known as the Religious
24 Freedom Protection Act.

25 (c) [Definition.--As used in this section "malicious
26 intention" means the] Definitions.--As used in this section, the
27 following words and phrases shall have the meanings given to
28 them in this subsection unless the context clearly indicates
29 otherwise:

30 "Malicious intention." The intention to commit any act, the

1 commission of which is a necessary element of any offense
2 referred to in subsection (a) motivated by hatred toward [the]
3 another individual's or group of individuals' actual or
4 perceived:

- 5 (1) race[,];
- 6 (2) color[,];
- 7 (3) religion [or];
- 8 (4) national origin [of another individual or group of
9 individuals.];
- 10 (5) ancestry;
- 11 (6) sex;
- 12 (7) gender or gender identity;
- 13 (8) sexual orientation;
- 14 (9) intellectual disability;
- 15 (10) physical or sensory disability; or
- 16 (11) behavioral or mental health.

17 "Threaten." To communicate, directly or indirectly, the
18 intent to:

- 19 (1) cause bodily injury immediately or in the future to
20 the individual threatened or to any other individual; or
- 21 (2) cause damage to the property of an individual
22 threatened or that of any other individual or group of
23 individuals.

24 Section 2. Section 8309(a) of Title 42 is amended to read:
25 § 8309. Civil rights violations.

26 (a) Redress for personal injury.--

- 27 (1) A person who incurs injury to his person [or],
28 damage or loss to his property, has been placed in reasonable
29 fear of bodily injury or suffered substantial emotional
30 distress as a result of conduct described in 18 Pa.C.S. §

1 2710 (relating to [~~ethnic~~] hate-based intimidation) or 3307
2 (relating to institutional vandalism) shall have a right of
3 action [~~against the actor~~] for preliminary or permanent
4 injunction, damages or other appropriate civil or equitable
5 relief[.] against all of the following:

6 (i) The actor.

7 (ii) A person who has solicited the actor to engage
8 in the conduct.

9 (iii) A person who has attempted to provide or
10 provided aid to the actor to engage in the conduct.

11 (2) In the action, the issue of whether the defendant
12 engaged in the conduct alleged shall be determined according
13 to the burden of proof used in other civil actions for
14 similar relief.

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

17 [~~(1)~~] (i) General and special damages, including
18 damages for emotional distress. Damages under this
19 paragraph shall be actual damages or [~~\$500~~] \$15,000,
20 whichever is greater.

21 [~~(2)~~] (ii) Punitive damages.

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

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

24 [~~(5)~~] (v) Such other relief which the court deems
25 necessary and proper.

26 * * *

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