

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 736 Session of 2023

INTRODUCED BY BOYLE, KINSEY, MADDEN, HOHENSTEIN, GUENST, BENHAM, HILL-EVANS, SAMUELSON, SANCHEZ, GIRAL, SCHLOSSBERG, CIRESI, FLEMING, STURLA, FREEMAN, OTTEN, O'MARA AND TAKAC, MARCH 28, 2023

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 28, 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 making an editorial change.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 2710 of Title 18 of the Pennsylvania
8 Consolidated Statutes, amended December 3, 2002 (P.L.1176,
9 No.143), declared unconstitutional, 936 A.2d 188 (Pa.
10 Commonwealth 2007), affirmed, 597 Pa. 371 (2008), is reenacted
11 and amended to read:

12 § 2710. [Ethnic] Unlawful intimidation.

13 (a) Offense defined.--A person commits the offense of
14 [ethnic] unlawful intimidation if, with malicious intention
15 toward the actual or perceived race, color, religion [or],
16 national origin, ancestry, mental or physical disability, sexual
17 orientation, gender or gender identity of another individual or
18 group of individuals, he commits an offense under any other

1 provision of this article or under Chapter 33 (relating to
2 arson, criminal mischief and other property destruction)
3 exclusive of section 3307 (relating to institutional vandalism)
4 or under section 3503 (relating to criminal trespass) with
5 respect to such individual or his or her property or with
6 respect to one or more members of such group or to their
7 property.

8 (b) Grading.--An offense under this section shall be
9 classified as a misdemeanor of the third degree if the other
10 offense is classified as a summary offense. Otherwise, an
11 offense under this section shall be classified one degree higher
12 in the classification specified in section 106 (relating to
13 classes of offenses) than the classification of the other
14 offense.

15 (c) Definition.--As used in this section "malicious
16 intention" means the intention to commit any act, the commission
17 of which is a necessary element of any offense referred to in
18 subsection (a) motivated by hatred toward the actual or
19 perceived race, color, religion [or], national origin, ancestry,
20 mental or physical disability, sexual orientation, gender or
21 gender identity of another individual or group of individuals.

22 Section 2. Section 8309(a) of Title 42 is amended to read:
23 § 8309. Civil rights violations.

24 (a) Redress for personal injury.--A person who incurs injury
25 to his person or damage or loss to his property as a result of
26 conduct described in 18 Pa.C.S. § 2710 (relating to [ethnic]
27 unlawful intimidation) or 3307 (relating to institutional
28 vandalism) shall have a right of action against the actor for
29 injunction, damages or other appropriate civil or equitable
30 relief. In the action, the issue of whether the defendant

1 engaged in the conduct alleged shall be determined according to
2 the burden of proof used in other civil actions for similar
3 relief. The plaintiff may seek recovery for any of the
4 following:

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

8 (2) Punitive damages.

9 (3) Reasonable attorney fees and costs.

10 (4) Injunctive and other equitable relief.

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

13 * * *

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