

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 635 Session of 2019

INTRODUCED BY BOYLE, MURT, MULLINS, RAVENSTAHL, SIMS,
 SCHLOSSBERG, CALTAGIRONE, DAVIDSON, HILL-EVANS, READSHAW,
 RABB, SAMUELSON, FREEMAN, HELM, McNEILL, YOUNGBLOOD,
 DRISCOLL, McCLINTON, NEILSON, SCHWEYER, DONATUCCI, FRANKEL,
 DALEY, ISAACSON, STURLA, McCARTER, KIRKLAND, HANBIDGE, OTTEN,
 ROEBUCK, CEPHAS, SHUSTERMAN, T. DAVIS, HARKINS, BULLOCK,
 KINSEY, KENYATTA, HOHENSTEIN, SANCHEZ, HOWARD, BIZZARRO,
 A. DAVIS, D. MILLER, SOLOMON, BRIGGS, GALLOWAY, DeLISSIO AND
 FITZGERALD, FEBRUARY 28, 2019

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 28, 2019

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(a) and (c) of Title 18 of the
 8 Pennsylvania Consolidated Statutes, amended by the act of
 9 December 3, 2002 (P.L.1176, No.143), declared unconstitutional,
 10 936 A.2d 188 (Pa. Commonwealth 2007), affirmed, 597 Pa. 371
 11 (2008), are reenacted 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**],

1 national origin, ancestry, mental or physical disability, sexual
2 orientation, gender or gender identity of another individual or
3 group of individuals, he commits an offense under any other
4 provision of this article or under Chapter 33 (relating to
5 arson, criminal mischief and other property destruction)
6 exclusive of section 3307 (relating to institutional vandalism)
7 or under section 3503 (relating to criminal trespass) with
8 respect to such individual or his or her property or with
9 respect to one or more members of such group or to their
10 property.

11 * * *

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

19 Section 2. Section 8309(a) of Title 42 is amended to read:
20 § 8309. Civil rights violations.

21 (a) Redress for personal injury.--A person who incurs injury
22 to his person or damage or loss to his property as a result of
23 conduct described in 18 Pa.C.S. § 2710 (relating to [ethnic]
24 unlawful intimidation) or 3307 (relating to institutional
25 vandalism) shall have a right of action against the actor for
26 injunction, damages or other appropriate civil or equitable
27 relief. In the action, the issue of whether the defendant
28 engaged in the conduct alleged shall be determined according to
29 the burden of proof used in other civil actions for similar
30 relief. The plaintiff may seek recovery for any of the

1 following:

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

5 (2) Punitive damages.

6 (3) Reasonable attorney fees and costs.

7 (4) Injunctive and other equitable relief.

8 (5) Such other relief which the court deems necessary
9 and proper.

10 * * *

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