

No. 1982-154

AN ACT

HB 1806

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, prohibiting institutional vandalism; ethnic intimidation and providing for certain related private rights of action.

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

Section 1. Title 18, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, is amended by adding sections to read:

§ 2710. Ethnic intimidation.

(a) *Offense defined.*—A person commits the offense of ethnic intimidation if, with malicious intention toward the race, color, religion or national origin of another individual or group of individuals, he commits an offense under any other provision of this article or under Chapter 33 (relating to arson, criminal mischief and other property destruction) exclusive of section 3307 (relating to institutional vandalism) or under section 3503 (relating to criminal trespass) or under section 5504 (relating to harassment by communication or address) with respect to such individual or his or her property or with respect to one or more members of such group or to their property.

(b) *Grading.*—An offense under this section shall be classified as a misdemeanor of the third degree if the other offense is classified as a summary offense. Otherwise, an offense under this section shall be classified one degree higher in the classification specified in section 106 (relating to classes of offenses) than the classification of the other offense.

(c) *Definition.*—As used in this section “malicious intention” means the intention to commit any act, the commission of which is a necessary element of any offense referred to in subsection (a) motivated by hatred toward the race, color, religion or national origin of another individual or group of individuals.

§ 3307. Institutional vandalism.

(a) *Offenses defined.*—A person commits the offense of institutional vandalism if he knowingly desecrates, as defined in section 5509 (relating to desecration of venerated objects), vandalizes, defaces or otherwise damages:

- (1) any church, synagogue or other facility or place used for religious worship or other religious purposes;
- (2) any cemetery, mortuary or other facility used for the purpose of burial or memorializing the dead;

- (3) *any school, educational facility or community center;*
- (4) *the grounds adjacent to and owned or occupied by any facility set forth in paragraph (1), (2) or (3); or*
- (5) *any personal property located in any facility set forth in paragraph (1), (2) or (3).*

(b) Grading.—An offense under this section is a felony of the third degree if the actor causes pecuniary loss in excess of \$5,000. Pecuniary loss includes the cost of repair or replacement of the property affected. Otherwise, institutional vandalism is a misdemeanor of the second degree.

Section 2. (a) Any person who incurs injury to his person or damage or loss to his property as a result of conduct described in 18 Pa.C.S. § 2710 (relating to ethnic intimidation) or 18 Pa.C.S. § 3307 (relating to institutional vandalism) shall have a right of action against the actor for injunction, damages or other appropriate civil or equitable relief. In any such action the issue of whether the defendant engaged in the conduct alleged shall be determined according to the burden of proof used in other civil actions for similar relief.

(b) The plaintiff in an action under this section may recover:

- (1) General and special damages, including damages for emotional distress.
- (2) Punitive damages.
- (3) Reasonable attorneys fees and costs.

Section 3. This act shall take effect immediately.

APPROVED—The 18th day of June, A. D. 1982.

DICK THORNBURGH