

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1689 Session of
1995

INTRODUCED BY READSHAW, GIGLIOTTI, ROBINSON, WALKO, HALUSKA,
CORRIGAN, COLAIZZO, DeLUCA, TRELLO, MICOZZIE, M. N. WRIGHT,
WOGAN, BEBKO-JONES AND BOSCOLA, JUNE 5, 1995

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, JANUARY 29, 1996

AN ACT

1 Amending the act of October 27, 1955 (P.L.744, No.222),
2 entitled, as amended, "An act prohibiting certain practices
3 of discrimination because of race, color, religious creed,
4 ancestry, age or national origin by employers, employment
5 agencies, labor organizations and others as herein defined;
6 creating the Pennsylvania Human Relations Commission in the
7 Governor's Office; defining its functions, powers and duties;
8 providing for procedure and enforcement; providing for
9 formulation of an educational program to prevent prejudice;
10 providing for judicial review and enforcement and imposing
11 penalties," further providing for the powers of the ←
12 Pennsylvania Human Relations Commission relating to
13 assignment of students and for educational programs.
14 EDUCATIONAL PROGRAMS; AND RESTRICTING THE PENNSYLVANIA HUMAN ←
15 RELATIONS COMMISSION AND CERTAIN OTHER GOVERNMENT INVOLVEMENT
16 IN PUPIL SCHOOL ASSIGNMENT.

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

19 Section 1. Section 8 of the act of October 27, 1955
20 (P.L.744, No.222), known as the Pennsylvania Human Relations
21 Act, amended December 20, 1991 (P.L.414, No.51), is amended to
22 read:

23 Section 8. Educational Program.--

24 The Commission, in cooperation with the Department of

1 Education, is authorized to [prepare a comprehensive] recommend
2 a multicultural educational program, designed for the students
3 of the schools in this Commonwealth and for all other residents
4 thereof, with emphasis on foreign cultural and language studies,
5 as well as on the basic, shared precepts and principles of
6 United States culture, in order to [eliminate prejudice against]
7 promote cultural understanding and appreciation and to further
8 good will among all persons, without regard to race, color,
9 familial status, religious creed, ancestry, age, sex, national
10 origin, handicap or disability.

11 Section 2. The act is amended by adding a section to read:

12 ~~Section 8.2. Additional Powers and Duties. (a) The~~ ←
13 ~~Commission shall formulate voluntary recommendations designed to~~
14 ~~assist educational institutions in eliminating prejudice and~~
15 ~~fostering appreciation of diversity.~~

16 ~~(b) The Commission shall not have any authority to order any~~
17 ~~school district or other governing entities to require a student~~
18 ~~to be assigned involuntarily to any school, other than the~~
19 ~~school of appropriate grade level that the student qualifies to~~
20 ~~attend closest to the student's home, solely on the basis of a~~
21 ~~student's race, religion, color, sex, ancestry or national~~
22 ~~origin. Notwithstanding the foregoing, a student who requires~~
23 ~~English as a second language instruction may be assigned to~~
24 ~~another school where such instruction is available.~~

25 SECTION 8.2. RESTRICTION ON COMMISSION AUTHORITY OVER PUPIL ←
26 SCHOOL ASSIGNMENT.--(A) IT IS THE FINDING OF THE GENERAL
27 ASSEMBLY THAT THE NEIGHBORHOOD SCHOOL IS THE CORNERSTONE OF
28 PENNSYLVANIA'S EDUCATION POLICY ON THE ASSIGNMENT OF PUPILS TO
29 PUBLIC SCHOOLS AND THAT THE ASSIGNMENT OF PUPILS TO PUBLIC
30 SCHOOLS IS A MATTER THAT FALLS WITHIN THE SPECIAL COMPETENCE AND

1 EXPERTISE OF EDUCATION AUTHORITIES AND IT IS THE POLICY OF THE
2 GENERAL ASSEMBLY THAT THIS ACT SHALL NOT INTERFERE WITH THE
3 NEIGHBORHOOD SCHOOL SYSTEM OR WITH THE AUTHORITY OF EDUCATION
4 OFFICIALS TO PROVIDE FOR THE ASSIGNMENT OF PUPILS TO PUBLIC
5 SCHOOLS UNLESS SUCH ASSIGNMENT IS NECESSARY TO REMEDY A
6 VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE 14TH AMENDMENT
7 TO THE CONSTITUTION OF THE UNITED STATES.

8 (B) NEITHER THE PENNSYLVANIA HUMAN RELATIONS COMMISSION NOR
9 ANY LOCAL HUMAN RELATIONS COMMISSION NOR ANY COURT, AS PART OF
10 ITS REVIEW OF ANY COMMISSION OR LOCAL COMMISSION ACTION OR ANY
11 COMPLAINT FILED PURSUANT TO THIS ACT, SHALL IMPOSE, UPON THE
12 COMMONWEALTH, ANY SCHOOL DISTRICT OR OTHER SCHOOL ENTITY, OR ANY
13 GOVERNING BODY, OFFICER OR EMPLOYEE OF ANY OF THE FOREGOING, ANY
14 REQUIREMENT THAT PUPILS BE ASSIGNED TO ATTEND ANY PUBLIC SCHOOL
15 OTHER THAN THE SCHOOL OF APPROPRIATE GRADE LEVEL THAT THE PUPIL
16 QUALIFIES TO ATTEND CLOSEST TO THE STUDENT'S HOME AND SHALL NOT
17 IMPOSE ANY OTHER OBLIGATION OR RESPONSIBILITY WITH RESPECT TO
18 PUPIL SCHOOL ASSIGNMENT OR PUPIL TRANSPORTATION RELATED TO PUPIL
19 ASSIGNMENT UNLESS:

20 (1) IMPOSING THAT REQUIREMENT, OBLIGATION OR RESPONSIBILITY
21 UPON SUCH PARTY IS NECESSARY TO REMEDY A SPECIFIC VIOLATION BY
22 SUCH PARTY THAT WOULD ALSO CONSTITUTE A VIOLATION OF THE EQUAL
23 PROTECTION CLAUSE OF THE 14TH AMENDMENT TO THE CONSTITUTION OF
24 THE UNITED STATES; AND

25 (2) A COURT WOULD BE PERMITTED UNDER DECISIONAL LAW TO
26 IMPOSE THAT REQUIREMENT, OBLIGATION OR RESPONSIBILITY UPON SUCH
27 PARTY TO REMEDY THE SPECIFIC VIOLATION OF THE EQUAL PROTECTION
28 CLAUSE OF THE 14TH AMENDMENT TO THE CONSTITUTION OF THE UNITED
29 STATES.

30 (C) NOTHING IN THIS SECTION SHALL PROHIBIT A SCHOOL DISTRICT

1 FROM VOLUNTARILY CONTINUING OR COMMENCING A SCHOOL INTEGRATION
2 PLAN WITHIN ITS TERRITORIAL JURISDICTION OR FROM ASSIGNING
3 PUPILS FOR ANY APPROPRIATE REASON WITHIN THE SCOPE OF ITS
4 AUTHORITY UNDER THE ACT OF MARCH 10, 1949 (P.L.30, NO.14), KNOWN
5 AS THE "PUBLIC SCHOOL CODE OF 1949," OR THE ACT OF AUGUST 9,
6 1963 (P.L.643, NO.341), KNOWN AS THE "FIRST CLASS CITY PUBLIC
7 EDUCATION HOME RULE ACT," INCLUDING, BUT NOT LIMITED TO, THE
8 ASSIGNMENT OF PUPILS WHO REQUEST ENGLISH AS A SECOND LANGUAGE TO
9 A SCHOOL OTHER THAN THE SCHOOL CLOSEST TO THE PUPIL'S HOME, IF
10 SUCH INSTRUCTION IS UNAVAILABLE AT THE CLOSEST SCHOOL.

11 SECTION 3. SECTION 8.2 OF THE ACT SHALL NOT DIMINISH OR
12 ENLARGE ANY POWERS OR DUTIES CONFERRED BY THE ACT OF MARCH 10,
13 1949 (P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949,
14 OR THE ACT OF AUGUST 9, 1963 (P.L.643, NO.341), KNOWN AS THE
15 FIRST CLASS CITY PUBLIC EDUCATION HOME RULE ACT.

16 SECTION 4. SECTION 8.2 OF THE ACT SHALL APPLY TO ALL MATTERS
17 PENDING BEFORE THE PENNSYLVANIA HUMAN RELATIONS COMMISSION OR
18 BEFORE ANY COURT ON THE EFFECTIVE DATE OF THIS ACT.

19 Section 5. This act shall take effect immediately.

<—