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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1742

Session of  
1981

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INTRODUCED BY MANDERINO, GREENFIELD, PIEVSKY, KUKOVICH,  
BELFANTI, COHEN, GRUITZA, PISTELLA, MICHLOVIC, STEWART,  
CLARK, WOZNIAK AND WHITE, JULY 1, 1981

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REFERRED TO COMMITTEE ON LABOR RELATIONS, JULY 1, 1981

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AN ACT

1 Protecting employees from unjust dismissal, providing for  
2 mediation and arbitration proceedings and providing legal  
3 remedies.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the "Unjust  
8 Dismissal Act."

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have, unless the context clearly indicates otherwise, the  
12 meanings given to them in this section:

13 "Bureau." The Bureau of Mediation of the Department of Labor  
14 and Industry.

15 "Dismissal." An involuntary discharge from employment,  
16 including a resignation or voluntary quit resulting from an  
17 improper or unreasonable action or inaction of the employer.

18 "Employee." A person who performs a service for wages or

1 other remuneration under a contract of hire, written or oral,  
2 express or implied. Employee does not include those protected by  
3 a collective bargaining agreement or those protected by civil  
4 service or tenure against unjust discharge, or a person who has  
5 a written employment contract of not less than two years and  
6 whose contract requires not less than six months' notice of  
7 termination.

8 "Employer." A person who has one or more employees,  
9 including an agent of an employer.

10 "Registered mail." Includes certified mail.

11 Section 3. Dismissal of employees.

12 (a) Grounds.--An employer may not discharge an employee  
13 except for just cause.

14 (b) Notice.--An employer who discharges an employee shall  
15 notify the employee orally at the time of discharge and in  
16 writing by registered mail within 15 calendar days after the  
17 discharge, of all reasons for the discharge.

18 Section 4. Complaints of unjust dismissal.

19 (a) Time for filing.--An employee who believes that he or  
20 she has been discharged in violation of section 3(a) may file by  
21 registered mail a written complaint with the Bureau of  
22 Mediation, not later than 30 days after receipt of the  
23 employer's written notification of discharge as provided in  
24 section 3(b).

25 (b) Time when notice requirement not met.--If an employer  
26 fails to provide the discharged employee with written  
27 notification of his or her discharge and the reason for same,  
28 the discharged employee may file by registered mail a written  
29 complaint, as described above, with the bureau not later than 45  
30 calendar days after the discharge.

1 Section 5. Mediation.

2 (a) Appointment of mediator.--Upon receipt of a complaint  
3 from a discharged employee, the bureau shall appoint a mediator  
4 to assist the employer and the discharged employee in attempting  
5 to resolve the dispute.

6 (b) Explanation of arbitration option.--If the dispute is  
7 not resolved within 30 calendar days after the commencement of  
8 mediation, the mediator shall explain to the employer and  
9 employee, the process and purpose of final and binding  
10 arbitration.

11 Section 6. Arbitration proceedings.

12 (a) Request for arbitration.--After the option of  
13 arbitration is made available to the discharged employee, the  
14 employee may request a continuance of mediation of he or she  
15 believes that a mutual resolution of the dispute is possible. If  
16 a mutual resolution is not likely, the discharged employee may  
17 file by registered mail a written request with the bureau for  
18 arbitration of the dispute.

19 (b) Hearing.--Within 60 calendar days after his or her  
20 appointment, or within further additional periods to which the  
21 parties may agree, the arbitrator shall call a final hearing and  
22 shall give reasonable notice of the time and place of the  
23 hearing to the employer and the employee.

24 Section 7. Decision of arbitrator.

25 (a) Time of decision.--Within 30 calendar days after the  
26 close of the hearing, or within further additional periods to  
27 which the parties may agree, the arbitrator based upon the  
28 issues presented to him or her, shall render a signed opinion  
29 and award. The arbitrator shall deliver by registered mail a  
30 copy of the opinion and award to the employer, the employee and

1 the bureau.

2 (b) Remedies.--The remedies from which the arbitrator may  
3 select include, but are not limited to, the following:

4 (1) Sustaining the discharge.

5 (2) Reinstating the employee with no, partial or full  
6 back pay.

7 (3) A severance payment.

8 (c) Settlement.--If the employer and the employee settle  
9 their dispute during the course of the arbitration proceeding,  
10 the arbitrator, upon their request, may set forth the terms of  
11 the settlement in the award.

#### 12 Section 8. Effect of award.

13 An award of the arbitrator shall be final and binding upon  
14 the employer and the employee and may be enforced, at the  
15 instance of either the employer or the employee, in the court of  
16 common pleas for the county in which the dispute arose or in  
17 which the employee resides.

#### 18 Section 9. Judicial review.

19 The court of common pleas for the county in which the dispute  
20 arose or in which the employee resides may review an award of  
21 the arbitrator, but only for the reason that the arbitrator was  
22 without or exceeded his jurisdiction, or the award was procured  
23 by fraud, collusion or other similar and unlawful means. The  
24 pendency of a proceeding for review shall not stay automatically  
25 the award of the arbitrator.

#### 26 Section 10. Contempt.

27 Any employer or employee willfully disobeying a lawful order  
28 of enforcement issued by the court, may be held in contempt. The  
29 punishment for each day that said contempt shall be a fine not  
30 to exceed \$250 per day.

1 Section 11. Construction of act.

2 This act shall not supersede an employer's grievance  
3 procedure that provides for impartial and final and binding  
4 arbitration of discharge-related grievances. Upon the request of  
5 an employer or employee, the bureau shall determine whether or  
6 not an employer's grievance procedure meets this standard.

7 Section 12. Posting copy of act.

8 An employer shall post a copy of this act in a prominent  
9 place in the work area.

10 Section 13. Effective date.

11 This act shall take effect immediately.