

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1689 Session of
1995

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

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 26, 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 DEFINITIONS, FOR <—
12 DISCRIMINATION AND for educational programs; and restricting
13 the Pennsylvania Human Relations Commission and certain other
14 government involvement in pupil school assignment.

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

17 Section 1. ~~Section~~ SECTIONS 4(W), 5(H)(9) AND 8 of the act <—
18 of October 27, 1955 (P.L.744, No.222), known as the Pennsylvania
19 Human Relations Act, amended December 20, 1991 (P.L.414, No.51),
20 ~~is~~ ARE amended to read: <—

21 SECTION 4. DEFINITIONS.--AS USED IN THIS ACT UNLESS A <—
22 DIFFERENT MEANING CLEARLY APPEARS FROM THE CONTEXT:

23 * * *

1 (W) (1) THE TERM "HOUSING FOR OLDER PERSONS" MEANS HOUSING:
2 (I) PROVIDED UNDER ANY FEDERAL OR STATE PROGRAM THAT THE
3 PENNSYLVANIA HUMAN RELATIONS COMMISSION DETERMINES IS
4 SPECIFICALLY DESIGNED AND OPERATED TO ASSIST ELDERLY PERSONS AS
5 DEFINED IN THE FEDERAL OR STATE PROGRAM;
6 (II) IS INTENDED FOR AND SOLELY OCCUPIED BY PERSONS SIXTY-
7 TWO YEARS OF AGE OR OLDER; OR
8 (III) IS INTENDED AND OPERATED FOR OCCUPANCY BY AT LEAST ONE
9 PERSON FIFTY-FIVE YEARS OF AGE OR OLDER PER UNIT.
10 (2) IN DETERMINING WHETHER HOUSING QUALIFIES AS HOUSING FOR
11 OLDER PERSONS UNDER THIS CLAUSE, THE PENNSYLVANIA HUMAN
12 RELATIONS COMMISSION'S REQUIREMENTS SHALL INCLUDE, BUT NOT BE
13 LIMITED TO, THE FOLLOWING:
14 [(I) THE EXISTENCE OF SIGNIFICANT FACILITIES AND SERVICES
15 SPECIFICALLY DESIGNED TO MEET THE PHYSICAL OR SOCIAL NEEDS OF
16 OLDER PERSONS, OR IF THE PROVISION OF SUCH FACILITIES AND
17 SERVICES IS NOT PRACTICABLE, THAT SUCH HOUSING IS NECESSARY TO
18 PROVIDE IMPORTANT HOUSING OPPORTUNITIES FOR OLDER PERSONS;]
19 (II) [THAT AT] AT LEAST EIGHTY PERCENT OF THE UNITS ARE
20 OCCUPIED BY AT LEAST ONE PERSON FIFTY-FIVE YEARS OF AGE OR OLDER
21 PER UNIT[; AND].
22 (III) [THE] THERE IS PUBLICATION OF, AND ADHERENCE TO,
23 POLICIES AND PROCEDURES WHICH DEMONSTRATE AN INTENT BY THE OWNER
24 OR MANAGER TO PROVIDE HOUSING FOR PERSONS FIFTY-FIVE YEARS OF
25 AGE OR OLDER.
26 (IV) THE HOUSING COMPLIES WITH REGULATIONS PROMULGATED BY
27 THE PENNSYLVANIA HUMAN RELATIONS COMMISSION FOR VERIFICATION OF
28 OCCUPANCY. REGULATIONS UNDER THIS PARAGRAPH SHALL DO ALL OF THE
29 FOLLOWING:
30 (A) PROVIDE FOR VERIFICATION BY RELIABLE SURVEYS AND

1 AFFIDAVITS. SURVEYS AND AFFIDAVITS UNDER THIS SUBPARAGRAPH SHALL
2 BE ADMISSIBLE IN ADMINISTRATIVE AND JUDICIAL PROCEEDINGS FOR THE
3 PURPOSE OF VERIFICATION UNDER THIS PARAGRAPH.

4 (B) INCLUDE EXAMPLES OF THE TYPES OF POLICIES AND PROCEDURES
5 RELEVANT TO A DETERMINATION OF COMPLIANCE WITH THE REQUIREMENT
6 OF PARAGRAPH (III).

7 (3) HOUSING SHALL NOT FAIL TO MEET THE REQUIREMENTS FOR
8 HOUSING FOR OLDER PERSONS BY REASON OF UNOCCUPIED UNITS PROVIDED
9 THAT SUCH UNITS ARE RESERVED FOR OCCUPANCY BY PERSONS WHO MEET
10 THE AGE REQUIREMENTS OF THIS CLAUSE.

11 * * *

12 SECTION 5. UNLAWFUL DISCRIMINATORY PRACTICES.--IT SHALL BE
13 AN UNLAWFUL DISCRIMINATORY PRACTICE, UNLESS BASED UPON A BONA
14 FIDE OCCUPATIONAL QUALIFICATION, OR IN THE CASE OF A FRATERNAL
15 CORPORATION OR ASSOCIATION, UNLESS BASED UPON MEMBERSHIP IN SUCH
16 ASSOCIATION OR CORPORATION, OR EXCEPT WHERE BASED UPON
17 APPLICABLE SECURITY REGULATIONS ESTABLISHED BY THE UNITED STATES
18 OR THE COMMONWEALTH OF PENNSYLVANIA:

19 * * *

20 (H) FOR ANY PERSON TO:

21 * * *

22 (9) NOTHING IN THIS CLAUSE, REGARDING AGE OR FAMILIAL
23 STATUS, SHALL APPLY WITH RESPECT TO HOUSING FOR OLDER PERSONS. A
24 PERSON SHALL NOT BE HELD PERSONALLY LIABLE FOR MONETARY DAMAGES
25 FOR A VIOLATION OF THIS ACT IF THE PERSON REASONABLY RELIED, IN
26 GOOD FAITH, ON THE APPLICATION OF THE EXEMPTION OF THIS
27 SUBCLAUSE. A PERSON MAY ONLY PROVE GOOD FAITH RELIANCE ON THE
28 APPLICATION OF THE EXEMPTION OF THIS SUBCLAUSE BY PROVING THAT,
29 AT THE TIME OF THE ACT COMPLAINED OF, ALL OF THE FOLLOWING
30 APPLIED:

1 (I) THE PERSON HAD NO ACTUAL KNOWLEDGE THAT THE HOUSING WAS
2 NOT ELIGIBLE FOR EXEMPTION UNDER THIS SUBCLAUSE.

3 (II) THE OWNER OR MANAGER OF THE HOUSING HAD STATED
4 FORMALLY, IN WRITING, THAT THE HOUSING COMPLIED WITH THE
5 REQUIREMENTS FOR EXEMPTION UNDER THIS SUBCLAUSE.

6 * * *

7 Section 8. Educational Program.--

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

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

20 Section 8.2. Restriction on Commission Authority Over Pupil
21 School Assignment.--(a) It is the finding of the General
22 Assembly that the neighborhood school is the cornerstone of
23 Pennsylvania's education policy on the assignment of pupils to
24 public schools and that the assignment of pupils to public
25 schools is a matter that falls within the special competence and
26 expertise of education authorities and it is the policy of the
27 General Assembly that this act shall not interfere with the
28 neighborhood school system or with the authority of education
29 officials to provide for the assignment of pupils to public
30 schools unless such assignment is necessary to remedy a

violation of the Equal Protection Clause of the 14th Amendment to the Constitution of the United States.

(b) Neither the Pennsylvania Human Relations Commission nor any local human relations commission nor any court, as part of its review of any commission or local commission action or any complaint filed pursuant to this act, shall impose, upon the Commonwealth, any school district or other school entity, or any governing body, officer or employe of any of the foregoing, any requirement that pupils be assigned to attend any public school other than the school of appropriate grade level that the pupil qualifies to attend closest to the student's home and shall not impose any other obligation or responsibility with respect to pupil school assignment or pupil transportation related to pupil assignment unless:

(1) imposing that requirement, obligation or responsibility upon such party is necessary to remedy a specific violation by such party that would also constitute a violation of the Equal Protection Clause of the 14th Amendment to the Constitution of the United States; and

(2) a court would be permitted under decisional law to impose that requirement, obligation or responsibility upon such party to remedy the specific violation of the Equal Protection Clause of the 14th Amendment to the Constitution of the United States.

(c) Nothing in this section shall prohibit a school district from voluntarily continuing or commencing a school integration plan within its territorial jurisdiction or from assigning pupils for any appropriate reason within the scope of its authority under the act of March 10, 1949 (P.L.30, No.14), known as the "Public School Code of 1949," or the act of August 9,

1 1963 (P.L.643, No.341), known as the "First Class City Public
2 Education Home Rule Act," including, but not limited to, the
3 assignment of pupils who request English as a second language to
4 a school other than the school closest to the pupil's home, if
5 such instruction is unavailable at the closest school.

6 Section 3. Section 8.2 of the act shall not diminish or
7 enlarge any powers or duties conferred by the act of March 10,
8 1949 (P.L.30, No.14), known as the Public School Code of 1949,
9 or the act of August 9, 1963 (P.L.643, No.341), known as the
10 First Class City Public Education Home Rule Act.

11 Section 4. Section 8.2 of the act shall apply to all matters
12 pending before the Pennsylvania Human Relations Commission or
13 before any court on the effective date of this act.

14 Section 5. This act shall take effect immediately.