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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1316 Session of  
2015

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INTRODUCED BY BROWNE, JUNE 21, 2016

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REFERRED TO STATE GOVERNMENT, JUNE 21, 2016

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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 title of the act, for  
12 findings and declaration of policy, for right to freedom from  
13 discrimination in employment, and housing and public  
14 accommodation, for definitions and for unlawful  
15 discriminatory practices; providing for protection of  
16 religious exercise; and further providing for powers and  
17 duties of commission, for educational program and for  
18 construction and exclusiveness of remedy.

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

21 Section 1. The title and sections 2 and 3 of the act of  
22 October 27, 1955 (P.L.744, No.222), known as the Pennsylvania  
23 Human Relations Act, amended December 20, 1991 (P.L.414, No.51),  
24 are amended to read:

25 AN ACT

26 Prohibiting certain practices of discrimination because of race,

1 color, religious creed, ancestry, sex, sexual orientation,  
2 gender identity or expression, age or national origin by  
3 employers, employment agencies, labor organizations and  
4 others as herein defined; creating the Pennsylvania Human  
5 Relations Commission in the Governor's Office; defining its  
6 functions, powers and duties; providing for procedure and  
7 enforcement; providing for formulation of an educational  
8 program to prevent prejudice; providing for judicial review  
9 and enforcement and imposing penalties.

10 Section 2. Findings and Declaration of Policy.--

11 (a) The practice or policy of discrimination against  
12 individuals or groups by reason of their race, color, familial  
13 status, religious creed, ancestry, age, sex, sexual orientation,  
14 gender identity or expression, national origin, handicap or  
15 disability, use of guide or support animals because of the  
16 blindness, deafness or physical handicap of the user or because  
17 the user is a handler or trainer of support or guide animals is  
18 a matter of concern of the Commonwealth. Such discrimination  
19 foments domestic strife and unrest, threatens the rights and  
20 privileges of the inhabitants of the Commonwealth, and  
21 undermines the foundations of a free democratic state. The  
22 denial of equal employment, housing and public accommodation  
23 opportunities because of such discrimination, and the consequent  
24 failure to utilize the productive capacities of individuals to  
25 their fullest extent, deprives large segments of the population  
26 of the Commonwealth of earnings necessary to maintain decent  
27 standards of living, necessitates their resort to public relief  
28 and intensifies group conflicts, thereby resulting in grave  
29 injury to the public health and welfare, compels many  
30 individuals to live in dwellings which are substandard,

1 unhealthy and overcrowded, resulting in racial segregation in  
2 public schools and other community facilities, juvenile  
3 delinquency and other evils, thereby threatening the peace,  
4 health, safety and general welfare of the Commonwealth and its  
5 inhabitants. Public policies, reflecting an open and welcoming  
6 environment and ensuring equal opportunity, foster economic  
7 growth and prosperity which benefit the inhabitants of this  
8 Commonwealth. Conversely, the absence of nondiscrimination  
9 protections hinder efforts to recruit and retain the diversity  
10 of talented individuals and successful enterprises required for  
11 a thriving economy and strong public sector on which the  
12 inhabitants of this Commonwealth depend.

13 (b) It is hereby declared to be the public policy of this  
14 Commonwealth [to]:

15 (1) To foster the employment of all individuals in  
16 accordance with their fullest capacities regardless of their  
17 race, color, religious creed, ancestry, age, sex, national  
18 origin, handicap or disability, use of guide or support animals  
19 because of the blindness, deafness or physical handicap of the  
20 user or because the user is a handler or trainer of support or  
21 guide animals, and to safeguard their right to obtain and hold  
22 employment without such discrimination[, to].

23 (2) To assure equal opportunities to all individuals and to  
24 safeguard their rights to public accommodation [and to secure  
25 housing accommodation and commercial property] regardless of  
26 race, color, familial status, religious creed, ancestry, age,  
27 sex, sexual orientation, gender identity or expression, national  
28 origin, handicap or disability, use of guide or support animals  
29 because of blindness or deafness of the user or because the user  
30 is a handler or trainer of guide or support animals.

1     (3) To assure equal opportunities to all individuals and to  
2 safeguard their rights to secure housing accommodation and  
3 commercial property regardless of race, color, familial status,  
4 religious creed, ancestry, age, sex, national origin, handicap  
5 or disability, use of guide or support animals because of  
6 blindness or deafness of the user or because the user is a  
7 handler or trainer of guide or support animals.

8     (c) This act shall be deemed an exercise of the police power  
9 of the Commonwealth for the protection of the public welfare,  
10 prosperity, health and peace of the people of the Commonwealth  
11 of Pennsylvania.

12     Section 3. Right to Freedom from Discrimination in  
13 Employment[, Housing and Public Accommodation].--The opportunity  
14 for an individual to obtain employment for which he is  
15 qualified[, and to obtain all the accommodations, advantages,  
16 facilities and privileges of any public accommodation and of any  
17 housing accommodation and commercial property] without  
18 discrimination because of race, color, familial status,  
19 religious creed, ancestry, handicap or disability, age, sex,  
20 national origin, the use of a guide or support animal because of  
21 the blindness, deafness or physical handicap of the user or  
22 because the user is a handler or trainer of support or guide  
23 animals is hereby recognized as and declared to be a civil right  
24 which shall be enforceable as set forth in this act.

25     Section 2. The act is amended by adding sections to read:

26     Section 3.1. Right to Freedom from Discrimination in  
27 Housing.--The opportunity for an individual to obtain all the  
28 accommodations, advantages, facilities and privileges of any  
29 housing accommodation and commercial property without  
30 discrimination because of race, color, familial status,

1 religious creed, ancestry, handicap or disability, age, sex,  
2 national origin, the use of a guide or support animal because of  
3 the blindness, deafness or physical handicap of the user or  
4 because the user is a handler or trainer of support or guide  
5 animals is hereby recognized as and declared to be a civil right  
6 which shall be enforceable as set forth in this act.

7 Section 3.2. Right to Freedom from Discrimination in Public  
8 Accommodation.--The opportunity for an individual to obtain all  
9 the accommodations, advantages, facilities and privileges of any  
10 public accommodation without discrimination because of race,  
11 color, familial status, religious creed, ancestry, handicap or  
12 disability, age, sex, sexual orientation, gender identity or  
13 expression, national origin, the use of a guide or support  
14 animal because of the blindness, deafness or physical handicap  
15 of the user or because the user is a handler or trainer of  
16 support or guide animals is hereby recognized as and declared to  
17 be a civil right which shall be enforceable as set forth in this  
18 act.

19 Section 3. Section 4 of the act is amended by adding  
20 subsections to read:

21 Section 4. Definitions.--As used in this act unless a  
22 different meaning clearly appears from the context:

23 \* \* \*

24 (bb) The term "sexual orientation" means heterosexuality,  
25 homosexuality or bisexuality.

26 (cc) The term "gender identity or expression" means the  
27 gender-related identity, appearance, mannerisms, expression or  
28 other gender-related characteristics of an individual regardless  
29 of the individual's designated sex at birth.

30 Section 4. Section 5(i) of the act, amended December 20,

1 1991 (P.L.414, No.51), is amended to read:

2 Section 5. Unlawful Discriminatory Practices.--It shall be  
3 an unlawful discriminatory practice, unless based upon a bona  
4 fide occupational qualification, or in the case of a fraternal  
5 corporation or association, unless based upon membership in such  
6 association or corporation, or except where based upon  
7 applicable security regulations established by the United States  
8 or the Commonwealth of Pennsylvania:

9 \* \* \*

10 (i) For any person being the owner, lessee, proprietor,  
11 manager, superintendent, agent or employe of any public  
12 accommodation, resort or amusement to:

13 (1) Refuse, withhold from, or deny to any person because of  
14 [his] race, color, sex, sexual orientation, gender identity or  
15 expression, religious creed, ancestry, national origin or  
16 handicap or disability, or to any person due to use of a guide  
17 or support animal because of the blindness, deafness or physical  
18 handicap of the user or because the user is a handler or trainer  
19 of support or guide animals, either directly or indirectly, any  
20 of the accommodations, advantages, facilities or privileges of  
21 such public accommodation, resort or amusement.

22 (2) Publish, circulate, issue, display, post or mail, either  
23 directly or indirectly, any written or printed communication,  
24 notice or advertisement to the effect that any of the  
25 accommodations, advantages, facilities and privileges of any  
26 such place shall be refused, withheld from or denied to any  
27 person on account of race, color, religious creed, sex, sexual  
28 orientation, gender identity or expression, ancestry, national  
29 origin or handicap or disability, or to any person due to use of  
30 a guide or support animal because of the blindness, deafness or

1 physical handicap of the user, or because the user is a handler  
2 or trainer of support or guide animals, or that the patronage or  
3 custom thereof of any person[, belonging to or purporting to be  
4 of any particular] because of race, color, religious creed, sex,  
5 sexual orientation, gender identity or expression, ancestry,  
6 national origin or handicap or disability, or to any person due  
7 to use of a guide or support animal because of the blindness,  
8 deafness or physical handicap of the user or because the user is  
9 a handler or trainer of support or guide animals, is unwelcome,  
10 objectionable or not acceptable, desired or solicited.

11 (3) Exclude or otherwise deny equal goods, services,  
12 facilities, privileges, advantages, accommodations or other  
13 opportunities to a person because of the handicap or disability  
14 of an individual with whom the person is known to have a  
15 relationship or association.

16 (4) Construct, operate or otherwise make available such  
17 place of public accommodation, resort or amusement which is not  
18 accessible.

19 \* \* \*

20 Section 5. The act is amended by adding a section to read:

21 Section 5.4. Protection of Religious Exercise.--(a) Nothing  
22 contained in this act, or in any ordinance, charter, law or  
23 regulation that is or has been adopted by any political  
24 subdivision in this Commonwealth in accordance with this act,  
25 shall be interpreted to:

26 (1) Prohibit any religious entity from determining the  
27 tenets of its faith, or from expressing those tenets, if such  
28 prohibition would violate the freedom of speech or free exercise  
29 of religion guaranteed to the religious entity by the  
30 Constitution of the United States or the Constitution of

1 Pennsylvania.

2 (2) Require any individual or religious entity to engage in  
3 conduct prohibited by or inconsistent with the tenets of its  
4 faith, if such requirement would violate the free exercise of  
5 religion guaranteed to the individual or religious entity by the  
6 Constitution of the United States or the Constitution of  
7 Pennsylvania.

8 (b) As used in this section, the term "religious entity"  
9 means any religious or denominational institution or  
10 organization or any charitable or educational organization which  
11 is operated, supervised or controlled by or in connection with a  
12 religious organization.

13 Section 6. Section 7(i), (j) and (k) of the act, amended  
14 December 20, 1991 (P.L.414, No.51), are amended to read:

15 Section 7. Powers and Duties of the Commission.--The  
16 Commission shall have the following powers and duties:

17 \* \* \*

18 (i) To create such advisory agencies and conciliation  
19 councils, local or state-wide, as will aid in effectuating the  
20 purposes of this act. The Commission may itself or it may  
21 empower these agencies and councils to (1) study the problems of  
22 discrimination in all or specific fields of human relationships  
23 when based on race, color, familial status, religious creed,  
24 ancestry, age, sex, sexual orientation, gender identity or  
25 expression, national origin or handicap or disability, and (2)  
26 foster, through community effort or otherwise, good will among  
27 the groups and elements of the population of the State. Such  
28 agencies and councils may make recommendations to the Commission  
29 for the development of policies and procedure in general.  
30 Advisory agencies and conciliation councils created by the



1 Commission shall be composed of representative citizens, serving  
2 without pay, but the Commission may make provision for technical  
3 and clerical assistance to such agencies and councils, and for  
4 the payment of the expenses of such assistance.

5 (j) To issue such publications and such results of  
6 investigations and research as, in its judgment, will tend to  
7 promote good will and minimize or eliminate discrimination  
8 because of race, color, familial status, religious creed,  
9 ancestry, age, sex, sexual orientation, gender identity or  
10 expression, national origin or handicap or disability.

11 (k) To submit an annual report for each fiscal year by the  
12 following March 31 to the General Assembly, the Labor and  
13 Industry Committee of the Senate and the State Government  
14 Committee of the House of Representatives and the Governor  
15 describing in detail the types of complaints received, the  
16 investigations, status of cases, Commission action which has  
17 been taken, how many were found to have probable cause, how many  
18 were resolved by public hearing and the length of time from the  
19 initial complaint to final Commission resolution. It shall also  
20 contain recommendations for such further legislation concerning  
21 abuses and discrimination because of race, color, familial  
22 status, religious creed, ancestry, national origin, age, sex,  
23 sexual orientation, gender identity or expression, handicap or  
24 disability or the use of a guide or support animal because of  
25 the blindness, deafness or physical handicap of the user or  
26 because the user is a handler or trainer of support or guide  
27 animals, as may be desirable.

28 \* \* \*

29 Section 7. Section 8 of the act, amended July 12, 1996  
30 (P.L.684, No.117), is amended to read:

1 Section 8. Educational Program.--The Commission, in  
2 cooperation with the Department of Education, is authorized to  
3 recommend a multicultural educational program, designed for the  
4 students of the schools in this Commonwealth and for all other  
5 residents thereof, with emphasis on foreign cultural and  
6 language studies, as well as on the basic shared precepts and  
7 principles of United States culture, in order to promote  
8 cultural understanding and appreciation and to further good will  
9 among all persons, without regard to race, color, familial  
10 status, religious creed, ancestry, age, sex, sexual orientation,  
11 gender identity or expression, national origin, handicap or  
12 disability.

13 Section 8. Section 12(b) of the act, amended December 20,  
14 1991 (P.L.414, No.51), is amended to read:

15 Section 12. Construction and Exclusiveness of Remedy.--

16 \* \* \*

17 (b) Except as provided in subsection (c), nothing contained  
18 in this act shall be deemed to repeal or supersede any of the  
19 provisions of any existing or hereafter adopted municipal  
20 ordinance, municipal charter or of any law of this Commonwealth  
21 relating to discrimination because of race, color, familial  
22 status, religious creed, ancestry, age, sex, sexual orientation,  
23 gender identity or expression, national origin or handicap or  
24 disability, but as to acts declared unlawful by section five of  
25 this act the procedure herein provided shall, when invoked, be  
26 exclusive and the final determination therein shall exclude any  
27 other action, civil or criminal, based on the same grievance of  
28 the complainant concerned. If the complainant institutes any  
29 action based on such grievance without resorting to the  
30 procedure provided in this act, such complainant may not

1 subsequently resort to the procedure herein. In the event of a  
2 conflict between the interpretation of a provision of this act  
3 and the interpretation of a similar provision contained in any  
4 municipal ordinance, the interpretation of the provision in this  
5 act shall apply to such municipal ordinance.

6 \* \* \*

7 Section 9. This act shall take effect in 30 days.