

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

**HOUSE BILL**  
**No. 2154** Session of  
1991

---

INTRODUCED BY VEON, DeWEESE, COHEN, KUKOVICH, KOSINSKI,  
MIHALICH, TRELLO, GIGLIOTTI, SALOOM, KRUSZEWSKI, FEE,  
LAUGHLIN, BILLOW, ACOSTA, LEVDANSKY, BROUJOS AND BELARDI,  
NOVEMBER 13, 1991

---

REFERRED TO COMMITTEE ON LABOR RELATIONS, NOVEMBER 13, 1991

---

AN ACT

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

4 TABLE OF CONTENTS

- 5 Section 1. Short title.
- 6 Section 2. Legislative findings and purpose.
- 7 Section 3. Definitions.
- 8 Section 4. Dismissal of employees.
- 9 Section 5. Complaints of unjust dismissal.
- 10 Section 6. Mediation.
- 11 Section 7. Arbitration proceedings.
- 12 Section 8. Decision of arbitrator.
- 13 Section 9. Effect of award.
- 14 Section 10. Cost of mediation and arbitration.
- 15 Section 11. Judicial review.
- 16 Section 12. Contempt.
- 17 Section 13. Construction of act.

1 Section 14. Posting copy of act.

2 Section 15. Effective date.

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

5 Section 1. Short title.

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

8 Section 2. Legislative findings and purpose.

9 In recent years it has become a well established principle in  
10 Pennsylvania case law that employers do not have an absolute  
11 right to terminate employees when the cause for dismissal arises  
12 from issues dealing with public health and safety or matters of  
13 public policy. The right of an employee to be protected from  
14 unjust dismissal has, therefore, been significantly advanced.  
15 The purpose of this law is to further establish these employee  
16 rights and to advance them to the point that all employees would  
17 have a process to seek redress when they have been dismissed  
18 from employment for any reason other than just cause.

19 Section 3. Definitions.

20 The following words and phrases when used in this act shall  
21 have the meanings given to them in this section unless the  
22 context clearly indicates otherwise:

23 "Bureau." The Bureau of Mediation of the Department of Labor  
24 and Industry.

25 "Dismiss," "dismisses" or "dismissed." Derivatives of  
26 "dismissal."

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

30 This term and its derivatives shall not be construed to include

1   layoff or any other type of temporary dismissal.

2       "Employee."   A person who performs a service for wages or  
3   other remuneration under a contract of hire, written or oral,  
4   express or implied. The term does not include persons protected  
5   by a collective bargaining agreement or individuals protected by  
6   civil service or tenure against unjust dismissal or a person who  
7   has a written employment contract of not less than two years and  
8   whose contract requires not less than six months' notice of  
9   termination.

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

12       "Registered mail."   Includes certified mail.

13   Section 4.   Dismissal of employees.

14       (a)   Grounds.--An employer may not dismiss an employee except  
15   for just cause.

16       (b)   Notice.--An employer who dismisses an employee shall  
17   notify the employee orally at the time of dismissal and in  
18   writing by registered mail within 15 calendar days after the  
19   dismissal of all reasons for the dismissal. The written notice  
20   shall set forth the employee's rights and the procedural time  
21   limitations prescribed by this act.

22   Section 5.   Complaints of unjust dismissal.

23       (a)   Form.--The complaint may be in narrative form or in  
24   numbered paragraph form. It shall set forth the name and address  
25   of the employer and employee, the date of dismissal and a  
26   statement by the employee of the issues. If the employee has  
27   been provided with a written dismissal notice, the notice may be  
28   attached to the complaint.

29       (b)   Time for filing.--An employee who believes that he or  
30   she has been dismissed in violation of section 4(a) may file by

1 registered mail a written complaint with the bureau not later  
2 than 30 days after receipt of the employer's written  
3 notification of dismissal as provided in section 4(b).

4 (c) Time when notice requirement not met.--If an employer  
5 fails to provide the dismissed employee with written  
6 notification of the dismissal and the reason for the action, the  
7 dismissed employee may file by registered mail a written  
8 complaint, with the bureau not later than 45 calendar days after  
9 the date of the oral notification of dismissal.

#### 10 Section 6. Mediation.

11 (a) Appointment of mediator.--Upon receipt of a complaint  
12 from a dismissed employee, the bureau shall appoint a mediator  
13 to assist the employer and the dismissed employee in attempting  
14 to resolve the dispute.

15 (b) Explanation of arbitration option.--If the dispute is  
16 not resolved within 30 calendar days after the commencement of  
17 mediation, the mediator shall explain to the employer and  
18 employee the process and purpose of final and binding  
19 arbitration.

#### 20 Section 7. Arbitration proceedings.

21 (a) Request for arbitration.--

22 (1) After the option of arbitration is made available to  
23 the dismissed employee, the employee or employer may request  
24 a continuance of mediation if either the employee or the  
25 employer believes that a mutual resolution of the dispute is  
26 possible. If a mutual resolution is not likely, the dismissed  
27 employee or the employer may file by registered mail a  
28 written request with the bureau for arbitration of the  
29 dispute.

30 (2) If continued mediation breaks down and mutual

1 resolution becomes impossible, either party may request  
2 arbitration in the manner provided for in paragraph (1).

3 (b) Hearing.--Within 60 calendar days after the appointment  
4 of an arbitrator, or within further additional periods to which  
5 the parties may agree, the arbitrator shall call a final hearing  
6 and shall give reasonable notice of the time and place of the  
7 hearing to the employer and the employee.

#### 8 Section 8. Decision of arbitrator.

9 (a) Time of decision.--Within 30 calendar days after the  
10 close of the hearing, or within further additional periods to  
11 which the parties may agree, the arbitrator shall render a  
12 signed opinion and award based upon the issues presented. The  
13 arbitrator shall deliver by registered mail a copy of the  
14 opinion and award to the employer, the employee and the bureau.

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

17 (1) Sustaining the dismissal.

18 (2) Reinstating the employee without back pay or with  
19 partial or full back pay.

20 (3) A severance payment.

21 (c) Settlement.--If the employer and the employee settle  
22 their dispute during the course of the arbitration proceeding,  
23 the arbitrator, upon their request, may set forth the terms of  
24 the settlement in the award.

#### 25 Section 9. Effect of award.

26 An award of the arbitrator shall be final and binding upon  
27 the employer and the employee and may be enforced, at the  
28 instance of either the employer or the employee, in the court of  
29 common pleas for the county in which the dispute arose or in  
30 which the employee resides.

1 Section 10. Cost of mediation and arbitration.

2 The normal and necessary expenses of mediation and  
3 arbitration, including the cost of producing a witness, shall be  
4 borne by the complainant, but the expenses may be reimbursed if  
5 in the judgment of the arbitrator it would be reasonable and  
6 proper to do so.

7 Section 11. Judicial review.

8 The court of common pleas for the county in which the dispute  
9 arose or in which the employee resides may review an award of  
10 the arbitrator but only for the reason that the arbitrator was  
11 without, or exceeded the scope of, his jurisdiction, or that the  
12 award was procured by fraud, collusion or other similar and  
13 unlawful means. The pendency of a proceeding for review shall  
14 not stay automatically the award of the arbitrator.

15 Section 12. Contempt.

16 Any employer or employee who willfully disobeys a lawful  
17 order of enforcement issued by the court may be held in  
18 contempt. The punishment for each day after issuance that the  
19 contempt order remains in effect shall be a fine not to exceed  
20 \$250 per day.

21 Section 13. Construction of act.

22 This act shall not supersede an employer's grievance  
23 procedure that provides for impartial, final and binding  
24 arbitration of dismissal-related grievances. Upon the request of  
25 an employer or employee, the bureau shall determine whether or  
26 not an employer's grievance procedure meets this standard.

27 Section 14. Posting copy of act.

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

30 Section 15. Effective date.

1       This act shall take effect immediately.