

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 985

Session of
1987

INTRODUCED BY BLAUM, COHEN, RUDY, ARTY, TIGUE, FEE, ITKIN,
MAINE, PUNT, HARPER, HASAY, JOSEPHS, MOEHLMANN, KUKOVICH,
DeWEESE, GRUPPO, GEIST, CAWLEY, MORRIS, KOSINSKI, FISCHER,
SERAFINI, NAHILL, PISTELLA, McCALL, JOHNSON, VEON, McHALE,
WAMBACH, TRELLO, COWELL, FREEMAN, COLAFELLA, TELEK,
J. TAYLOR, OLIVER, STABACK, DALEY, WOZNIAK, ACOSTA,
LEVDANSKY, BATTISTO, PETRONE, PRESSMANN, OLASZ, GEORGE,
CIVERA, SEVENTY, FOX AND BOYES, APRIL 6, 1987

REFERRED TO COMMITTEE ON LABOR RELATIONS, APRIL 6, 1987

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 Department of Labor and Industry; defining its functions,
8 powers and duties; providing for procedure and enforcement;
9 providing for formulation of an educational program to
10 prevent prejudice; providing for judicial review and
11 enforcement and imposing penalties," prohibiting certain
12 employment practices relating to pregnancy, childbirth or
13 related medical conditions, and childrearing; and requiring
14 certain leaves and benefits.

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

17 Section 1. The act of October 27, 1955 (P.L.744, No.222),
18 known as the Pennsylvania Human Relations Act, is amended by
19 adding sections to read:

20 Section 5.4. Pregnancy; Childbirth or Related Medical
21 Conditions.--(a) It shall be an unlawful employment practice

1 unless based upon a bona fide occupational qualification:

2 (1) For any employer, because of the pregnancy, childbirth
3 or related medical conditions of any female employe, to refuse
4 to promote her, or to refuse to select her for a training
5 program leading to promotion, provided she is able to complete
6 the training program at least three months prior to the
7 anticipated date of departure for her pregnancy leave, or to
8 discharge her from employment or from a training program leading
9 to promotion, or to discriminate against her in compensation or
10 in terms, conditions or privileges of employment.

11 (2) For any employer to refuse to allow a female employe
12 affected by pregnancy, childbirth or related medical conditions
13 either:

14 (i) To receive the same benefits or privileges of employment
15 granted by that employer to other persons not so affected who
16 are similar in their ability or inability to work, including to
17 take disability or sick leave or any other accrued leave which
18 is made available by the employer to temporarily disabled
19 employees. For purposes of this section, pregnancy, childbirth
20 and related medical conditions are treated as any other
21 temporary disability. However, no employer shall be required to
22 provide a female employe disability leave on account of normal
23 pregnancy, childbirth or related medical conditions for a period
24 exceeding six weeks. Nothing in this section shall be construed
25 to require an employer to provide his or her employees with
26 health insurance coverage for the medical costs of pregnancy,
27 childbirth or related medical conditions. The inclusion in any
28 such health insurance coverage of any provisions or coverage
29 relating to medical costs of pregnancy, childbirth or related
30 medical conditions shall not be construed to require the

inclusion of any other provisions or coverage, nor shall coverage of any related medical conditions be required by virtue of coverage of any medical costs of pregnancy, childbirth or other related medical conditions.

(ii) To take a leave on account of pregnancy for a reasonable period of time not exceeding four months. Such employe shall be entitled to utilize any accrued vacation leave during this period of time. Reasonable period of time means that period during which the female employe is disabled on account of pregnancy, childbirth or related medical conditions. Nothing herein shall be construed to limit the provisions of subclause (i) of this clause.

(b) An employer may require any employe who plans to take a leave pursuant to this section to give the employer reasonable notice of the date such leave shall commence and the estimated duration of such leave.

(c) It shall be unlawful:

(1) For any employer who has a policy, practice or collective bargaining agreement requiring or authorizing the transfer of temporarily disabled employes to less strenuous or hazardous positions for the duration of the disability to refuse to transfer a pregnant female employe who so requests.

(2) For any employer to refuse to temporarily transfer a pregnant female employe to a less strenuous or hazardous position for the duration of her pregnancy if she so requests, with the advice of her physician, where such transfer can be reasonably accommodated. No employer shall be required by this section to create additional employment which the employer would not otherwise have created, nor shall such employer be required to discharge any employe, transfer any employe with more

1 seniority, or promote any employe who is not qualified to
2 perform the job.

3 (d) This section shall not be construed to affect any other
4 provision of law relating to sex discrimination or pregnancy.

5 (e) The provisions of this section, except subclause (ii) of
6 clause (2) of subsection (a), shall be inapplicable to any
7 employer subject to Title VII of the Civil Rights Act of 1964
8 (Public Law 88-352, 78 Stat. 241).

9 Section 5.5. Parental Leave.--(a) It shall be an unlawful
10 employment practice:

11 (1) For any employer to refuse to allow any male or female
12 employe to take a leave on account of the birth or adoption of a
13 child by that employe or that employe's spouse. However such
14 leave must be granted only if the parent/employe can show:

15 (i) That the leave will be taken to provide for the care and
16 upbringing of the newborn or adopted child, but in no case shall
17 the leave last longer than four months nor extend beyond the
18 child's first birthday.

19 (ii) That the employe's spouse is employed during the entire
20 duration of the leave.

21 (iii) That the employe has, upon request, given his or her
22 employer reasonable notice of the date such leave shall commence
23 and the estimated duration of such leave.

24 (2) For any employer to punish an employe for taking the
25 parental leave allowed by subsection (a) either by refusing to
26 promote the employe or by refusing to select the employe for a
27 training program leading to promotion, provided the employe is
28 able to complete the training program at least three months
29 prior to the anticipated date of departure for the employe's
30 parental leave; to discharge the employe from employment or from

1 a training program leading to promotion; to deny the employe any
2 nonmonetary employment benefits during the parental leave; to
3 deny the employe seniority for the time spent on leave; or to
4 discriminate against the employe in compensation or in terms,
5 conditions or privileges of employment.

6 Section 2. This act shall take effect in 60 days.