

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2831 Session of
2002

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HASAY, WATERS, FICHTER, CRUZ, YOUNGBLOOD, PISTELLA,
CREIGHTON, GRUCELA AND G. WRIGHT, SEPTEMBER 10, 2002

REFERRED TO COMMITTEE ON STATE GOVERNMENT, SEPTEMBER 10, 2002

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 findings and declaration of
12 policy, for right to freedom from discrimination in
13 employment, housing and public accommodation, for
14 definitions, for unlawful discriminatory practices, for
15 prohibition of certain real estate practices, for powers and
16 duties of the commission, for educational program and for
17 construction and exclusiveness of remedy.

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

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

AN ACT

Prohibiting certain practices of discrimination because of race, color, familial status, religious creed, ancestry, military or veteran status, age [or], national origin or handicap or disability by employers, employment agencies, labor organizations and others as herein defined; creating the Pennsylvania Human Relations Commission in the Governor's Office; defining its functions, powers and duties; providing for procedure and enforcement; providing for formulation of an educational program to prevent prejudice; providing for judicial review and enforcement and imposing penalties.

Section 2. Findings and Declaration of Policy.--

(a) The practice or policy of discrimination against individuals or groups by reason of their race, color, familial status, religious creed, ancestry, military or veteran status, age, sex, national origin, handicap or disability, use of guide or support animals because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals is a matter of concern of the Commonwealth. Such discrimination foment domestic strife and unrest, threatens the rights and privileges of the inhabitants of the Commonwealth, and undermines the foundations of a free democratic state. The denial of equal employment, housing and public accommodation opportunities because of such discrimination, and the consequent failure to utilize the productive capacities of individuals to their fullest extent, deprives large segments of the population of the Commonwealth of earnings necessary to maintain decent standards of living, necessitates their resort to public relief and intensifies group conflicts, thereby resulting in grave injury to the public

1 health and welfare, compels many individuals to live in
2 dwellings which are substandard, unhealthful and overcrowded,
3 resulting in racial segregation in public schools and other
4 community facilities, juvenile delinquency and other evils,
5 thereby threatening the peace, health, safety and general
6 welfare of the Commonwealth and its inhabitants.

7 (b) It is hereby declared to be the public policy of this
8 Commonwealth to foster the employment of all individuals in
9 accordance with their fullest capacities regardless of their
10 race, color, religious creed, ancestry, military or veteran
11 status, age, sex, national origin, handicap or disability, use
12 of guide or support animals because of the blindness, deafness
13 or physical handicap of the user or because the user is a
14 handler or trainer of support or guide animals, and to safeguard
15 their right to obtain and hold employment without such
16 discrimination, to assure equal opportunities to all individuals
17 and to safeguard their rights to public accommodation and to
18 secure housing accommodation and commercial property regardless
19 of race, color, familial status, religious creed, ancestry,
20 military or veteran status, age, sex, national origin, handicap
21 or disability, use of guide or support animals because of
22 blindness or deafness of the user or because the user is a
23 handler or trainer of guide or support animals.

24 (c) This act shall be deemed an exercise of the police power
25 of the Commonwealth for the protection of the public welfare,
26 prosperity, health and peace of the people of the Commonwealth
27 of Pennsylvania.

28 Section 3. Right to Freedom from Discrimination in
29 Employment, Housing and Public Accommodation.--The opportunity
30 for an individual to obtain employment for which he is

1 qualified, and to obtain all the accommodations, advantages,
2 facilities and privileges of any public accommodation and of any
3 housing accommodation and commercial property without
4 discrimination because of race, color, familial status,
5 religious creed, ancestry, military or veteran status, handicap
6 or disability, age, sex, national origin, the use of a guide or
7 support animal because of the blindness, deafness or physical
8 handicap of the user or because the user is a handler or trainer
9 of support or guide animals is hereby recognized as and declared
10 to be a civil right which shall be enforceable as set forth in
11 this act.

12 Section 2. Section 4(b) of the act, amended December 20,
13 1991 (P.L.414, No.51), is amended and the section is amended by
14 adding a subsection to read:

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

17 * * *

18 (b) The term "employer" includes the Commonwealth or any
19 political subdivision or board, department, commission or school
20 district thereof and any person employing four or more persons
21 within the Commonwealth, but except as hereinafter provided,
22 does not include religious, fraternal, charitable or sectarian
23 corporations or associations, except such corporations or
24 associations supported, in whole or in part, by governmental
25 appropriations. The term "employer" with respect to
26 discriminatory practices based on race, color, military or
27 veteran status, age, sex, national origin or non-job related
28 handicap or disability, includes religious, fraternal,
29 charitable and sectarian corporations and associations employing
30 four or more persons within the Commonwealth.

1 * * *

2 (bb) The term "military or veteran status" means whether a
3 person currently serves or has previously served in the
4 uniformed armed forces of the United States or other country.

5 Section 3. Section 5 of the act, amended December 20, 1991
6 (P.L.414, No.51), July 12, 1996 (P.L.684, No.117) and June 25,
7 1997 (P.L.326, No.34), is amended to read:

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

15 (a) For any employer because of the race, color, religious
16 creed, ancestry, military or veteran status, age, sex, national
17 origin or non-job related handicap or disability or the use of a
18 guide or support animal because of the blindness, deafness or
19 physical handicap of any individual or independent contractor,
20 to refuse to hire or employ or contract with, or to bar or to
21 discharge from employment such individual or independent
22 contractor, or to otherwise discriminate against such individual
23 or independent contractor with respect to compensation, hire,
24 tenure, terms, conditions or privileges of employment or
25 contract, if the individual or independent contractor is the
26 best able and most competent to perform the services required.
27 The provision of this paragraph shall not apply, to (1)
28 operation of the terms or conditions of any bona fide retirement
29 or pension plan which have the effect of a minimum service
30 requirement, (2) operation of the terms or conditions of any

1 bona fide group or employee insurance plan, (3) age limitations
2 placed upon entry into bona fide apprenticeship programs of two
3 years or more approved by the State Apprenticeship and Training
4 Council of the Department of Labor and Industry, established by
5 the act of July 14, 1961 (P.L.604, No.304), known as "The
6 Apprenticeship and Training Act." Notwithstanding any provision
7 of this clause, it shall not be an unlawful employment practice
8 for a religious corporation or association to hire or employ on
9 the basis of sex in those certain instances where sex is a bona
10 fide occupational qualification because of the religious
11 beliefs, practices, or observances of the corporation, or
12 association.

13 (b) For any employer, employment agency or labor
14 organization, prior to the employment, contracting with an
15 independent contractor or admission to membership, to:

16 (1) Elicit any information or make or keep a record of or
17 use any form of application or application blank containing
18 questions or entries concerning the race, color, religious
19 creed, ancestry, military or veteran status, age, sex, national
20 origin, past handicap or disability or the use of a guide or
21 support animal because of the blindness, deafness or physical
22 handicap of any applicant for employment or membership. Prior to
23 an offer of employment, an employer may not inquire as to
24 whether an individual has a handicap or disability or as to the
25 severity of such handicap or disability. An employer may inquire
26 as to the individual's ability to perform the essential
27 functions of the employment.

28 (2) Print or publish or cause to be printed or published any
29 notice or advertisement relating to employment or membership
30 indicating any preference, limitation, specification or

1 discrimination based upon race, color, religious creed,
2 ancestry, military or veteran status, age, sex, national origin,
3 non-job related handicap or disability or the use of a guide or
4 support animal because of the blindness, deafness or physical
5 handicap of the user.

6 (3) Deny or limit, through a quota system, employment or
7 membership because of race, color, religious creed, ancestry,
8 military or veteran status, age, sex, national origin, non-job
9 related handicap or disability, the use of a guide or support
10 animal because of the blindness, deafness or physical handicap
11 of the user or place of birth.

12 (4) Substantially confine or limit recruitment or hiring of
13 individuals, with intent to circumvent the spirit and purpose of
14 this act, to any employment agency, employment service, labor
15 organization, training school or training center or any other
16 employe-referring source which services individuals who are
17 predominantly of the same race, color, religious creed,
18 ancestry, military or veteran status, age, sex, national origin
19 or non-job related handicap or disability.

20 (5) Deny employment because of a prior handicap or
21 disability.

22 Nothing in clause (b) of this section shall bar any
23 institution or organization for handicapped or disabled persons
24 from limiting or giving preference in employment or membership
25 to handicapped or disabled persons.

26 (c) For any labor organization because of the race, color,
27 religious creed, ancestry, military or veteran status, age, sex,
28 national origin, non-job related handicap or disability or the
29 use of a guide or support animal because of the blindness,
30 deafness or physical handicap of any individual to deny full and

1 equal membership rights to any individual or otherwise to
2 discriminate against such individuals with respect to hire,
3 tenure, terms, conditions or privileges of employment or any
4 other matter, directly or indirectly, related to employment.

5 (d) For any person, employer, employment agency or labor
6 organization to discriminate in any manner against any
7 individual because such individual has opposed any practice
8 forbidden by this act, or because such individual has made a
9 charge, testified or assisted, in any manner, in any
10 investigation, proceeding or hearing under this act.

11 (e) For any person, employer, employment agency, labor
12 organization or employe, to aid, abet, incite, compel or coerce
13 the doing of any act declared by this section to be an unlawful
14 discriminatory practice, or to obstruct or prevent any person
15 from complying with the provisions of this act or any order
16 issued thereunder, or to attempt, directly or indirectly, to
17 commit any act declared by this section to be an unlawful
18 discriminatory practice.

19 (f) For any employment agency to fail or refuse to classify
20 properly, refer for employment or otherwise to discriminate
21 against any individual because of his race, color, religious
22 creed, ancestry, military or veteran status, age, sex, national
23 origin, non-job related handicap or disability or the use of a
24 guide or support animal because of the blindness, deafness or
25 physical handicap of the user.

26 (g) For any individual seeking employment to publish or
27 cause to be published any advertisement which in any manner
28 expresses a limitation or preference as to the race, color,
29 religious creed, ancestry, military or veteran status, age, sex,
30 national origin, non-job related handicap or disability or the

1 use of a guide or support animal because of the blindness,
2 deafness or physical handicap of any prospective employer.

3 (h) For any person to:

4 (1) Refuse to sell, lease, finance or otherwise to deny or
5 withhold any housing accommodation or commercial property from
6 any person because of the race, color, familial status, age,
7 religious creed, ancestry, military or veteran status, sex,
8 national origin or handicap or disability of any person,
9 prospective owner, occupant or user of such housing
10 accommodation or commercial property, or to refuse to lease any
11 housing accommodation or commercial property to any person due
12 to use of a guide animal because of the blindness or deafness of
13 the user, use of a support animal because of a physical handicap
14 of the user or because the user is a handler or trainer of
15 support or guide animals or because of the handicap or
16 disability of an individual with whom the person is known to
17 have a relationship or association.

18 (1.1) Evict or attempt to evict an occupant of any housing
19 accommodation before the end of the term of a lease because of
20 pregnancy or the birth of a child.

21 (2) Refuse to lend money, whether or not secured by mortgage
22 or otherwise for the acquisition, construction, rehabilitation,
23 repair or maintenance of any housing accommodation or commercial
24 property or otherwise withhold financing of any housing
25 accommodation or commercial property from any person because of
26 the race, color, familial status, age, religious creed,
27 ancestry, military or veteran status, sex, national origin,
28 handicap or disability of any person, the use of a guide or
29 support animal because of the blindness, deafness or physical
30 handicap of the user or because the user is a handler or trainer

1 of support or guide animals or because of the handicap or
2 disability of an individual with whom the person is known to
3 have a relationship or association.

4 (3) Discriminate against any person in the terms or
5 conditions of selling or leasing any housing accommodation or
6 commercial property or in furnishing facilities, services or
7 privileges in connection with the ownership, occupancy or use of
8 any housing accommodation or commercial property because of the
9 race, color, familial status, age, religious creed, ancestry,
10 military or veteran status, sex, national origin, handicap or
11 disability of any person, the use of a guide or support animal
12 because of the blindness, deafness or physical handicap of the
13 user or because the user is a handler or trainer of support or
14 guide animals or because of the handicap or disability of an
15 individual with whom the person is known to have a relationship
16 or association.

17 (3.1) Refuse to permit, at the expense of a person with a
18 handicap, reasonable modifications of existing premises occupied
19 or to be occupied by such person if such modifications may be
20 necessary to afford such person full enjoyment of the premises,
21 except that, in the case of a rental, the landlord may, where it
22 is reasonable to do so, grant permission for a modification if
23 the renter agrees to restore the interior of the premises to the
24 condition that existed before the modification, with reasonable
25 wear and tear excepted.

26 (3.2) Refuse to make reasonable accommodations in rules,
27 policies, practices or services when such accommodations may be
28 necessary to afford such person equal opportunity to use and
29 enjoy a housing accommodation.

30 (4) Discriminate against any person in the terms or

1 conditions of any loan of money, whether or not secured by
2 mortgage or otherwise for the acquisition, construction,
3 rehabilitation, repair or maintenance of housing accommodation
4 or commercial property because of the race, color, familial
5 status, age, religious creed, ancestry, military or veteran
6 status, sex, national origin or handicap or disability of any
7 person, the use of a guide or support animal because of the
8 blindness, deafness or physical handicap of the user or because
9 the user is a handler or trainer of guide or support animals or
10 because of the handicap or disability of an individual with whom
11 the person is known to have a relationship or association.

12 (5) Print, publish or circulate any statement or
13 advertisement: (i) relating to the sale, lease or acquisition of
14 any housing accommodation or commercial property or the loan of
15 money, whether or not secured by mortgage, or otherwise for the
16 acquisition, construction, rehabilitation, repair or maintenance
17 of any housing accommodation or commercial property which
18 indicates any preference, limitation, specification, or
19 discrimination based upon race, color, familial status, age,
20 religious creed, ancestry, military or veteran status, sex,
21 national origin, handicap or disability or because of the
22 handicap or disability of an individual with whom the person is
23 known to have a relationship or association, or (ii) relating to
24 the sale, lease or acquisition of any housing accommodation or
25 commercial property which indicates any preference, limitation,
26 specification or discrimination based upon use of a guide or
27 support animal because of the blindness, deafness or physical
28 handicap of the user or because the user is a handler or trainer
29 of support or guide animals.

30 (6) Make any inquiry, elicit any information, make or keep

1 any record or use any form of application, containing questions
2 or entries concerning race, color, familial status, age,
3 religious creed, ancestry, military or veteran status, sex,
4 national origin, handicap or disability or because of the
5 handicap or disability of an individual with whom the person is
6 known to have a relationship or association in connection with
7 the sale or lease of any housing accommodation or commercial
8 property or loan of any money, whether or not secured by
9 mortgage or otherwise for the acquisition, construction,
10 rehabilitation, repair or maintenance of any housing
11 accommodation or commercial property, or to make any inquiry,
12 elicit any information, make or keep any record or use any form
13 of application, containing questions or entries concerning the
14 use of a guide or support animal because of the blindness,
15 deafness or physical handicap of the user or because the user is
16 a handler or trainer of support or guide animals, in connection
17 with the lease of any housing accommodation or commercial
18 property.

19 (7) Construct, operate, offer for sale, lease or rent or
20 otherwise make available housing or commercial property which is
21 not accessible.

22 (8) Discriminate in real estate-related transactions, as
23 described by and subject to the following:

24 (i) It shall be unlawful for any person or other entity
25 whose business includes engaging in real estate-related
26 transactions to discriminate against any person in making
27 available such a transaction or in the terms or conditions of
28 such a transaction because of race, color, religious creed,
29 ancestry, military or veteran status, national origin, sex, age,
30 handicap or disability, use of a guide or support animal because

1 of a physical handicap or because the user is a handler or
2 trainer of guide or support animals or familial status.

3 (ii) Nothing in this act prohibits a person engaged in the
4 business of furnishing appraisals of real property to take into
5 consideration factors other than race, color, religious creed,
6 ancestry, military or veteran status, national origin, sex, age,
7 handicap or disability, use of a guide or support animal because
8 of a physical handicap or because the user is a handler or
9 trainer of guide or support animals or familial status.

10 (9) Nothing in this clause, regarding age or familial
11 status, shall apply with respect to housing for older persons. A
12 person shall not be held personally liable for monetary damages
13 for a violation of this act if the person reasonably relied, in
14 good faith, on the application of the exemption of this
15 subclause. A person may only prove good faith reliance on the
16 application of the exemption of this subclause by proving that
17 at the time of the act complained of all of the following
18 applied:

19 (i) The person had no actual knowledge that the housing was
20 not eligible for exemption under this subclause.

21 (ii) The owner or manager of the housing had stated
22 formally, in writing, that the housing complied with the
23 requirements for exemption under this subclause.

24 (10) Nothing in this clause shall bar any religious or
25 denominational institution or organization or any charitable or
26 educational organization which is operated, supervised or
27 controlled by or in connection with a religious organization or
28 any bona fide private or fraternal organization from giving
29 preference to persons of the same religion or denomination or to
30 members of such private or fraternal organization or from making

1 such selection as is calculated by such organization to promote
2 the religious principles or the aims, purposes or fraternal
3 principles for which it is established or maintained. Nor shall
4 it apply to the rental of rooms in a landlord-occupied rooming
5 house with a common entrance, nor with respect to discrimination
6 based on sex, the advertising, rental or leasing of housing
7 accommodations in a single-sex dormitory or rooms in one's
8 personal residence in which common living areas are shared.

9 (11) Nothing in this act limits the applicability of the
10 Fair Housing Act and reasonable State or local restrictions on
11 the maximum number of occupants permitted to occupy a dwelling
12 or a reasonable restriction relating to health or safety
13 standards or business necessity. Owners and managers of
14 dwellings may develop and implement reasonable occupancy and
15 safety standards based on factors such as the number and size of
16 sleeping areas or bedrooms and the overall size of a dwelling
17 unit so long as the standards do not violate the Fair Housing
18 Act or State or local restrictions.

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

22 (1) Refuse, withhold from, or deny to any person because of
23 his race, color, sex, religious creed, ancestry, military or
24 veteran status, national origin or handicap or disability, or to
25 any person due to use of a guide or support animal because of
26 the blindness, deafness or physical handicap of the user or
27 because the user is a handler or trainer of support or guide
28 animals, either directly or indirectly, any of the
29 accommodations, advantages, facilities or privileges of such
30 public accommodation, resort or amusement.

1 (2) Publish, circulate, issue, display, post or mail, either
2 directly or indirectly, any written or printed communication,
3 notice or advertisement to the effect that any of the
4 accommodations, advantages, facilities and privileges of any
5 such place shall be refused, withheld from or denied to any
6 person on account of race, color, religious creed, sex,
7 ancestry, military or veteran status, national origin or
8 handicap or disability, or to any person due to use of a guide
9 or support animal because of the blindness, deafness or physical
10 handicap of the user, or because the user is a handler or
11 trainer of support or guide animals, or that the patronage or
12 custom thereat of any person, belonging to or purporting to be
13 of any particular race, color, religious creed, sex, ancestry,
14 military or veteran status, national origin or handicap or
15 disability, or to any person due to use of a guide or support
16 animal because of the blindness, deafness or physical handicap
17 of the user or because the user is a handler or trainer of
18 support or guide animals, is unwelcome, objectionable or not
19 acceptable, desired or solicited.

20 (3) Exclude or otherwise deny equal goods, services,
21 facilities, privileges, advantages, accommodations or other
22 opportunities to a person because of the handicap or disability
23 of an individual with whom the person is known to have a
24 relationship or association.

25 (4) Construct, operate or otherwise make available such
26 place of public accommodation, resort or amusement which is not
27 accessible.

28 (j) For any person subject to the act to fail to post and
29 exhibit prominently in his place of business any fair practices
30 notice prepared and distributed by the Pennsylvania Human

1 Relations Commission.

2 (k) For any employer to discriminate against an employe or a
3 prospective employe because the employe only has a diploma based
4 on passing a general educational development test as compared to
5 a high school diploma. However, should vocational technical
6 training or other special training be required with regard to a
7 specific position, then such training or special training may be
8 considered by the employer.

9 (l) To exclude or otherwise deny equal jobs or benefits to a
10 person because of the handicap or disability of an individual
11 with whom the person is known to have a relationship or
12 association.

13 This section of the act shall not be construed to prohibit
14 the refusal to hire or the dismissal of a person who is not able
15 to function properly in the job applied for or engaged in.

16 Section 4. Sections 5.3 and 7 of the act, amended December
17 20, 1991 (P.L.414, No.51), are amended to read:

18 Section 5.3. Prohibition of Certain Real Estate Practices.--
19 It shall be an unlawful discriminatory practice for any person
20 to:

21 (a) Induce, solicit or attempt to induce or solicit for
22 commercial profit any listing, sale or transaction involving any
23 housing accommodation or commercial property by representing
24 that such housing accommodation or commercial property is within
25 any neighborhood, community or area adjacent to any other area
26 in which there reside, or do not reside, persons of a particular
27 race, color, familial status, age, religious creed, ancestry,
28 military or veteran status, sex, national origin, handicap or
29 disability, or who are guide or support animal dependent.

30 (b) Discourage, or attempt to discourage, for commercial

1 profit, the purchase or lease of any housing accommodation or
2 commercial property by representing that such housing
3 accommodation or commercial property is within any neighborhood,
4 community or area adjacent to any other area in which there
5 reside, or may in the future reside in increased or decreased
6 numbers, persons of a particular race, color, familial status,
7 age, religious creed, ancestry, military or veteran status, sex,
8 national origin, handicap or disability, or who are guide or
9 support animal dependent.

10 (c) Misrepresent, create or distort a circumstance,
11 condition or incident for the purpose of fostering the
12 impression or belief, on the part of any owner, occupant or
13 prospective owner or occupant of any housing accommodation or
14 commercial property, that such housing accommodation or
15 commercial property is within any neighborhood, community or
16 area adjacent to any other area which would be adversely
17 impacted by the residence, or future increased or decreased
18 residence, of persons of a particular race, color, familial
19 status, age, religious creed, ancestry, military or veteran
20 status, sex, national origin, handicap or disability, or who are
21 guide or support animal dependent within such neighborhood,
22 community or area.

23 (d) In any way misrepresent or otherwise misadvertise within
24 a neighborhood or community, whether or not in writing, that any
25 housing accommodation or commercial property within such
26 neighborhood or community is available for inspection, sale,
27 lease, sublease or other transfer, in any context where such
28 misrepresentation or misadvertising would have the effect of
29 fostering an impression or belief that there has been or will be
30 an increase in real estate activity within such neighborhood or

1 community due to the residence, or anticipated increased or
2 decreased residence, of persons of a particular race, color,
3 familial status, age, religious creed, ancestry, military or
4 veteran status, sex, national origin, handicap or disability, or
5 the use of a guide or support animal because of the blindness,
6 deafness or physical handicap of the user.

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

9 (a) To establish and maintain a central office in the City
10 of Harrisburg.

11 (b) To meet and function at any place within the
12 Commonwealth.

13 (c) To appoint such attorneys and permanent hearing
14 examiners and other employees and agents as it may deem
15 necessary, fix their compensation within the limitations
16 provided by law, and prescribe their duties. Permanent hearing
17 examiners shall perform no duties inconsistent with their duties
18 and responsibilities as permanent hearing examiners.

19 (c.1) To conduct mandatory training seminars on the
20 Pennsylvania Human Relations Act and other applicable Federal
21 and State law, procedures and rules for all investigative
22 personnel.

23 (c.2) To afford complainants and respondents the opportunity
24 for comments after the final disposition of a complaint. These
25 comments shall be provided to the Commission members.

26 (c.3) To appoint attorneys to perform the following
27 functions: (1) render legal advice to Commission members on
28 matters appearing before it; or (2) give legal assistance to
29 complainants appearing before the Commission or hearing
30 examiners. These responsibilities shall require a separate staff

1 of attorneys to perform each function.

2 (d) To adopt, promulgate, amend and rescind rules and
3 regulations to effectuate the policies and provisions of this
4 act.

5 (e) To formulate policies to effectuate the purposes of this
6 act and make recommendations to agencies and officers of the
7 Commonwealth or political subdivisions of government or board,
8 department, commission or school district thereof to effectuate
9 such policies.

10 (f) To initiate, receive, investigate and pass upon
11 complaints charging unlawful discriminatory practices.

12 (f.1) To investigate where no complaint has been filed but
13 with the consent of at least eight of the members of the
14 Commission any problem of racial discrimination with the intent
15 of avoiding and preventing the development of racial tension.

16 (f.2) On request of the Governor, to investigate claims of
17 excessive use of force by police in civil rights protest
18 activities.

19 (g) (1) To hold hearings, subpoena witnesses, compel their
20 attendance, administer oaths, take testimony of any person under
21 oath or affirmation and, in connection therewith, to require the
22 production for examination of any books and papers relating to
23 any matter under investigation where a complaint has been
24 properly filed before the Commission. The Commission may make
25 rules as to the issuance of subpoenas by individual
26 Commissioners. In case of contumacy or refusal to obey a
27 subpoena issued to any person any court of jurisdiction, upon
28 application by the Commission, may issue to such person an order
29 requiring such person to appear before the Commission, there to
30 produce documentary evidence, if so ordered, or there to give

1 evidence touching the matter in question, and any failure to
2 obey such order of the court may be punished by said court as a
3 contempt thereof.

4 (2) No person shall be excused from attending and
5 testifying, or from producing records, correspondence, documents
6 or other evidence in obedience to the subpoena of the Commission
7 or of any individual Commissioner, on the ground that the
8 testimony or evidence required of him may tend to incriminate
9 him or subject him to a penalty or forfeiture, but no person
10 shall be prosecuted or subjected to any penalty or forfeiture
11 for or on account of any transaction, matter or thing concerning
12 which he is compelled, after having claimed his privilege
13 against self-incrimination, to testify or produce evidence,
14 except that such person so testifying shall not be exempt from
15 prosecution and punishment for perjury committed in so
16 testifying. The immunity herein provided shall extend only to
17 natural persons so compelled to testify.

18 (h) To inspect upon request such records of the Commonwealth
19 or any political subdivision, board, department, commission or
20 school district thereof as it may deem necessary or advisable to
21 carry into effect the provisions of this act.

22 (i) To create such advisory agencies and conciliation
23 councils, local or state-wide, as will aid in effectuating the
24 purposes of this act. The Commission may itself or it may
25 empower these agencies and councils to (1) study the problems of
26 discrimination in all or specific fields of human relationships
27 when based on race, color, familial status, religious creed,
28 ancestry, military or veteran status, age, sex, national origin
29 or handicap or disability, and (2) foster, through community
30 effort or otherwise, good will among the groups and elements of

1 the population of the State. Such agencies and councils may make
2 recommendations to the Commission for the development of
3 policies and procedure in general. Advisory agencies and
4 conciliation councils created by the Commission shall be
5 composed of representative citizens, serving without pay, but
6 the Commission may make provision for technical and clerical
7 assistance to such agencies and councils, and for the payment of
8 the expenses of such assistance.

9 (j) To issue such publications and such results of
10 investigations and research as, in its judgment, will tend to
11 promote good will and minimize or eliminate discrimination
12 because of race, color, familial status, religious creed,
13 ancestry, military or veteran status, age, sex, national origin
14 or handicap or disability.

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

1 (l) To prepare and distribute fair practices notices.

2 (n) To notify local human relations commissions of
3 complaints received by the Pennsylvania Human Relations
4 Commission involving persons within a commission's jurisdiction.
5 The Pennsylvania Human Relations Commission may enter into work-
6 sharing agreements with those local commissions having
7 comparable jurisdiction and enforcement authority.

8 (o) To prepare and publish all findings of fact, conclusions
9 of the law, final decisions and orders made after a public
10 hearing by the hearing examiners, Commission panel or full
11 Commission.

12 (p) To give public access to the commission's compliance
13 manual.

14 (q) To preserve opinions rendered by the Commission for five
15 years from the date of publication.

16 Section 5. Section 8 of the act, amended July 12, 1996
17 (P.L.684, No.117), is amended to read:

18 Section 8. Educational Program.--The Commission, in
19 cooperation with the Department of Education, is authorized to
20 recommend a multicultural educational program, designed for the
21 students of the schools in this Commonwealth and for all other
22 residents thereof, with emphasis on foreign cultural and
23 language studies, as well as on the basic shared precepts and
24 principles of United States culture, in order to promote
25 cultural understanding and appreciation and to further good will
26 among all persons, without regard to race, color, familial
27 status, religious creed, ancestry, military or veteran status,
28 age, sex, national origin, handicap or disability.

29 Section 6. Section 12 of the act, amended December 20, 1991
30 (P.L.414, No.51), is amended to read:

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

2 (a) The provisions of this act shall be construed liberally
3 for the accomplishment of the purposes thereof, and any law
4 inconsistent with any provisions hereof shall not apply.

5 (b) Except as provided in subsection (c), nothing contained
6 in this act shall be deemed to repeal or supersede any of the
7 provisions of any existing or hereafter adopted municipal
8 ordinance, municipal charter or of any law of this Commonwealth
9 relating to discrimination because of race, color, familial
10 status, religious creed, ancestry, military or veteran status,
11 age, sex, national origin or handicap or disability, but as to
12 acts declared unlawful by section five of this act the procedure
13 herein provided shall, when invoked, be exclusive and the final
14 determination therein shall exclude any other action, civil or
15 criminal, based on the same grievance of the complainant
16 concerned. If the complainant institutes any action based on
17 such grievance without resorting to the procedure provided in
18 this act, such complainant may not subsequently resort to the
19 procedure herein. In the event of a conflict between the
20 interpretation of a provision of this act and the interpretation
21 of a similar provision contained in any municipal ordinance, the
22 interpretation of the provision in this act shall apply to such
23 municipal ordinance.

24 (c) (1) In cases involving a claim of discrimination, if a
25 complainant invokes the procedures set forth in this act, that
26 individual's right of action in the courts of the Commonwealth
27 shall not be foreclosed. If within one (1) year after the filing
28 of a complaint with the Commission, the Commission dismisses the
29 complaint or has not entered into a conciliation agreement to
30 which the complainant is a party, the Commission must so notify

1 the complainant. On receipt of such a notice the complainant
2 shall be able to bring an action in the courts of common pleas
3 of the Commonwealth based on the right to freedom from
4 discrimination granted by this act.

5 (2) An action under this subsection shall be filed within
6 two years after the date of notice from the Commission closing
7 the complaint. Any complaint so filed shall be served on the
8 Commission at the time the complaint is filed in court. The
9 Commission shall notify the complainant of this requirement.

10 (3) If the court finds that the respondent has engaged in or
11 is engaging in an unlawful discriminatory practice charged in
12 the complaint, the court shall enjoin the respondent from
13 engaging in such unlawful discriminatory practice and order
14 affirmative action which may include, but is not limited to,
15 reinstatement or hiring of employees, granting of back pay, or
16 any other legal or equitable relief as the court deems
17 appropriate. Back pay liability shall not accrue from a date
18 more than three years prior to the filing of a complaint
19 charging violations of this act.

20 (4) The court shall serve upon the Commission any final
21 order issued in any action brought under this subsection.

22 (c.1) Notwithstanding subsections (a) and (c) or any other
23 provision of this act, nothing in this act shall be deemed to
24 authorize imposition by the Commission of remedial quota relief
25 in cases involving hiring or promoting of employees of the
26 Commonwealth, its agencies or instrumentalities or employees of
27 local governments and school districts in this Commonwealth.
28 This subsection shall not, however, prohibit the voluntary
29 adoption of an affirmative action plan designed to assure that
30 all persons are accorded equality of opportunity in employment.

1 (c.2) If, after a trial held pursuant to subsection (c), the
2 court of common pleas finds that a defendant engaged in or is
3 engaging in any unlawful discriminatory practice as defined in
4 this act, the court may award attorney fees and costs to the
5 prevailing plaintiff.

6 (c.3) If, after a trial held pursuant to subsection (c), the
7 court of common pleas finds that a defendant has not engaged in
8 or is not engaging in any unlawful discriminatory practice as
9 defined in this act, the court may award attorney fees and costs
10 to the prevailing defendant if the defendant proves that the
11 complaint was brought in bad faith.

12 (d) Nothing in this act shall be construed to require any
13 employer to hire any person with a job-related handicap or
14 disability.

15 (e) The time limits for filing under any complaint or other
16 pleading under this act shall be subject to waiver, estoppel and
17 equitable tolling.

18 (f) Nothing in this act shall be constructed as superseding
19 any provision of the act of October 15, 1980 (P.L.950, No.164),
20 known as the "Commonwealth Attorneys Act." All court actions
21 commenced by or against the Commission shall be subject to the
22 provisions of that act.

23 Section 7. This act shall take effect in 60 days.