

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1210 Session of 2021

INTRODUCED BY GUENST, FREEMAN, ISAACSON, N. NELSON, SCHLOSSBERG, HILL-EVANS, SANCHEZ, KENYATTA, HANBIDGE, D. WILLIAMS, HOHENSTEIN, NEILSON, HOWARD, WARREN, WEBSTER, DELLOSO, MALAGARI, O'MARA, SIMS, SCHWEYER, SAPPEY, PARKER, SHUSTERMAN, KINSEY, SAMUELSON, FITZGERALD AND DAVIDSON, APRIL 16, 2021

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 16, 2021

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 definitions and for unlawful discriminatory
 13 practices.

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

16 Section 1. Section 2(b) of the act of October 27, 1955
 17 (P.L.744, No.222), known as the Pennsylvania Human Relations
 18 Act, is amended to read:

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

20 * * *

21 (b) It is hereby declared to be the public policy of this
 22 Commonwealth to foster the employment of all individuals in

1 accordance with their fullest capacities regardless of their
2 race, color, religious creed, familial status, marital status,
3 family caregiver status, ancestry, age, sex, national origin,
4 handicap or disability, use of guide or support animals because
5 of the blindness, deafness or physical handicap of the user or
6 because the user is a handler or trainer of support or guide
7 animals, and to safeguard their right to obtain and hold
8 employment without such discrimination, to assure equal
9 opportunities to all individuals and to safeguard their rights
10 to public accommodation and to secure housing accommodation and
11 commercial property regardless of race, color, familial status,
12 religious creed, ancestry, age, sex, national origin, handicap
13 or disability, use of guide or support animals because of
14 blindness or deafness of the user or because the user is a
15 handler or trainer of guide or support animals.

16 * * *

17 Section 2. Section 4 of the act is amended by adding
18 clauses to read:

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

21 * * *

22 (bb) The term "family caregiver status" means a person who
23 provides medical or supervisory care to a person related to the
24 caregiver by blood, legal custody or marriage.

25 (cc) The term "marital status" means whether a person is
26 single, married, divorced, separated or widowed.

27 Section 3. Section 5(a), (b), (c), (f) and (g) of the act
28 are amended to read:

29 Section 5. Unlawful Discriminatory Practices.--It shall be
30 an unlawful discriminatory practice, unless based upon a bona

1 fide occupational qualification, or in the case of a fraternal
2 corporation or association, unless based upon membership in such
3 association or corporation, or except where based upon
4 applicable security regulations established by the United States
5 or the Commonwealth of Pennsylvania:

6 (a) For any employer because of the race, color, religious
7 creed, ancestry, familial status, marital status, family
8 caregiver status, age, sex, national origin or non-job related
9 handicap or disability or the use of a guide or support animal
10 because of the blindness, deafness or physical handicap of any
11 individual or independent contractor, to refuse to hire or
12 employ or contract with, or to bar or to discharge from
13 employment such individual or independent contractor, or to
14 otherwise discriminate against such individual or independent
15 contractor with respect to compensation, hire, tenure, terms,
16 conditions or privileges of employment or contract, if the
17 individual or independent contractor is the best able and most
18 competent to perform the services required. The provision of
19 this paragraph shall not apply, to (1) operation of the terms or
20 conditions of any bona fide retirement or pension plan which
21 have the effect of a minimum service requirement, (2) operation
22 of the terms or conditions of any bona fide group or employe
23 insurance plan, (3) age limitations placed upon entry into bona
24 fide apprenticeship programs of two years or more approved by
25 the State Apprenticeship and Training Council of the Department
26 of Labor and Industry, established by the act of July 14, 1961
27 (P.L.604, No.304), known as "The Apprenticeship and Training
28 Act." Notwithstanding any provision of this clause, it shall not
29 be an unlawful employment practice for a religious corporation
30 or association to hire or employ on the basis of sex in those

1 certain instances where sex is a bona fide occupational
2 qualification because of the religious beliefs, practices, or
3 observances of the corporation, or association.

4 (b) For any employer, employment agency or labor
5 organization, prior to the employment, contracting with an
6 independent contractor or admission to membership, to:

7 (1) Elicit any information or make or keep a record of or
8 use any form of application or application blank containing
9 questions or entries concerning the race, color, religious
10 creed, ancestry, familial status, marital status, family
11 caregiver status, age, sex, national origin, past handicap or
12 disability or the use of a guide or support animal because of
13 the blindness, deafness or physical handicap of any applicant
14 for employment or membership. Prior to an offer of employment,
15 an employer may not inquire as to whether an individual has a
16 handicap or disability or as to the severity of such handicap or
17 disability. Prior to an offer of employment, an employer may not
18 inquire as to whether an individual intends to have a child. An
19 employer may inquire as to the individual's ability to perform
20 the essential functions of the employment.

21 (2) Print or publish or cause to be printed or published any
22 notice or advertisement relating to employment or membership
23 indicating any preference, limitation, specification or
24 discrimination based upon race, color, religious creed,
25 ancestry, age, sex, national origin, non-job related handicap or
26 disability or the use of a guide or support animal because of
27 the blindness, deafness or physical handicap of the user.

28 (3) Deny or limit, through a quota system, employment or
29 membership because of race, color, religious creed, ancestry,
30 familial status, marital status, family caregiver status, age,

1 sex, national origin, non-job related handicap or disability,
2 the use of a guide or support animal because of the blindness,
3 deafness or physical handicap of the user or place of birth.

4 (4) Substantially confine or limit recruitment or hiring of
5 individuals, with intent to circumvent the spirit and purpose of
6 this act, to any employment agency, employment service, labor
7 organization, training school or training center or any other
8 employe-referring source which services individuals who are
9 predominantly of the same race, color, religious creed,
10 ancestry, familial status, marital status, family caregiver
11 status, age, sex, national origin or non-job related handicap or
12 disability.

13 (5) Deny employment because of a prior handicap or
14 disability.

15 Nothing in clause (b) of this section shall bar any
16 institution or organization for handicapped or disabled persons
17 from limiting or giving preference in employment or membership
18 to handicapped or disabled persons.

19 (c) For any labor organization because of the race, color,
20 religious creed, ancestry, familial status, marital status,
21 family caregiver status, age, sex, national origin, non-job
22 related handicap or disability or the use of a guide or support
23 animal because of the blindness, deafness or physical handicap
24 of any individual to deny full and equal membership rights to
25 any individual or otherwise to discriminate against such
26 individuals with respect to hire, tenure, terms, conditions or
27 privileges of employment or any other matter, directly or
28 indirectly, related to employment.

29 * * *

30 (f) For any employment agency to fail or refuse to classify

1 properly, refer for employment or otherwise to discriminate
2 against any individual because of his race, color, religious
3 creed, ancestry, familial status, marital status, family
4 caregiver status, age, sex, national origin, non-job related
5 handicap or disability or the use of a guide or support animal
6 because of the blindness, deafness or physical handicap of the
7 user.

8 (g) For any individual seeking employment to publish or
9 cause to be published any advertisement which in any manner
10 expresses a limitation or preference as to the race, color,
11 religious creed, ancestry, familial status, marital status,
12 family caregiver status, age, sex, national origin, non-job
13 related handicap or disability or the use of a guide or support
14 animal because of the blindness, deafness or physical handicap
15 of any prospective employer.

16 * * *

17 Section 4. This act shall take effect in 60 days.