

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, MARCH 18, 1987

AS REPORTED FROM COMMITTEE ON LABOR RELATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 21, 1988

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. SECTION 4 OF THE ACT OF OCTOBER 27, 1955
18 (P.L.744, NO.222), KNOWN AS THE PENNSYLVANIA HUMAN RELATIONS
19 ACT, AMENDED FEBRUARY 28, 1961 (P.L.47, NO.19), IS AMENDED BY
20 ADDING A SUBSECTION TO READ:

<—

SECTION 4. DEFINITIONS.--AS USED IN THIS ACT UNLESS A
DIFFERENT MEANING CLEARLY APPEARS FROM THE CONTEXT:

* * *

(T) THE TERM "SERIOUS HEALTH CONDITION" SHALL MEAN ILLNESS,
INJURY, IMPAIRMENT, PHYSICAL CONDITION OR MENTAL CONDITION
REQUIRING EITHER CONTINUAL TREATMENT OR CONTINUAL SUPERVISION BY
A HEALTH CARE PROVIDER OR INPATIENT TREATMENT AT A HOSPITAL,
HOSPICE OR RESIDENTIAL HEALTH CARE FACILITY.

~~Section 1. The act of October 27, 1955 (P.L.744, No.222),
known as the Pennsylvania Human Relations Act, is amended by~~

SECTION 2. THE ACT IS AMENDED BY adding sections to read:

Section 5.4. Pregnancy; Childbirth or Related Medical
Conditions.--(a) It shall be an unlawful employment practice
unless based upon a bona fide occupational qualification:

(1) For any employer WITH FIFTEEN OR MORE EMPLOYES, because
of the pregnancy, childbirth or related medical conditions of
any female employe, to refuse TO HIRE HER, to promote her, or to
refuse to select her for a training program leading to
promotion, provided she is able to complete the training program
at least three months prior to the anticipated date of departure
for her pregnancy leave, or to discharge her from employment or
from a training program leading to promotion, or to discriminate
against her in compensation or in terms, conditions or
privileges of employment.

(2) For any employer WITH FIFTEEN OR MORE EMPLOYES to refuse
to allow a female employe affected by pregnancy, childbirth or
related medical conditions either:

(i) To receive the same benefits or privileges of employment
granted by that employer to other persons not so affected who
are similar in their ability or inability to work, including to

1 take disability or sick leave or any other accrued leave which
2 is made available by the employer to temporarily disabled
3 employees. For purposes of this section, pregnancy, childbirth
4 and related medical conditions are treated as any other
5 temporary disability. However, no employer shall be required to
6 provide a female employee disability leave on account of normal
7 pregnancy, childbirth or related medical conditions for a period
8 exceeding six weeks. Nothing in this section shall be construed
9 to require an employer to provide his or her employees with
10 health insurance coverage for the medical costs of pregnancy,
11 childbirth or related medical conditions. The inclusion in any
12 such health insurance coverage of any provisions or coverage
13 relating to medical costs of pregnancy, childbirth or related
14 medical conditions shall not be construed to require the
15 inclusion of any other provisions or coverage, nor shall
16 coverage of any related medical conditions be required by virtue
17 of coverage of any medical costs of pregnancy, childbirth or
18 other related medical conditions.

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

27 (b) An employer WITH FIFTEEN OR MORE EMPLOYES may require <—
28 any employee who plans to take a leave pursuant to this section
29 to give the employer reasonable notice of the APPROXIMATE date <—
30 such leave shall commence and the estimated duration of such

1 leave. REASONABLE NOTICE SHALL NOT BE REQUIRED IN THE EVENT OF <—
2 MEDICAL EMERGENCIES, NOR SHOULD THE ESTIMATED DURATION OF LEAVE
3 BE EXPECTED TO ACCOUNT FOR UNEXPECTED MEDICAL COMPLICATIONS.

4 (c) It shall be unlawful:

5 (1) For any employer WITH FIFTEEN OR MORE EMPLOYES who has a <—
6 policy, practice or collective bargaining agreement requiring or
7 authorizing the transfer of temporarily disabled employees to
8 less strenuous or hazardous positions for the duration of the
9 disability to refuse to transfer a pregnant female employee who
10 so requests.

11 (2) For any employer WITH FIFTEEN OR MORE EMPLOYES to refuse <—
12 to temporarily transfer a pregnant female employee to a less
13 strenuous or hazardous position for the duration of her
14 pregnancy if she so requests, with the advice of her physician,
15 where such transfer can be reasonably accommodated. No employer
16 shall be required by this section to create additional
17 employment which the employer would not otherwise have created,
18 nor shall such employer be required to discharge any employee,
19 transfer any employee with more seniority, or promote any employee
20 who is not qualified to perform the job.

21 (d) AN EMPLOYER WITH A WRITTEN POLICY OR POLICY IN PRACTICE <—
22 OFFERING BENEFITS FOR TEMPORARY DISABILITIES, INCLUDING HEALTH
23 BENEFITS AND COMPENSATION DURING PERIODS OF TEMPORARY
24 DISABILITIES, SHALL MAKE THESE BENEFITS AVAILABLE DURING PERIODS
25 OF MEDICAL DISABILITY DUE TO CHILDBIRTH AND ANY MEDICAL
26 COMPLICATIONS DUE TO CHILDBIRTH OR PREGNANCY. This section shall
27 not be construed to affect any other provision of law relating
28 to sex discrimination or pregnancy.

29 ~~(e) The provisions of this section, except subclause (ii) of~~ <—
30 ~~clause (2) of subsection (a), shall be inapplicable to any~~

~~employer subject to Title VII of the Civil Rights Act of 1964~~
~~(Public Law 88-352, 78 Stat. 241).~~ AN EMPLOYEE WHO USES LEAVE
UNDER THIS SUBSECTION IS ENTITLED TO RETURN TO THE SAME OR
SIMILAR POSITION WITHOUT LOSS OF PAY LEVEL, STATUS AND BENEFITS.
ACCRUED SENIORITY AND OTHER ACCRUED BENEFITS SHALL NOT BE LOST.
EMPLOYERS ARE NOT REQUIRED TO CONTINUE THE ACCRUAL OF BENEFITS
DURING THE LEAVE PERIOD. HEALTH BENEFITS SHALL BE MAINTAINED
DURING THE LEAVE, AT MINIMUM, AT THE SAME LEVEL AS THE EMPLOYEE
HAD PRIOR TO TAKING LEAVE.

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

(1) For any employer WITH FIFTEEN OR MORE EMPLOYEES to refuse
to allow any male or female employe to take a leave on account
of the birth or adoption of a child by that employe or that
employe's spouse OR A SERIOUS HEALTH CONDITION OF THE CHILD OR
PARENT/EMPLOYEE. However such leave must be granted only if the
parent/employe can show:

(i) That the leave will be taken to provide for the care and
upbringing of the newborn or adopted child OR A SERIOUS HEALTH
CONDITION OF THE CHILD OR PARENT/EMPLOYEE, but in no case shall
the leave last longer than four months. ~~nor extend beyond the~~
~~child's first birthday.~~

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

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

(2) For any employer WITH FIFTEEN OR MORE EMPLOYEES to punish
an employe for taking the parental leave allowed by subsection
(a) either by refusing to promote the employe or by refusing to

1 select the employe for a training program leading to promotion,
2 provided the employe is able to complete the training program at <—
3 least three months prior to the anticipated date of departure
4 for the employe's parental leave; to discharge the employe from
5 employment or from a training program leading to promotion; to
6 deny the employe any nonmonetary employment benefits during the
7 parental leave; to deny the employe seniority for the time spent
8 on leave; or to discriminate against the employe in compensation
9 or in terms, conditions or privileges of employment.

10 (B) AN EMPLOYE WHO USES LEAVE UNDER THIS SUBSECTION IS <—
11 ENTITLED TO RETURN TO THE SAME OR SIMILAR POSITION WITHOUT LOSS
12 OF PAY LEVEL, STATUS AND BENEFITS. ACCRUED SENIORITY AND OTHER
13 ACCRUED BENEFITS SHALL NOT BE LOST. EMPLOYERS ARE NOT REQUIRED
14 TO CONTINUE THE ACCRUAL OF BENEFITS DURING THE LEAVE PERIOD.
15 HEALTH BENEFITS SHALL BE MAINTAINED DURING THE LEAVE, AT
16 MINIMUM, AT THE SAME LEVEL AS THE EMPLOYE HAD PRIOR TO TAKING
17 LEAVE.

18 Section 2 3. This act shall take effect in 60 days. <—