

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1887 Session of
2001

INTRODUCED BY FRANKEL, BEBKO-JONES, BROWNE, M. COHEN, CORRIGAN,
DALEY, DIVEN, D. EVANS, HORSEY, JAMES, LEDERER, MANDERINO,
MANN, PALLONE, ROEBUCK, ROONEY, STURLA, C. WILLIAMS AND
WASHINGTON, AUGUST 20, 2001

REFERRED TO COMMITTEE ON STATE GOVERNMENT, AUGUST 20, 2001

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

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

1 (a) The practice or policy of discrimination against
2 individuals or groups by reason of their race, color, familial
3 status, religious creed, ancestry, age, sex, sexual orientation,
4 national origin, handicap or disability, use of guide or support
5 animals because of the blindness, deafness or physical handicap
6 of the user or because the user is a handler or trainer of
7 support or guide animals is a matter of concern of the
8 Commonwealth. Such discrimination foments domestic strife and
9 unrest, threatens the rights and privileges of the inhabitants
10 of the Commonwealth, and undermines the foundations of a free
11 democratic state. The denial of equal employment, housing and
12 public accommodation opportunities because of such
13 discrimination, and the consequent failure to utilize the
14 productive capacities of individuals to their fullest extent,
15 deprives large segments of the population of the Commonwealth of
16 earnings necessary to maintain decent standards of living,
17 necessitates their resort to public relief and intensifies group
18 conflicts, thereby resulting in grave injury to the public
19 health and welfare, compels many individuals to live in
20 dwellings which are substandard, unhealthful and overcrowded,
21 resulting in racial segregation in public schools and other
22 community facilities, juvenile delinquency and other evils,
23 thereby threatening the peace, health, safety and general
24 welfare of the Commonwealth and its inhabitants.

25 (b) It is hereby declared to be the public policy of this
26 Commonwealth to foster the employment of all individuals in
27 accordance with their fullest capacities regardless of their
28 race, color, religious creed, ancestry, age, sex, sexual
29 orientation, national origin, handicap or disability, use of
30 guide or support animals because of the blindness, deafness or

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

12 (c) This act shall be deemed an exercise of the police power
13 of the Commonwealth for the protection of the public welfare,
14 prosperity, health and peace of the people of the Commonwealth
15 of Pennsylvania.

16 Section 3. Right to Freedom from Discrimination in
17 Employment, Housing and Public Accommodation.--The opportunity
18 for an individual to obtain employment for which he is
19 qualified, and to obtain all the accommodations, advantages,
20 facilities and privileges of any public accommodation and of any
21 housing accommodation and commercial property without
22 discrimination because of race, color, familial status,
23 religious creed, ancestry, handicap or disability, age, sex,
24 sexual orientation, national origin, the use of a guide or
25 support animal because of the blindness, deafness or physical
26 handicap of the user or because the user is a handler or trainer
27 of support or guide animals is hereby recognized as and declared
28 to be a civil right which shall be enforceable as set forth in
29 this act.

30 Section 2. Section 4(b) of the act, amended December 20,

1 1991 (P.L.414, No.51), is amended and the section is amended by
2 adding a subsection to read:

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

5 * * *

6 (b) The term "employer" includes the Commonwealth or any
7 political subdivision or board, department, commission or school
8 district thereof and any person employing four or more persons
9 within the Commonwealth, but except as hereinafter provided,
10 does not include religious, fraternal, charitable or sectarian
11 corporations or associations, except such corporations or
12 associations supported, in whole or in part, by governmental
13 appropriations. The term "employer" with respect to
14 discriminatory practices based on race, color, age, sex, sexual
15 orientation, national origin or non-job related handicap or
16 disability, includes religious, fraternal, charitable and
17 sectarian corporations and associations employing four or more
18 persons within the Commonwealth.

19 * * *

20 (bb) The term "sexual orientation" includes the actual or
21 perceived heterosexuality, homosexuality or bisexuality of an
22 individual.

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

26 Section 5. Unlawful Discriminatory Practices.--It shall be
27 an unlawful discriminatory practice, unless based upon a bona
28 fide occupational qualification, or in the case of a fraternal
29 corporation or association, unless based upon membership in such
30 association or corporation, or except where based upon

1 applicable security regulations established by the United States
2 or the Commonwealth of Pennsylvania:

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

30 (b) For any employer, employment agency or labor

1 organization, prior to the employment, contracting with an
2 independent contractor or admission to membership, to:

3 (1) Elicit any information or make or keep a record of or
4 use any form of application or application blank containing
5 questions or entries concerning the race, color, religious
6 creed, ancestry, age, sex, sexual orientation, national origin,
7 past handicap or disability or the use of a guide or support
8 animal because of the blindness, deafness or physical handicap
9 of any applicant for employment or membership. Prior to an offer
10 of employment, an employer may not inquire as to whether an
11 individual has a handicap or disability or as to the severity of
12 such handicap or disability. An employer may inquire as to the
13 individual's ability to perform the essential functions of the
14 employment.

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

23 (3) Deny or limit, through a quota system, employment or
24 membership because of race, color, religious creed, ancestry,
25 age, sex, sexual orientation, national origin, non-job related
26 handicap or disability, the use of a guide or support animal
27 because of the blindness, deafness or physical handicap of the
28 user or place of birth.

29 (4) Substantially confine or limit recruitment or hiring of
30 individuals, with intent to circumvent the spirit and purpose of

1 this act, to any employment agency, employment service, labor
2 organization, training school or training center or any other
3 employe-referring source which services individuals who are
4 predominantly of the same race, color, religious creed,
5 ancestry, age, sex, sexual orientation, national origin or non-
6 job related handicap or disability.

7 (5) Deny employment because of a prior handicap or
8 disability.

9 Nothing in clause (b) of this section shall bar any
10 institution or organization for handicapped or disabled persons
11 from limiting or giving preference in employment or membership
12 to handicapped or disabled persons.

13 (c) For any labor organization because of the race, color,
14 religious creed, ancestry, age, sex, sexual orientation,
15 national origin, non-job related handicap or disability or the
16 use of a guide or support animal because of the blindness,
17 deafness or physical handicap of any individual to deny full and
18 equal membership rights to any individual or otherwise to
19 discriminate against such individuals with respect to hire,
20 tenure, terms, conditions or privileges of employment or any
21 other matter, directly or indirectly, related to employment.

22 (d) For any person, employer, employment agency or labor
23 organization to discriminate in any manner against any
24 individual because such individual has opposed any practice
25 forbidden by this act, or because such individual has made a
26 charge, testified or assisted, in any manner, in any
27 investigation, proceeding or hearing under this act.

28 (e) For any person, employer, employment agency, labor
29 organization or employe, to aid, abet, incite, compel or coerce
30 the doing of any act declared by this section to be an unlawful

1 discriminatory practice, or to obstruct or prevent any person
2 from complying with the provisions of this act or any order
3 issued thereunder, or to attempt, directly or indirectly, to
4 commit any act declared by this section to be an unlawful
5 discriminatory practice.

6 (f) For any employment agency to fail or refuse to classify
7 properly, refer for employment or otherwise to discriminate
8 against any individual because of his race, color, religious
9 creed, ancestry, age, sex, sexual orientation, national origin,
10 non-job related handicap or disability or the use of a guide or
11 support animal because of the blindness, deafness or physical
12 handicap of the user.

13 (g) For any individual seeking employment to publish or
14 cause to be published any advertisement which in any manner
15 expresses a limitation or preference as to the race, color,
16 religious creed, ancestry, age, sex, sexual orientation,
17 national origin, non-job related handicap or disability or the
18 use of a guide or support animal because of the blindness,
19 deafness or physical handicap of any prospective employer.

20 (h) For any person to:

21 (1) Refuse to sell, lease, finance or otherwise to deny or
22 withhold any housing accommodation or commercial property from
23 any person because of the race, color, familial status, age,
24 religious creed, ancestry, sex, sexual orientation, national
25 origin or handicap or disability of any person, prospective
26 owner, occupant or user of such housing accommodation or
27 commercial property, or to refuse to lease any housing
28 accommodation or commercial property to any person due to use of
29 a guide animal because of the blindness or deafness of the user,
30 use of a support animal because of a physical handicap of the

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

5 (1.1) Evict or attempt to evict an occupant of any housing
6 accommodation before the end of the term of a lease because of
7 pregnancy or the birth of a child.

8 (2) Refuse to lend money, whether or not secured by mortgage
9 or otherwise for the acquisition, construction, rehabilitation,
10 repair or maintenance of any housing accommodation or commercial
11 property or otherwise withhold financing of any housing
12 accommodation or commercial property from any person because of
13 the race, color, familial status, age, religious creed,
14 ancestry, sex, sexual orientation, national origin, handicap or
15 disability of any person, the use of a guide or support animal
16 because of the blindness, deafness or physical handicap of the
17 user or because the user is a handler or trainer of support or
18 guide animals or because of the handicap or disability of an
19 individual with whom the person is known to have a relationship
20 or association.

21 (3) Discriminate against any person in the terms or
22 conditions of selling or leasing any housing accommodation or
23 commercial property or in furnishing facilities, services or
24 privileges in connection with the ownership, occupancy or use of
25 any housing accommodation or commercial property because of the
26 race, color, familial status, age, religious creed, ancestry,
27 sex, sexual orientation, national origin, handicap or disability
28 of any person, the use of a guide or support animal because of
29 the blindness, deafness or physical handicap of the user or
30 because the user is a handler or trainer of support or guide

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

4 (3.1) Refuse to permit, at the expense of a person with a
5 handicap, reasonable modifications of existing premises occupied
6 or to be occupied by such person if such modifications may be
7 necessary to afford such person full enjoyment of the premises,
8 except that, in the case of a rental, the landlord may, where it
9 is reasonable to do so, grant permission for a modification if
10 the renter agrees to restore the interior of the premises to the
11 condition that existed before the modification, with reasonable
12 wear and tear excepted.

13 (3.2) Refuse to make reasonable accommodations in rules,
14 policies, practices or services when such accommodations may be
15 necessary to afford such person equal opportunity to use and
16 enjoy a housing accommodation.

17 (4) Discriminate against any person in the terms or
18 conditions of any loan of money, whether or not secured by
19 mortgage or otherwise for the acquisition, construction,
20 rehabilitation, repair or maintenance of housing accommodation
21 or commercial property because of the race, color, familial
22 status, age, religious creed, ancestry, sex, sexual orientation,
23 national origin or handicap or disability of any person, the use
24 of a guide or support animal because of the blindness, deafness
25 or physical handicap of the user or because the user is a
26 handler or trainer of guide or support animals or because of the
27 handicap or disability of an individual with whom the person is
28 known to have a relationship or association.

29 (5) Print, publish or circulate any statement or
30 advertisement: (i) relating to the sale, lease or acquisition of

1 any housing accommodation or commercial property or the loan of
2 money, whether or not secured by mortgage, or otherwise for the
3 acquisition, construction, rehabilitation, repair or maintenance
4 of any housing accommodation or commercial property which
5 indicates any preference, limitation, specification, or
6 discrimination based upon race, color, familial status, age,
7 religious creed, ancestry, sex, sexual orientation, national
8 origin, handicap or disability or because of the handicap or
9 disability of an individual with whom the person is known to
10 have a relationship or association, or (ii) relating to the
11 sale, lease or acquisition of any housing accommodation or
12 commercial property which indicates any preference, limitation,
13 specification or discrimination based upon use of a guide or
14 support animal because of the blindness, deafness or physical
15 handicap of the user or because the user is a handler or trainer
16 of support or guide animals.

17 (6) Make any inquiry, elicit any information, make or keep
18 any record or use any form of application, containing questions
19 or entries concerning race, color, familial status, age,
20 religious creed, ancestry, sex, sexual orientation, national
21 origin, handicap or disability or because of the handicap or
22 disability of an individual with whom the person is known to
23 have a relationship or association in connection with the sale
24 or lease of any housing accommodation or commercial property or
25 loan of any money, whether or not secured by mortgage or
26 otherwise for the acquisition, construction, rehabilitation,
27 repair or maintenance of any housing accommodation or commercial
28 property, or to make any inquiry, elicit any information, make
29 or keep any record or use any form of application, containing
30 questions or entries concerning the use of a guide or support

1 animal because of the blindness, deafness or physical handicap
2 of the user or because the user is a handler or trainer of
3 support or guide animals, in connection with the lease of any
4 housing accommodation or commercial property.

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

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

10 (i) It shall be unlawful for any person or other entity
11 whose business includes engaging in real estate-related
12 transactions to discriminate against any person in making
13 available such a transaction or in the terms or conditions of
14 such a transaction because of race, color, religious creed,
15 ancestry, national origin, sex, sexual orientation, age,
16 handicap or disability, use of a guide or support animal because
17 of a physical handicap or because the user is a handler or
18 trainer of guide or support animals or familial status.

19 (ii) Nothing in this act prohibits a person engaged in the
20 business of furnishing appraisals of real property to take into
21 consideration factors other than race, color, religious creed,
22 ancestry, national origin, sex, sexual orientation, age,
23 handicap or disability, use of a guide or support animal because
24 of a physical handicap or because the user is a handler or
25 trainer of guide or support animals or familial status.

26 (9) Nothing in this clause, regarding age or familial
27 status, shall apply with respect to housing for older persons. A
28 person shall not be held personally liable for monetary damages
29 for a violation of this act if the person reasonably relied, in
30 good faith, on the application of the exemption of this

1 subclause. A person may only prove good faith reliance on the
2 application of the exemption of this subclause by proving that
3 at the time of the act complained of all of the following
4 applied:

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

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

10 (10) Nothing in this clause shall bar any religious or
11 denominational institution or organization or any charitable or
12 educational organization which is operated, supervised or
13 controlled by or in connection with a religious organization or
14 any bona fide private or fraternal organization from giving
15 preference to persons of the same religion or denomination or to
16 members of such private or fraternal organization or from making
17 such selection as is calculated by such organization to promote
18 the religious principles or the aims, purposes or fraternal
19 principles for which it is established or maintained. Nor shall
20 it apply to the rental of rooms in a landlord-occupied rooming
21 house with a common entrance, nor with respect to discrimination
22 based on sex, the advertising, rental or leasing of housing
23 accommodations in a single-sex dormitory or rooms in one's
24 personal residence in which common living areas are shared.

25 (11) Nothing in this act limits the applicability of the
26 Fair Housing Act and reasonable State or local restrictions on
27 the maximum number of occupants permitted to occupy a dwelling
28 or a reasonable restriction relating to health or safety
29 standards or business necessity. Owners and managers of
30 dwellings may develop and implement reasonable occupancy and

1 safety standards based on factors such as the number and size of
2 sleeping areas or bedrooms and the overall size of a dwelling
3 unit so long as the standards do not violate the Fair Housing
4 Act or State or local restrictions.

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

8 (1) Refuse, withhold from, or deny to any person because of
9 his race, color, sex, sexual orientation, religious creed,
10 ancestry, national origin or handicap or disability, or to any
11 person due to use of a guide or support animal because of the
12 blindness, deafness or physical handicap of the user or because
13 the user is a handler or trainer of support or guide animals,
14 either directly or indirectly, any of the accommodations,
15 advantages, facilities or privileges of such public
16 accommodation, resort or amusement.

17 (2) Publish, circulate, issue, display, post or mail, either
18 directly or indirectly, any written or printed communication,
19 notice or advertisement to the effect that any of the
20 accommodations, advantages, facilities and privileges of any
21 such place shall be refused, withheld from or denied to any
22 person on account of race, color, religious creed, sex, sexual
23 orientation, ancestry, national origin or handicap or
24 disability, or to any person due to use of a guide or support
25 animal because of the blindness, deafness or physical handicap
26 of the user, or because the user is a handler or trainer of
27 support or guide animals, or that the patronage or custom
28 thereat of any person, belonging to or purporting to be of any
29 particular race, color, religious creed, sex, sexual
30 orientation, ancestry, national origin or handicap or

1 disability, or to any person due to use of a guide or support
2 animal because of the blindness, deafness or physical handicap
3 of the user or because the user is a handler or trainer of
4 support or guide animals, is unwelcome, objectionable or not
5 acceptable, desired or solicited.

6 (3) Exclude or otherwise deny equal goods, services,
7 facilities, privileges, advantages, accommodations or other
8 opportunities to a person because of the handicap or disability
9 of an individual with whom the person is known to have a
10 relationship or association.

11 (4) Construct, operate or otherwise make available such
12 place of public accommodation, resort or amusement which is not
13 accessible.

14 (j) For any person subject to the act to fail to post and
15 exhibit prominently in his place of business any fair practices
16 notice prepared and distributed by the Pennsylvania Human
17 Relations Commission.

18 (k) For any employer to discriminate against an employe or a
19 prospective employe because the employe only has a diploma based
20 on passing a general educational development test as compared to
21 a high school diploma. However, should vocational technical
22 training or other special training be required with regard to a
23 specific position, then such training or special training may be
24 considered by the employer.

25 (l) To exclude or otherwise deny equal jobs or benefits to a
26 person because of the handicap or disability of an individual
27 with whom the person is known to have a relationship or
28 association.

29 This section of the act shall not be construed to prohibit
30 the refusal to hire or the dismissal of a person who is not able

1 to function properly in the job applied for or engaged in.

2 Section 4. Sections 5.3 and 7 of the act, amended December
3 20, 1991 (P.L.414, No.51), are amended to read:

4 Section 5.3. Prohibition of Certain Real Estate Practices.--

5 It shall be an unlawful discriminatory practice for any person
6 to:

7 (a) Induce, solicit or attempt to induce or solicit for
8 commercial profit any listing, sale or transaction involving any
9 housing accommodation or commercial property by representing
10 that such housing accommodation or commercial property is within
11 any neighborhood, community or area adjacent to any other area
12 in which there reside, or do not reside, persons of a particular
13 race, color, familial status, age, religious creed, ancestry,
14 sex, sexual orientation, national origin, handicap or
15 disability, or who are guide or support animal dependent.

16 (b) Discourage, or attempt to discourage, for commercial
17 profit, the purchase or lease of any housing accommodation or
18 commercial property by representing that such housing
19 accommodation or commercial property is within any neighborhood,
20 community or area adjacent to any other area in which there
21 reside, or may in the future reside in increased or decreased
22 numbers, persons of a particular race, color, familial status,
23 age, religious creed, ancestry, sex, sexual orientation,
24 national origin, handicap or disability, or who are guide or
25 support animal dependent.

26 (c) Misrepresent, create or distort a circumstance,
27 condition or incident for the purpose of fostering the
28 impression or belief, on the part of any owner, occupant or
29 prospective owner or occupant of any housing accommodation or
30 commercial property, that such housing accommodation or

1 commercial property is within any neighborhood, community or
2 area adjacent to any other area which would be adversely
3 impacted by the residence, or future increased or decreased
4 residence, of persons of a particular race, color, familial
5 status, age, religious creed, ancestry, sex, sexual orientation,
6 national origin, handicap or disability, or who are guide or
7 support animal dependent within such neighborhood, community or
8 area.

9 (d) In any way misrepresent or otherwise misadvertise within
10 a neighborhood or community, whether or not in writing, that any
11 housing accommodation or commercial property within such
12 neighborhood or community is available for inspection, sale,
13 lease, sublease or other transfer, in any context where such
14 misrepresentation or misadvertising would have the effect of
15 fostering an impression or belief that there has been or will be
16 an increase in real estate activity within such neighborhood or
17 community due to the residence, or anticipated increased or
18 decreased residence, of persons of a particular race, color,
19 familial status, age, religious creed, ancestry, sex, sexual
20 orientation, national origin, handicap or disability, or the use
21 of a guide or support animal because of the blindness, deafness
22 or physical handicap of the user.

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

25 (a) To establish and maintain a central office in the City
26 of Harrisburg.

27 (b) To meet and function at any place within the
28 Commonwealth.

29 (c) To appoint such attorneys and permanent hearing
30 examiners and other employes and agents as it may deem

1 necessary, fix their compensation within the limitations
2 provided by law, and prescribe their duties. Permanent hearing
3 examiners shall perform no duties inconsistent with their duties
4 and responsibilities as permanent hearing examiners.

5 (c.1) To conduct mandatory training seminars on the
6 Pennsylvania Human Relations Act and other applicable Federal
7 and State law, procedures and rules for all investigative
8 personnel.

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

12 (c.3) To appoint attorneys to perform the following
13 functions: (1) render legal advice to Commission members on
14 matters appearing before it; or (2) give legal assistance to
15 complainants appearing before the Commission or hearing
16 examiners. These responsibilities shall require a separate staff
17 of attorneys to perform each function.

18 (d) To adopt, promulgate, amend and rescind rules and
19 regulations to effectuate the policies and provisions of this
20 act.

21 (e) To formulate policies to effectuate the purposes of this
22 act and make recommendations to agencies and officers of the
23 Commonwealth or political subdivisions of government or board,
24 department, commission or school district thereof to effectuate
25 such policies.

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

28 (f.1) To investigate where no complaint has been filed but
29 with the consent of at least eight of the members of the
30 Commission any problem of racial discrimination with the intent

1 of avoiding and preventing the development of racial tension.

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

5 (g) (1) To hold hearings, subpoena witnesses, compel their
6 attendance, administer oaths, take testimony of any person under
7 oath or affirmation and, in connection therewith, to require the
8 production for examination of any books and papers relating to
9 any matter under investigation where a complaint has been
10 properly filed before the Commission. The Commission may make
11 rules as to the issuance of subpoenas by individual
12 Commissioners. In case of contumacy or refusal to obey a
13 subpoena issued to any person any court of jurisdiction, upon
14 application by the Commission, may issue to such person an order
15 requiring such person to appear before the Commission, there to
16 produce documentary evidence, if so ordered, or there to give
17 evidence touching the matter in question, and any failure to
18 obey such order of the court may be punished by said court as a
19 contempt thereof.

20 (2) No person shall be excused from attending and
21 testifying, or from producing records, correspondence, documents
22 or other evidence in obedience to the subpoena of the Commission
23 or of any individual Commissioner, on the ground that the
24 testimony or evidence required of him may tend to incriminate
25 him or subject him to a penalty or forfeiture, but no person
26 shall be prosecuted or subjected to any penalty or forfeiture
27 for or on account of any transaction, matter or thing concerning
28 which he is compelled, after having claimed his privilege
29 against self-incrimination, to testify or produce evidence,
30 except that such person so testifying shall not be exempt from

1 prosecution and punishment for perjury committed in so
2 testifying. The immunity herein provided shall extend only to
3 natural persons so compelled to testify.

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

8 (i) To create such advisory agencies and conciliation
9 councils, local or state-wide, as will aid in effectuating the
10 purposes of this act. The Commission may itself or it may
11 empower these agencies and councils to (1) study the problems of
12 discrimination in all or specific fields of human relationships
13 when based on race, color, familial status, religious creed,
14 ancestry, age, sex, sexual orientation, national origin or
15 handicap or disability, and (2) foster, through community effort
16 or otherwise, good will among the groups and elements of the
17 population of the State. Such agencies and councils may make
18 recommendations to the Commission for the development of
19 policies and procedure in general. Advisory agencies and
20 conciliation councils created by the Commission shall be
21 composed of representative citizens, serving without pay, but
22 the Commission may make provision for technical and clerical
23 assistance to such agencies and councils, and for the payment of
24 the expenses of such assistance.

25 (j) To issue such publications and such results of
26 investigations and research as, in its judgment, will tend to
27 promote good will and minimize or eliminate discrimination
28 because of race, color, familial status, religious creed,
29 ancestry, age, sex, sexual orientation, national origin or
30 handicap or disability.

1 (k) To submit an annual report for each fiscal year by the
2 following March 31 to the General Assembly, the Labor and
3 Industry Committee of the Senate and the State Government
4 Committee of the House of Representatives and the Governor
5 describing in detail the types of complaints received, the
6 investigations, status of cases, Commission action which has
7 been taken, how many were found to have probable cause, how many
8 were resolved by public hearing and the length of time from the
9 initial complaint to final Commission resolution. It shall also
10 contain recommendations for such further legislation concerning
11 abuses and discrimination because of race, color, familial
12 status, religious creed, ancestry, national origin, age, sex,
13 sexual orientation, handicap or disability or the use of a guide
14 or support animal because of the blindness, deafness or physical
15 handicap of the user or because the user is a handler or trainer
16 of support or guide animals, as may be desirable.

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

18 (n) To notify local human relations commissions of
19 complaints received by the Pennsylvania Human Relations
20 Commission involving persons within a commission's jurisdiction.
21 The Pennsylvania Human Relations Commission may enter into work-
22 sharing agreements with those local commissions having
23 comparable jurisdiction and enforcement authority.

24 (o) To prepare and publish all findings of fact, conclusions
25 of the law, final decisions and orders made after a public
26 hearing by the hearing examiners, Commission panel or full
27 Commission.

28 (p) To give public access to the commission's compliance
29 manual.

30 (q) To preserve opinions rendered by the Commission for five

1 years from the date of publication.

2 Section 5. Section 8 of the act, amended July 12, 1996
3 (P.L.684, No.177), is amended to read:

4 Section 8. Educational Program.--The Commission, in
5 cooperation with the Department of Education, is authorized to
6 recommend a multicultural educational program, designed for the
7 students of the schools in this Commonwealth and for all other
8 residents thereof, with emphasis on foreign cultural and
9 language studies, as well as on the basic shared precepts and
10 principles of United States culture, in order to promote
11 cultural understanding and appreciation and to further good will
12 among all persons, without regard to race, color, familial
13 status, religious creed, ancestry, age, sex, sexual orientation,
14 national origin, handicap or disability.

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

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

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

21 (b) Except as provided in subsection (c), nothing contained
22 in this act shall be deemed to repeal or supersede any of the
23 provisions of any existing or hereafter adopted municipal
24 ordinance, municipal charter or of any law of this Commonwealth
25 relating to discrimination because of race, color, familial
26 status, religious creed, ancestry, age, sex, sexual orientation,
27 national origin or handicap or disability, but as to acts
28 declared unlawful by section five of this act the procedure
29 herein provided shall, when invoked, be exclusive and the final
30 determination therein shall exclude any other action, civil or

1 criminal, based on the same grievance of the complainant
2 concerned. If the complainant institutes any action based on
3 such grievance without resorting to the procedure provided in
4 this act, such complainant may not subsequently resort to the
5 procedure herein. In the event of a conflict between the
6 interpretation of a provision of this act and the interpretation
7 of a similar provision contained in any municipal ordinance, the
8 interpretation of the provision in this act shall apply to such
9 municipal ordinance.

10 (c) (1) In cases involving a claim of discrimination, if a
11 complainant invokes the procedures set forth in this act, that
12 individual's right of action in the courts of the Commonwealth
13 shall not be foreclosed. If within one (1) year after the filing
14 of a complaint with the Commission, the Commission dismisses the
15 complaint or has not entered into a conciliation agreement to
16 which the complainant is a party, the Commission must so notify
17 the complainant. On receipt of such a notice the complainant
18 shall be able to bring an action in the courts of common pleas
19 of the Commonwealth based on the right to freedom from
20 discrimination granted by this act.

21 (2) An action under this subsection shall be filed within
22 two years after the date of notice from the Commission closing
23 the complaint. Any complaint so filed shall be served on the
24 Commission at the time the complaint is filed in court. The
25 Commission shall notify the complainant of this requirement.

26 (3) If the court finds that the respondent has engaged in or
27 is engaging in an unlawful discriminatory practice charged in
28 the complaint, the court shall enjoin the respondent from
29 engaging in such unlawful discriminatory practice and order
30 affirmative action which may include, but is not limited to,

1 reinstatement or hiring of employes, granting of back pay, or
2 any other legal or equitable relief as the court deems
3 appropriate. Back pay liability shall not accrue from a date
4 more than three years prior to the filing of a complaint
5 charging violations of this act.

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

8 (c.1) Notwithstanding subsections (a) and (c) or any other
9 provision of this act, nothing in this act shall be deemed to
10 authorize imposition by the Commission of remedial quota relief
11 in cases involving hiring or promoting of employes of the
12 Commonwealth, its agencies or instrumentalities or employes of
13 local governments and school districts in this Commonwealth.
14 This subsection shall not, however, prohibit the voluntary
15 adoption of an affirmative action plan designed to assure that
16 all persons are accorded equality of opportunity in employment.

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

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

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

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

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

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