

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1984 Session of 2014

INTRODUCED BY SNYDER, MCGEEHAN, V. BROWN, MOLCHANY, THOMAS, BISHOP, MUNDY, SCHLOSSBERG, O'BRIEN, DAVIS, K. BOYLE, W. KELLER, CALTAGIRONE, PARKER, MCCARTER, BROWNLEE, READSHAW, PAINTER, NEUMAN, COHEN, MAHONEY, FRANKEL, ROEBUCK, BIZZARRO, FREEMAN, KINSEY, D. MILLER, KORTZ, SWANGER, HAGGERTY AND SABATINA, JANUARY 27, 2014

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JANUARY 27, 2014

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; defining
 14 "marital status"; and further providing for unlawful
 15 discriminatory practices.

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

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

22 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, marital status, religious creed, ancestry, age, sex,
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, familial status, marital status,
29 ancestry, age, sex, national origin, handicap or disability, use
30 of guide or support animals because of the blindness, deafness

1 or physical handicap of the user or because the user is a
2 handler or trainer of support or guide animals, and to safeguard
3 their right to obtain and hold employment without such
4 discrimination, to assure equal opportunities to all individuals
5 and to safeguard their rights to public accommodation and to
6 secure housing accommodation and commercial property regardless
7 of race, color, familial status, marital status, religious
8 creed, ancestry, age, sex, 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, marital
23 status, religious creed, ancestry, handicap or disability, age,
24 sex, national origin, the use of a guide or support animal
25 because of the blindness, deafness or physical handicap of the
26 user or because the user is a handler or trainer of support or
27 guide animals is hereby recognized as and declared to be a civil
28 right which shall be enforceable as set forth in this act.

29 Section 2. Section 4(t) of the act, amended July 12, 1996
30 (P.L.684, No.117), is amended and the section is amended by

1 adding a clause to read:

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

4 * * *

5 (t) The term "familial status" means one or more individuals
6 who have not attained the age of eighteen years being domiciled
7 with:

8 (1) a parent or other person having legal custody of such
9 individual or individuals; or

10 (2) the designee of such parent or other person having such
11 custody, with the written permission of such parent or other
12 person.

13 The term includes an individual who is a provider of care, or is
14 perceived to be a provider of care, for a family member, whether
15 in the past, present or future. The term "family member" shall
16 include the employe's spouse, domestic partner, children,
17 including through adoption or other legal custodial
18 relationship, household members, parents and all other persons
19 related to the employe and the employe's spouse and children by
20 marriage, blood or consanguinity.

21 The protections afforded against discrimination on the basis of
22 familial status shall apply to any person who is pregnant or is
23 in the process of securing legal custody of any individual who
24 has not attained the age of 18 years.

25 * * *

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

28 Section 3. Section 5(a), (b), (c), (f) and (g) of the act,
29 amended December 20, 1991 (P.L.414, No.51), are amended to read:

30 Section 5. Unlawful Discriminatory Practices.--It shall be

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

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

1 association to hire or employ on the basis of sex in those
2 certain instances where sex is a bona fide occupational
3 qualification because of the religious beliefs, practices, or
4 observances of the corporation, or association.

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

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

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

30 (3) Deny or limit, through a quota system, employment or

1 membership because of race, color, religious creed, ancestry,
2 age, familial status, marital status, sex, national origin, non-
3 job related handicap or disability, the use of a guide or
4 support animal because of the blindness, deafness or physical
5 handicap of the user or place of birth.

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

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

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

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

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

15 * * *

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