

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2286 Session of 2018

INTRODUCED BY DAVIDSON, DEAN, MADDEN, O'BRIEN, STEPHENS, STURLA, SOLOMON, DERMODY, D. MILLER, HANNA, MURT, KINSEY, A. DAVIS, CONKLIN, CALTAGIRONE, DALEY, YOUNGBLOOD, FRANKEL, WARREN, DONATUCCI, PASHINSKI, HILL-EVANS AND SCHWEYER, APRIL 19, 2018

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, APRIL 19, 2018

AN ACT

1 Amending the act of October 27, 1955 (P.L.744, No.222), entitled  
 2 "An act prohibiting certain practices of discrimination  
 3 because of race, color, religious creed, ancestry, age or  
 4 national origin by employers, employment agencies, labor  
 5 organizations and others as herein defined; creating the  
 6 Pennsylvania Human Relations Commission in the Governor's  
 7 Office; defining its functions, powers and duties; providing  
 8 for procedure and enforcement; providing for formulation of  
 9 an educational program to prevent prejudice; providing for  
 10 judicial review and enforcement and imposing penalties,"  
 11 further providing for procedure and for construction and  
 12 exclusiveness of remedy.

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

15 Section 1. Sections 9(h) and 12(c) and (c.2) of the act of  
 16 October 27, 1955 (P.L.744, No.222), known as the Pennsylvania  
 17 Human Relations Act, are amended to read:

18 Section 9. Procedure.--\* \* \*

19 (h) Any complaint filed pursuant to this section must be so  
 20 filed within [one hundred eighty days] two years after the  
 21 alleged act of discrimination, unless otherwise required by the  
 22 Fair Housing Act.

1 \* \* \*

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

3 \* \* \*

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

16 (2) An action under this subsection shall be filed within  
17 two years after the date of notice from the Commission closing  
18 the complaint. Any complaint so filed shall be served on the  
19 Commission at the time the complaint is filed in court. The  
20 Commission shall notify the complainant of this requirement.

21 (3) If the court or jury finds that the respondent has  
22 engaged in or is engaging in an unlawful discriminatory practice  
23 charged in the complaint, the court shall enjoin the respondent  
24 from engaging in such unlawful discriminatory practice and order  
25 affirmative action which may include, but is not limited to,  
26 reinstatement or hiring of employes, granting of back pay, or  
27 any other legal or equitable relief as the court or jury deems  
28 appropriate. Back pay liability shall not accrue from a date  
29 more than three years prior to the filing of a complaint  
30 charging violations of this act.

1       (3.1) In addition to the legal and equitable relief  
2 permitted under this section, the plaintiff may recover punitive  
3 damages if the plaintiff demonstrates that the defendant engaged  
4 in or is engaging in an unlawful discriminatory practice charged  
5 in the complaint with malice or reckless indifference to the  
6 rights of the plaintiff. This paragraph does not apply to an  
7 action against the Commonwealth or a political subdivision or  
8 board, department, commission or school district thereof.

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

11       \* \* \*

12       (c.2) If, after a trial held pursuant to subsection (c), the  
13 court of common pleas finds that a defendant engaged in or is  
14 engaging in any unlawful discriminatory practice as defined in  
15 this act, the [court may award attorney fees and costs to the]  
16 prevailing plaintiff[.] is entitled to the award of reasonable  
17 attorney fees and costs unless the court determines that special  
18 circumstances exist to justify denial of such fees.

19       \* \* \*

20       Section 2. This act shall not be construed to affect an  
21 action or proceeding commenced or right accrued before the  
22 effective date of this section.

23       Section 3. This act shall take effect in 90 days.