

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 235 Session of 2017

INTRODUCED BY LEACH, BLAKE, SABATINA, FONTANA, COSTA, SCHWANK
AND HUGHES, JANUARY 26, 2017

REFERRED TO LABOR AND INDUSTRY, JANUARY 26, 2017

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 definitions
14 and for unlawful discriminatory practices.

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

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

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

21 (a) The practice or policy of discrimination against
22 individuals or groups by reason of their race, color, familial
23 status, marital status, religious creed, ancestry, age, sex,
24 national origin, handicap or disability, use of guide or support

1 animals 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 is a matter of concern of the
4 Commonwealth. Such discrimination foments domestic strife and
5 unrest, threatens the rights and privileges of the inhabitants
6 of the Commonwealth, and undermines the foundations of a free
7 democratic state. The denial of equal employment, housing and
8 public accommodation opportunities because of such
9 discrimination, and the consequent failure to utilize the
10 productive capacities of individuals to their fullest extent,
11 deprives large segments of the population of the Commonwealth of
12 earnings necessary to maintain decent standards of living,
13 necessitates their resort to public relief and intensifies group
14 conflicts, thereby resulting in grave injury to the public
15 health and welfare, compels many individuals to live in
16 dwellings which are substandard, unhealthful and overcrowded,
17 resulting in racial segregation in public schools and other
18 community facilities, juvenile delinquency and other evils,
19 thereby threatening the peace, health, safety and general
20 welfare of the Commonwealth and its inhabitants.

21 (b) It is hereby declared to be the public policy of this
22 Commonwealth to foster the employment of all individuals in
23 accordance with their fullest capacities regardless of their
24 race, color, familial status, marital status, religious creed,
25 ancestry, age, sex, national origin, handicap or disability, use
26 of guide or support animals because of the blindness, deafness
27 or physical handicap of the user or because the user is a
28 handler or trainer of support or guide animals, and to safeguard
29 their right to obtain and hold employment without such
30 discrimination, to assure equal opportunities to all individuals

1 and to safeguard their rights to public accommodation and to
2 secure housing accommodation and commercial property regardless
3 of race, color, familial status, marital status, religious
4 creed, ancestry, age, sex, national origin, handicap or
5 disability, use of guide or support animals because of blindness
6 or deafness of the user or because the user is a handler or
7 trainer of guide or support animals.

8 (c) This act shall be deemed an exercise of the police power
9 of the Commonwealth for the protection of the public welfare,
10 prosperity, health and peace of the people of the Commonwealth
11 of Pennsylvania.

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

25 Section 2. Section 4(t) of the act is amended and the
26 section is amended by adding a clause to read:

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

29 * * *

30 (t) The term "familial status" means one or more individuals

1 who have not attained the age of eighteen years being domiciled
2 with:

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

5 (2) the designee of such parent or other person having such
6 custody, with the written permission of such parent or other
7 person.

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

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

20 * * *

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

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

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

1 or the Commonwealth of Pennsylvania:

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

23 (3) Deny or limit, through a quota system, employment or
24 membership because of race, color, familial status, marital
25 status, religious creed, ancestry, age, sex, national origin,
26 non-job related handicap or disability, the use of a guide or
27 support animal because of the blindness, deafness or physical
28 handicap of the 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, familial status, marital
5 status, religious creed, ancestry, age, sex, national origin or
6 non-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 familial status, marital status, religious creed, ancestry, age,
15 sex, national origin, non-job related handicap or disability or
16 the 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 * * *

23 (f) For any employment agency to fail or refuse to classify
24 properly, refer for employment or otherwise to discriminate
25 against any individual because of his race, color, familial
26 status, marital status, religious creed, ancestry, age, sex,
27 national origin, non-job related handicap or disability or the
28 use of a guide or support animal because of the blindness,
29 deafness or physical handicap of the user.

30 (g) For any individual seeking employment to publish or

1 cause to be published any advertisement which in any manner
2 expresses a limitation or preference as to the race, color,
3 familial status, marital status, religious creed, ancestry, age,
4 sex, national origin, non-job related handicap or disability or
5 the use of a guide or support animal because of the blindness,
6 deafness or physical handicap of any prospective employer.

7 * * *

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