

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1620 Session of 2019

INTRODUCED BY DAVIDSON, HILL-EVANS, DERMODY, DONATUCCI, SCHLOSSBERG, FRANKEL, MURT, KINSEY, KIRKLAND, HOWARD, BULLOCK, COMITTA, FITZGERALD, DALEY, SHUSTERMAN, McCLINTON, MULLINS, DEASY, HANBIDGE, KENYATTA, YOUNGBLOOD, READSHAW, KOSIEROWSKI, JOHNSON-HARRELL, ROZZI, SAPPEY, BOYLE, HARRIS, DAWKINS, WILLIAMS, O'MARA, HOHENSTEIN, MALAGARI, WEBSTER, STURLA, SANCHEZ, OTTEN, SNYDER, T. DAVIS, CEPHAS, MULLERY, GOODMAN, McNEILL, HELM, ULLMAN, ISAACSON, SIMS, ROEBUCK, WHEATLEY, A. DAVIS, MARKOSEK, D. MILLER AND DELLOSO, JUNE 12, 2019

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 12, 2019

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

1 filed within [one hundred eighty days] three hundred days after
2 the alleged act of discrimination, unless otherwise required by
3 the Fair Housing Act.

4 * * *

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

6 * * *

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

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

24 (3) If the court or jury finds that the respondent has
25 engaged in or is engaging in an unlawful discriminatory practice
26 charged in the complaint, the court shall enjoin the respondent
27 from engaging in such unlawful discriminatory practice and order
28 affirmative action which may include, but is not limited to,
29 reinstatement or hiring of employes, granting of back pay, or
30 any other legal or equitable relief as the court or jury deems

1 appropriate. Back pay liability shall not accrue from a date
2 more than three years prior to the filing of a complaint
3 charging violations of this act.

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

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

14 * * *

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

22 * * *

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

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