

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 415 Session of 2023

INTRODUCED BY GALLOWAY, MADDEN, HILL-EVANS, CIRESI, SCHLOSSBERG, ISAACSON, SANCHEZ, D. WILLIAMS, SHUSTERMAN, FREEMAN, KINKEAD, N. NELSON AND GREEN, MARCH 14, 2023

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, MARCH 14, 2023

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 definitions and for powers and duties
 12 of the commission; providing for policies and procedures; and
 13 establishing the Human Relations Training Fund.

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

16 Section 1. Sections 4(b) and (c) and 7(f) of the act of
 17 October 27, 1955 (P.L.744, No.222), known as the Pennsylvania
 18 Human Relations Act, are amended to read:

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

21 * * *

22 (b) The term "employer" includes the Commonwealth or any
 23 political subdivision or board, department, commission or school

1 district thereof and any person employing [four] one or more
2 persons within the Commonwealth, but except as hereinafter
3 provided, does not include religious, fraternal, charitable or
4 sectarian corporations or associations, except such corporations
5 or associations supported, in whole or in part, by governmental
6 appropriations. The term "employer" with respect to
7 discriminatory practices based on race, color, age, sex,
8 national origin or non-job related handicap or disability,
9 includes religious, fraternal, charitable and sectarian
10 corporations and associations employing [four] one or more
11 persons within the Commonwealth.

12 (c) The term "employee" [does not include (1) any individual
13 employed in agriculture or in the domestic service of any
14 person, (2) any individuals who, as a part of their employment,
15 reside in the personal residence of the employer, (3) any
16 individual employed by said individual's parents, spouse or
17 child.] means an individual subject to an employer's power to
18 control the nature and parameters of the individual's
19 activities, including hiring, firing, training, scheduling,
20 directing work and proscribing the manner in which the work
21 should be completed. The term does not include:

22 (1) an individual who is employed by, and who is working on
23 a casual basis in a home or personal residence of, another
24 individual; or

25 (2) an individual employed by the individual's parent,
26 spouse or child.

27 * * *

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

30 * * *

1 (f) To initiate, receive, investigate and pass upon
2 complaints charging unlawful discriminatory practices and
3 violations of section 7.1.

4 * * *

5 Section 2. The act is amended by adding a section to read:

6 Section 7.1. Policies and Procedures.--(a) An employer
7 shall adopt written policies and procedures for preventing
8 harassment, discrimination and retaliation against employes. The
9 policies and procedures shall include, at a minimum, all of the
10 following:

11 (1) An explanation that harassment, discrimination and
12 retaliation are unlawful acts under Federal and State law.

13 (2) An explanation that sexual harassment is a form of
14 unlawful discrimination under Federal and State law.

15 (3) A complaint procedure to report and address harassment,
16 discrimination and retaliation claims, including a provision
17 allowing employes to report the claims to persons other than
18 their supervisor.

19 (4) The specific responsibilities of a supervisor in the
20 identification, prevention and reporting of harassment,
21 discrimination and retaliation.

22 (5) An explanation of the procedures for maintaining
23 confidentiality surrounding the reporting of harassment,
24 discrimination and retaliation claims.

25 (6) A procedure for the timely, thorough and prompt
26 investigation of claims of harassment, discrimination and
27 retaliation filed by an employe.

28 (b) An employer shall make the policies and procedures
29 available and easily accessible to all employes.

30 (c) An employer shall review and update the policies for

1 harassment, discrimination and retaliation as needed to remain
2 in compliance with Federal and State law.

3 (d) An employer shall keep records of the current policies
4 and procedures and make them available for inspection by the
5 Commission upon request. If applicable, employers shall also
6 keep a record of the immediately preceding policies and
7 procedures for a period of three years after the effective date
8 of the current policies and procedures and make them available
9 for inspection by the Commission upon request.

10 (e) The Commission shall develop standard policies and
11 procedures that may be used by employers to satisfy the
12 requirements under clause (a). The policies and procedures shall
13 be made publicly available at no cost on the Commission's
14 publicly accessible Internet website.

15 (f) The Commission shall publish on its publicly accessible
16 Internet website, and transmit to the Legislative Reference
17 Bureau for publication in the Pennsylvania Bulletin, any changes
18 to Federal or State harassment, discrimination or retaliation
19 laws that would impact the standard policies and procedures
20 under clause (e) within forty-five days of the changes. The
21 Commission may establish an electronic notification system to
22 alert employers of changes to the standard policies and
23 procedures.

24 (g) A person claiming a violation of this section may make a
25 complaint with the Commission. The complaint must state the name
26 and address of the employer alleged to have violated this
27 section. If after investigation by the Commission, the
28 Commission determines that the employer violated this section,
29 the Commission shall endeavor to cause compliance with this
30 section and may issue a citation and impose a fine as provided

1 in clause (h).

2 (h) The Commission has the power to issue citations and
3 impose fines on an employer for a violation of this section as
4 follows:

5 (1) A fine of not less than five hundred dollars (\$500) and
6 not more than one thousand dollars (\$1,000) for the first
7 violation.

8 (2) A fine of not less than one thousand dollars (\$1,000)
9 and not more than five thousand dollars (\$5,000) for the second
10 or each subsequent violation.

11 (3) The Commission may waive the fine for a first-time
12 violation of this section if the employer proves to the
13 satisfaction of the Commission, within sixty days of the
14 issuance of the citation, that the violation has been cured.

15 (i) The Human Relations Training Fund is established as a
16 separate fund in the State Treasury. A fine imposed and
17 collected by the Commission under clause (h) shall be deposited
18 into the fund. The money in the fund is appropriated on a
19 continuing basis to the Commission to be used for training,
20 education and outreach.

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