

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2104 Session of 2024

INTRODUCED BY MADDEN, SCOTT, PROBST, GIRAL, HANBIDGE, KINSEY, SCHLOSSBERG, SANCHEZ, NEILSON, HILL-EVANS, MADSEN, CERRATO, WAXMAN, DALEY, GREEN, WEBSTER AND TAKAC, MARCH 14, 2024

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 30, 2024

AN ACT

~~Amending the act of October 27, 1955 (P.L.744, No.222), entitled <--
"An act prohibiting certain practices of discrimination because of race, color, religious creed, ancestry, age or national origin by employers, employment agencies, labor organizations and others as herein defined; creating the Pennsylvania Human Relations Commission in the Governor's Office; defining its functions, powers and duties; providing for procedure and enforcement; providing for formulation of an educational program to prevent prejudice; providing for judicial review and enforcement and imposing penalties," further providing for powers and duties of the commission; providing for policies and procedures; and establishing the Human Relations Training Fund.~~

AMENDING THE ACT OF OCTOBER 27, 1955 (P.L.744, NO.222), ENTITLED <--
"AN ACT PROHIBITING CERTAIN PRACTICES OF DISCRIMINATION BECAUSE OF RACE, COLOR, RELIGIOUS CREED, ANCESTRY, AGE OR NATIONAL ORIGIN BY EMPLOYERS, EMPLOYMENT AGENCIES, LABOR ORGANIZATIONS AND OTHERS AS HEREIN DEFINED; CREATING THE PENNSYLVANIA HUMAN RELATIONS COMMISSION IN THE GOVERNOR'S OFFICE; DEFINING ITS FUNCTIONS, POWERS AND DUTIES; PROVIDING FOR PROCEDURE AND ENFORCEMENT; PROVIDING FOR FORMULATION OF AN EDUCATIONAL PROGRAM TO PREVENT PREJUDICE; PROVIDING FOR JUDICIAL REVIEW AND ENFORCEMENT AND IMPOSING PENALTIES," FURTHER PROVIDING FOR POWERS AND DUTIES OF THE COMMISSION; PROVIDING FOR POLICIES AND PROCEDURES; AND ESTABLISHING THE HUMAN RELATIONS TRAINING FUND.

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

~~Section 1. Section 7(f) of the act of October 27, 1955 <--~~

1 ~~(P.L.744, No.222), known as the Pennsylvania Human Relations~~
2 ~~Act, is amended to read:~~

3 ~~Section 7. Powers and Duties of the Commission. The~~
4 ~~Commission shall have the following powers and duties:~~

5 ~~* * *~~

6 ~~(f) To initiate, receive, investigate and pass upon~~
7 ~~complaints charging unlawful discriminatory practices and~~
8 ~~violations of section 7.1.~~

9 ~~* * *~~

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

11 ~~Section 7.1. Policies and Procedures. (a) An employer~~
12 ~~shall adopt written policies and procedures for preventing~~
13 ~~harassment, discrimination and retaliation against employes. The~~
14 ~~policies and procedures shall include, at a minimum, all of the~~
15 ~~following:~~

16 ~~(1) An explanation that harassment, discrimination and~~
17 ~~retaliation are unlawful acts under Federal and State law.~~

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

20 ~~(3) A complaint procedure to report and address harassment,~~
21 ~~discrimination and retaliation claims, including a provision~~
22 ~~allowing employes to report the claims to persons other than~~
23 ~~their supervisor.~~

24 ~~(4) The specific responsibilities of a supervisor in the~~
25 ~~identification, prevention and reporting of harassment,~~
26 ~~discrimination and retaliation.~~

27 ~~(5) An explanation of the procedures for maintaining~~
28 ~~confidentiality surrounding the reporting of harassment,~~
29 ~~discrimination and retaliation claims.~~

30 ~~(6) A procedure for the timely, thorough and prompt~~

1 ~~investigation of claims of harassment, discrimination and~~
2 ~~retaliation filed by an employe.~~

3 ~~(b) An employer shall make the policies and procedures under~~
4 ~~this section available and easily accessible to all employes.~~

5 ~~(c) An employer shall review and update the policies for~~
6 ~~harassment, discrimination and retaliation as needed to remain~~
7 ~~in compliance with Federal and State law.~~

8 ~~(d) An employer shall keep records of the current policies~~
9 ~~and procedures under this section and make them available for~~
10 ~~inspection by the Commission upon request. If applicable,~~
11 ~~employers shall also keep a record of the immediately preceding~~
12 ~~policies and procedures for a period of three years after the~~
13 ~~effective date of the current policies and procedures and make~~
14 ~~them available for inspection by the Commission upon request.~~

15 ~~(e) The Commission shall develop standard policies and~~
16 ~~procedures that may be used by employers to satisfy the~~
17 ~~requirements under clause (a). The policies and procedures shall~~
18 ~~be made publicly available at no cost on the publicly accessible~~
19 ~~Internet website of the Commission.~~

20 ~~(f) Within forty five days of any changes to Federal or~~
21 ~~State harassment, discrimination or retaliation laws that would~~
22 ~~impact the standard policies and procedures under clause (e),~~
23 ~~the Commission shall publish the changes on its publicly~~
24 ~~accessible Internet website and shall transmit notice of the~~
25 ~~changes to the Legislative Reference Bureau for publication in~~
26 ~~the next available issue of the Pennsylvania Bulletin. The~~
27 ~~Commission may establish an electronic notification system to~~
28 ~~alert employers of changes to the standard policies and~~
29 ~~procedures.~~

30 ~~(g) A person claiming a violation of this section may make a~~

1 ~~complaint with the Commission. The complaint must state the name~~
2 ~~and address of the employer alleged to have violated this~~
3 ~~section. If, after investigation by the Commission, the~~
4 ~~Commission determines that the employer violated this section,~~
5 ~~the Commission shall endeavor to cause compliance with this~~
6 ~~section and may issue a citation and impose a fine as provided~~
7 ~~in clause (h).~~

8 ~~(h) The Commission may issue citations and impose fines on~~
9 ~~an employer for a violation of this section as follows:~~

10 ~~(1) A fine of not less than five hundred dollars (\$500) and~~
11 ~~not more than one thousand dollars (\$1,000) for the first~~
12 ~~violation.~~

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

16 ~~(3) The Commission may waive the fine for a first time~~
17 ~~violation of this section if the employer proves to the~~
18 ~~satisfaction of the Commission, within sixty days of the~~
19 ~~issuance of the citation, that the violation has been cured.~~

20 ~~(i) The Human Relations Training Fund is established as a~~
21 ~~separate fund in the State Treasury. The following apply:~~

22 ~~(1) A fine imposed and collected by the Commission under~~
23 ~~clause (h) or a civil penalty assessed under section 9(f)(2)~~
24 ~~shall be deposited into the Human Relations Training Fund.~~

25 ~~(2) The money in the Human Relations Training Fund is~~
26 ~~appropriated on a continuing basis to the Commission to be used~~
27 ~~for training, education and outreach.~~

28 ~~Section 3. This act shall take effect in 120 days.~~

29 SECTION 1. SECTION 7(F) OF THE ACT OF OCTOBER 27, 1955
30 (P.L.744, NO.222), KNOWN AS THE PENNSYLVANIA HUMAN RELATIONS

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1 ACT, IS AMENDED TO READ:

2 SECTION 7. POWERS AND DUTIES OF THE COMMISSION.--THE
3 COMMISSION SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

4 * * *

5 (F) TO INITIATE, RECEIVE, INVESTIGATE AND PASS UPON
6 COMPLAINTS CHARGING UNLAWFUL DISCRIMINATORY PRACTICES AND
7 VIOLATIONS OF SECTION 7.1.

8 * * *

9 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

10 SECTION 7.1. POLICIES AND PROCEDURES.--(A) AN EMPLOYER
11 SHALL ADOPT WRITTEN POLICIES AND PROCEDURES FOR PREVENTING
12 HARASSMENT, DISCRIMINATION AND RETALIATION AGAINST EMPLOYEES. THE
13 POLICIES AND PROCEDURES SHALL INCLUDE, AT A MINIMUM, ALL OF THE
14 FOLLOWING:

15 (1) AN EXPLANATION THAT HARASSMENT, DISCRIMINATION AND
16 RETALIATION ARE UNLAWFUL ACTS UNDER FEDERAL AND STATE LAW.

17 (2) AN EXPLANATION THAT SEXUAL HARASSMENT IS A FORM OF
18 UNLAWFUL DISCRIMINATION UNDER FEDERAL AND STATE LAW.

19 (3) A COMPLAINT PROCEDURE TO REPORT AND ADDRESS HARASSMENT,
20 DISCRIMINATION AND RETALIATION CLAIMS, INCLUDING A PROVISION
21 ALLOWING EMPLOYEES TO REPORT THE CLAIMS TO PERSONS OTHER THAN
22 THEIR SUPERVISOR.

23 (4) THE SPECIFIC RESPONSIBILITIES OF A SUPERVISOR IN THE
24 IDENTIFICATION, PREVENTION AND REPORTING OF HARASSMENT,
25 DISCRIMINATION AND RETALIATION.

26 (5) AN EXPLANATION OF THE PROCEDURES FOR MAINTAINING
27 CONFIDENTIALITY SURROUNDING THE REPORTING OF HARASSMENT,
28 DISCRIMINATION AND RETALIATION CLAIMS.

29 (6) A PROCEDURE FOR THE TIMELY, THOROUGH AND PROMPT
30 INVESTIGATION OF CLAIMS OF HARASSMENT, DISCRIMINATION AND

1 RETALIATION FILED BY AN EMPLOYEE.

2 (B) AN EMPLOYER SHALL MAKE THE POLICIES AND PROCEDURES UNDER
3 THIS SECTION AVAILABLE AND EASILY ACCESSIBLE TO ALL EMPLOYEES. AN
4 EMPLOYER MAY POST THE POLICIES AND PROCEDURES ON THE EMPLOYER'S
5 INTERNET WEBSITE WHICH IS ACCESSIBLE TO EMPLOYEES.

6 (C) AN EMPLOYER SHALL KEEP RECORDS OF THE CURRENT POLICIES
7 AND PROCEDURES UNDER THIS SECTION AND MAKE THEM AVAILABLE FOR
8 INSPECTION BY THE COMMISSION UPON REQUEST. IF APPLICABLE,
9 EMPLOYERS SHALL ALSO KEEP A RECORD OF THE IMMEDIATELY PRECEDING
10 POLICIES AND PROCEDURES FOR A PERIOD OF THREE YEARS AFTER THE
11 EFFECTIVE DATE OF THE CURRENT POLICIES AND PROCEDURES AND MAKE
12 THEM AVAILABLE FOR INSPECTION BY THE COMMISSION UPON REQUEST.

13 (D) THE COMMISSION SHALL DEVELOP STANDARD POLICIES AND
14 PROCEDURES THAT MAY BE USED BY EMPLOYERS TO SATISFY THE
15 REQUIREMENTS UNDER CLAUSE (A). THE POLICIES AND PROCEDURES SHALL
16 BE MADE PUBLICLY AVAILABLE AT NO COST ON THE PUBLICLY ACCESSIBLE
17 INTERNET WEBSITE OF THE COMMISSION.

18 (E) WITHIN FORTY-FIVE DAYS OF ANY CHANGES TO FEDERAL OR
19 STATE HARASSMENT, DISCRIMINATION OR RETALIATION LAWS THAT WOULD
20 IMPACT THE STANDARD POLICIES AND PROCEDURES UNDER CLAUSE (D),
21 THE COMMISSION SHALL PUBLISH THE CHANGES ON ITS PUBLICLY
22 ACCESSIBLE INTERNET WEBSITE AND TRANSMIT NOTICE OF THE CHANGES
23 TO THE LEGISLATIVE REFERENCE BUREAU FOR PUBLICATION IN THE NEXT
24 AVAILABLE ISSUE OF THE PENNSYLVANIA BULLETIN. THE COMMISSION
25 SHALL ALERT EMPLOYERS OF CHANGES TO THE STANDARD POLICIES AND
26 PROCEDURES AND SHALL ESTABLISH AND UTILIZE AN ELECTRONIC
27 NOTIFICATION SYSTEM TO ISSUE THE ALERTS. AN EMPLOYER SHALL ADOPT
28 THE REQUIRED CHANGE TO THE STANDARD POLICIES AND PROCEDURES
29 WITHIN FORTY-FIVE DAYS OF RECEIVING NOTIFICATION OF THE CHANGE
30 FROM THE COMMISSION.

1 (F) A PERSON CLAIMING A VIOLATION OF THIS SECTION MAY MAKE A
2 COMPLAINT WITH THE COMMISSION. THE COMPLAINT MUST STATE THE NAME
3 AND ADDRESS OF THE EMPLOYER ALLEGED TO HAVE VIOLATED THIS
4 SECTION. IF, AFTER INVESTIGATION BY THE COMMISSION, THE
5 COMMISSION DETERMINES THAT THE EMPLOYER VIOLATED THIS SECTION,
6 THE COMMISSION SHALL ENDEAVOR TO CAUSE COMPLIANCE WITH THIS
7 SECTION AND MAY ISSUE A CITATION AND IMPOSE A FINE AS PROVIDED
8 IN CLAUSE (G).

9 (G) THE COMMISSION MAY ISSUE CITATIONS AND IMPOSE FINES ON
10 AN EMPLOYER FOR A VIOLATION OF THIS SECTION AS FOLLOWS:

11 (1) A FINE OF NOT LESS THAN FIVE HUNDRED DOLLARS (\$500) AND
12 NOT MORE THAN ONE THOUSAND DOLLARS (\$1,000) FOR THE FIRST
13 VIOLATION.

14 (2) A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS (\$1,000)
15 AND NOT MORE THAN FIVE THOUSAND DOLLARS (\$5,000) FOR THE SECOND
16 OR EACH SUBSEQUENT VIOLATION.

17 (3) UNLESS AN EMPLOYER HAS DEMONSTRATED WILLFUL DISREGARD
18 FOR THE REQUIREMENTS OF THIS ACT, THE COMMISSION SHALL WAIVE THE
19 FINE FOR A FIRST-TIME VIOLATION OF THIS SECTION IF THE EMPLOYER
20 PROVES TO THE SATISFACTION OF THE COMMISSION, WITHIN SIXTY DAYS
21 OF THE ISSUANCE OF THE CITATION, THAT THE VIOLATION HAS BEEN
22 CURED. THE COMMISSION MAY WAIVE THE FINE FOR A SECOND-TIME
23 VIOLATION OF THIS SECTION IF THE VIOLATION IS A RESULT OF THE
24 EMPLOYER FAILING TO UPDATE POLICIES AND PROCEDURES IN ACCORDANCE
25 WITH CLAUSE (E), PROVIDED THE EMPLOYER PROVES TO THE
26 SATISFACTION OF THE COMMISSION, WITHIN SIXTY DAYS OF THE
27 ISSUANCE OF THE CITATION, THAT THE VIOLATION HAS BEEN CURED.

28 (H) THE HUMAN RELATIONS TRAINING FUND IS ESTABLISHED AS A
29 SEPARATE FUND IN THE STATE TREASURY. THE FOLLOWING APPLY:

30 (1) A FINE IMPOSED AND COLLECTED BY THE COMMISSION UNDER

1 CLAUSE (G) OR A CIVIL PENALTY ASSESSED UNDER SECTION 9(F)(2)
2 SHALL BE DEPOSITED INTO THE HUMAN RELATIONS TRAINING FUND.

3 (2) THE MONEY IN THE HUMAN RELATIONS TRAINING FUND IS
4 APPROPRIATED ON A CONTINUING BASIS TO THE COMMISSION TO BE USED
5 FOR TRAINING, EDUCATION AND OUTREACH.

6 SECTION 3. THIS ACT SHALL TAKE EFFECT IN 120 DAYS.