

*N.B. Sexual orientation remains the same. Gender identity must now read Gender identity or expression. In addition, Sec. 7 (f2) is modified and additions will be made to restore the Act's enforcement mechanisms.*

**The General Assembly of Pennsylvania**

**Senate Bill No. \_\_\_\_\_ Session 2001**  
**House Bill No. \_\_\_\_\_ Session of 2001**

---

Introduced by:

---

Referred to:

---

**AN ACT**

1 Amending the act of October 25, 1955 (P.L. 744, No. 222, as amended July 12, 1996 by Act 117 of 1996  
2 and June 25, 1997 by Act 34 of 1997), entitled "An Act prohibiting certain practices of discrimination  
3 because of race, class, color, familial status, religious creed, ancestry, age, sex, sexual orientation, gender  
4 identity or expression, national origin, handicap or disability, by employers, employment agencies, labor  
5 organizations and others as herein defined; creating the Pennsylvania Human Relations Commission  
6 in the Governor's Office; defining its functions, powers and duties; providing for procedure and  
7 enforcement; providing or formulation of an educational program to prevent prejudice; providing  
8 for judicial review and enforcement and imposing penalties; defining "advertisement" and  
9 "advertiser"; and providing for certain forms of advertisement, for limitations and for civil  
10 penalties; providing for evidentiary requirements, and further providing for unlawful  
11 discriminatory practices, for powers and duties of the Pennsylvania Human Relations Commission  
12 and for procedures.

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

14 **SECTION 1.** Sections 2 ( a ) and ( b ); Section 3; Section 4 adding (bb); Section 5 (a), ( b1-b4 ), ( c ),  
15 ( f ), ( g ), ( h 1 through h-6, h-8( i )( ii ) ), i (1)(2); Section 5.3 ( a ), ( b ), ( c ) ( d ); Section 7 ( f2 ),  
16 ( g ), ( i ), ( j ) and (k); *Section 8*; Section 9 (b)(3), adding (k)(1) and 9.4; Section 12 (c); (c)(1), adding (g) of the  
17 Act of October 27, 1955 (P.L.744, , No 222) known as the Pennsylvania Human Relations Act, are amended to  
read:

18. **Section 2. Findings and Declaration of Policy.**

19 (a) The practice or policy of discrimination against individuals or groups by reason of their race, class,  
20 color, familial status, religious creed, ancestry, age, sex, sexual orientation, gender identity or  
21 expression, national origin, handicap or disability, use of guide or support animals because of the  
22 blindness, deafness or physical handicap of the user or because the user is a handler or trainer of  
23 support or guide animals is a matter of concern of the Commonwealth. Such discrimination foments

*N.B. Sexual orientation remains the same. Gender identity must now read Gender identity or expression. In addition, Sec. 7 (f2) is modified and additions will be made to restore the Act's enforcement mechanisms.*

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

11 (b) It is hereby declared to be the public policy of this Commonwealth to foster the employment of  
12 all individuals in accordance with their fullest capacities regardless of their race, class, color, religious  
13 creed, ancestry, age, sex, sexual orientation, gender identity or expression, national origin, handicap or  
14 disability, use of guide or support animals because of the blindness, deafness or physical handicap of the  
15 user or because the user is a handler or trainer of support or guide animals, and to safeguard their right to  
16 obtain and hold employment without such discrimination, to assure equal opportunities to all  
17 individuals and to safeguard their rights to public accommodation and to secure housing  
18 accommodation and commercial property regardless of race, class, color, familial status, religious creed,  
19 ancestry, age, sex, sexual orientation, gender identity or expression, national origin, handicap or disability,  
20 use of guide or support animals because of blindness or deafness of the user or because the user is a  
21 handler or trainer of guide or support animals.

22 **Section 3. Right to Freedom from Discrimination.**

23 The opportunity for an individual to obtain employment for which she or he is qualified, to obtain a  
24 quality education, to obtain all the accommodations, advantages, facilities and privileges of any public  
25 accommodation and of any housing accommodation and commercial property without discrimination  
26 because of race, class, color, familial status, religious creed, ancestry, handicap or disability, age, sex, sexual  
27 orientation, gender identity or expression, national origin, the use of a guide or support animal because of

*N.B. Sexual orientation remains the same. Gender identity must now read Gender identity or expression. In addition, Sec. 7 (f2) is modified and additions will be made to restore the Act's enforcement mechanisms.*

1 the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support  
2 or guide animals is hereby recognized as and declared to be a civil right which shall be enforceable as set  
3 forth in this act. [3 amended Dec. 20, 1991, P.L. 414, No. 51]

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

5 \* \* \*

6 (bb) The term sexual orientation shall mean a person's actual or perceived heterosexuality,  
7 homosexuality, or bisexuality. The term gender identity shall mean a person's self-identification  
8 as male or female, distinguished from the person's biological sex. Sex shall be defined as the  
9 gender of a person, as perceived, presumed, or assumed by others, including those who are  
10 changing or who have changed their gender identification.

11 **Section 5. Unlawful Discriminatory Practices.**

12 It shall be an unlawful discriminatory practice, unless based upon a bona fide occupational  
13 qualification, or in the case of a fraternal corporation or association, unless based upon membership  
14 in such association or corporation, or except where based upon applicable security regulations  
15 established by the United States or the Commonwealth of Pennsylvania:

16 (a) For any employer because of the race, color, religious creed, ancestry, age, sex, sexual orientation,  
17 gender identity or expression, national origin or non-job related handicap or disability or the use of a guide or  
18 support animal because of the blindness, deafness or physical handicap of any individual or  
19 independent contractor, to refuse to hire or employ or contract with, or to bar or to discharge from  
20 employment such individual or independent contractor, or to otherwise discriminate against such  
21 individual or independent contractor with respect to compensation, hire, tenure, terms, conditions or  
22 privileges of employment or contract, if the individual or independent contractor is the best able and  
23 most competent to perform the services required. The provision of this paragraph shall not apply, to  
24 (1) operation of the terms or conditions of any bona fide retirement or pension plan which have the  
25 effect of a minimum service requirement, (2) operation of the terms or conditions of any bona fide  
26 group or employee insurance plan, (3) age limitations placed upon entry into bona fide  
27 apprenticeship programs of two years or more approved by the State Apprenticeship and Training

1 Council of the Department of Labor and Industry, established by the act of July 14, 1961 (P.L.604,

*N.B. Sexual orientation remains the same. Gender identity must now read Gender identity or expression. In addition, Sec. 7 (f2) is modified and additions will be made to restore the Act's enforcement mechanisms.*

2 No.304), known as "The Apprenticeship and Training Act."

3 Notwithstanding any provision of this clause, it shall not be an unlawful employment practice for a  
4 religious corporation or association to hire or employ on the basis of sex in those certain instances  
5 where sex is a bona fide occupational qualification because of the religious beliefs, practices, or  
6 observances of the corporation, or association.

7 (b) For any employer, employment agency or labor organization, prior to the employment, contracting with  
8 an independent contractor or admission to membership, to: (1) Elicit any information or make or keep a  
9 record of or use any form of application or application blank containing questions or entries concerning the  
10 race, color, religious creed, ancestry, age, sex, sexual orientation, gender identity or expression, national  
11 origin, past handicap or disability or the use of a guide or support animal because of the blindness, deafness or  
12 physical handicap of any applicant for employment or membership.

14 \*\*\*

15. (2) Print or publish or cause to be printed or published any notice or advertisement relating to  
16 employment or membership indicating any preference, limitation, specification or discrimination  
17 based upon race, color, religious creed, ancestry, age, sex, sexual orientation, gender identity or expression  
18 national origin, non-job related handicap or disability or the use of a guide or support animal because  
19 of the blindness, deafness or physical handicap of the user.

20 (3) Deny or limit, through a quota system, employment or membership because of race, color,  
21 religious creed, ancestry, age, sex, sexual orientation, gender identity or expression national origin, non-job  
22 related handicap or disability, the use of a guide or support animal because of the blindness, deafness  
23 or physical handicap of the user or place of birth.

24 (4) Substantially confine or limit recruitment or hiring of individuals, with intent to circumvent  
25 the spirit and purpose of this act, to any employment agency, employment service, labor  
26 organization, training school or training center or any other employee-referring source which services  
27 individuals who are predominantly of the same race, color, religious creed, ancestry, age, sex, sexual

*N.B. Sexual orientation remains the same. Gender identity must now read Gender identity or expression. In addition, Sec. 7 (f2) is modified and additions will be made to restore the Act's enforcement mechanisms.*

1 orientation, gender identity or expression, national origin or non-job related handicap or disability.

2 (c) For any labor organization because of the race, color, religious creed, ancestry, age, sex, sexual

3 orientation, gender identity or expression, national origin, non-job related handicap or disability or the use of

4 a guide or support animal because of the blindness, deafness or physical handicap of any individual to

5 deny full and equal membership rights to any individual or otherwise to discriminate against such

6 individuals with respect to hire, tenure, terms, conditions or privileges of employment or any other

7 matter, directly or indirectly, related to employment.

8 \*\*\*

9 (f) For any employment agency to fail or refuse to classify properly, refer for employment or

10 otherwise to discriminate against any individual because of his race, color, religious creed, ancestry,

11 age, sex, sexual orientation, gender identity or expression, national origin, non-job related handicap or

12 disability or the use of a guide or support animal because of the blindness, deafness or physical handicap of

13 the disability user.

14 (g) For any individual seeking employment to publish or cause to be published any advertisement

15 which in any manner expresses a limitation or preference as to the race, color, religious creed,

16 ancestry, age, sex, sexual orientation, gender identity or expression, national origin , non-job related handicap

17 or disability or the use of a guide or support animal because of the blindness, deafness or physical

18 handicap of any prospective employer.

19 (h) For any person to:

20 (1) Refuse to sell, lease, finance or otherwise to deny or withhold any housing accommodation

21 or commercial property from any person because of the race, color, familial status, age, religious

22 creed, ancestry, sex, sexual orientation, gender identity or expression, national origin or handicap or disability

23 any person, prospective owner, occupant or user of such housing accommodation or commercial

24 of property, or to refuse to lease any housing accommodation or commercial property to any person due

25 to use of a guide animal because of the blindness or deafness of the user, use of a support animal

26 because of a physical handicap of the user or because the user is a handler or trainer of support or

27 guide animals or because of the handicap or disability of an individual with whom the person is

*N.B. Sexual orientation remains the same. Gender identity must now read Gender identity or expression. In addition, Sec. 7 (f2) is modified and additions will be made to restore the Act's enforcement mechanisms.*

1 known to have a relationship or association.

2 \*\*\*

3 (2) Refuse to lend money, whether or not secured by mortgage or otherwise for the acquisition,  
4 construction, rehabilitation, repair or maintenance of any housing accommodation or commercial  
5 property or otherwise withhold financing of any housing accommodation or commercial property  
6 from any person because of the race, color, familial status, age, religious creed, ancestry, sex, sexual  
7 orientation, gender identity or expression, or national origin, handicap or disability of any person, the use of a  
8 guide or support animal because of the blindness, deafness or physical handicap of the user or because the  
9 user is a handler or trainer of support or guide animals or because of the handicap or disability of an  
10 individual with whom the person is known to have a relationship or association.

11 (3) Discriminate against any person in the terms or conditions of selling or leasing any housing  
12 accommodation or commercial property or in furnishing facilities, services or privileges in  
13 connection with the ownership, occupancy or use of any housing accommodation or commercial  
14 property because of the race, color, familial status, age, religious creed, ancestry, sex, sexual  
15 orientation, gender identity or expression, national origin, handicap or disability of any person, the use of a  
16 guide or support animal because of the blindness, deafness or physical handicap of the user or because the  
17 user is a handler or trainer of support or guide animals or because of the handicap or disability of an  
18 individual with whom the person is known to have a relationship or association.

19 \*\*\*

20 (4) Discriminate against any person in the terms or conditions of any loan of money, whether or  
21 not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair or  
22 maintenance of housing accommodation or commercial property because of the race, color, familial  
23 status, age, religious creed, ancestry, sex, sexual orientation, gender identity or expression, national origin or  
24 handicap or disability of any person, the use of a guide or support animal because of the blindness,  
25 deafness or physical handicap of the user or because the user is a handler or trainer of guide or  
26 support animals or because of the handicap or disability of an individual with whom the person is  
27 known to have a relationship or association.

1 (5) Print, publish or circulate any statement or advertisement: (i) relating to the sale, lease or

*N.B. Sexual orientation remains the same. Gender identity must now read Gender identity or expression. In addition, Sec. 7 (f2) is modified and additions will be made to restore the Act's enforcement mechanisms.*

2 acquisition of any housing accommodation or commercial property or the loan of money, whether or  
3 not secured by mortgage, or otherwise for the acquisition, construction, rehabilitation, repair or  
4 maintenance of any housing accommodation or commercial property which indicates any preference,  
5 limitation, specification, or discrimination based upon race, color, familial status, age, religious creed,  
6 ancestry, sex, sexual orientation, gender identity or expression, national origin, handicap or disability or  
7 because of the handicap or disability of an individual with whom the person is known to have a relationship  
8 or association, or (ii) relating to the sale, lease or acquisition of any housing accommodation or  
9 commercial property which indicates any preference, limitation, specification or discrimination based  
10 upon use of a guide or support animal because of the blindness, deafness or physical handicap of the  
11 user or because the user is a handler or trainer of support or guide animals.

12 (6) Make any inquiry, elicit any information, make or keep any record or use any form of  
13 application, containing questions or entries concerning race, color, familial status, age, religious  
14 creed, ancestry, sex, sexual orientation, gender identity or expression, national origin, handicap or disability or  
15 because of the handicap or disability of an individual with whom the person is known to have a  
16 relationship or association in connection with the sale or lease of any housing accommodation or  
17 commercial property or loan of any money, whether or not secured by mortgage or otherwise for the  
18 acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation or  
19 commercial property, or to make any inquiry, elicit any information, make or keep any record or use  
20 any form of application, containing questions or entries concerning the use of a guide or support  
21 animal because of the blindness, deafness or physical handicap of the user or because the user is a  
22 handler or trainer of support or guide animals, in connection with the lease of any housing  
23 accommodation or commercial property.

24 \*\*\*

25 (8) Discriminate in real estate-related transactions, as described by and subject to the following:

26 (i) It shall be unlawful for any person or other entity whose business includes engaging in real  
27 estate-related transactions to discriminate against any person in making available such a transaction

*N.B. Sexual orientation remains the same. Gender identity must now read Gender identity or expression. In addition, Sec. 7 (f2) is modified and additions will be made to restore the Act's enforcement mechanisms.*

1 or in the terms or conditions of such a transaction because of race, color, religious creed, ancestry,  
2 national origin, sex, sexual orientation, gender identity expression, age, handicap or disability, use of a guide  
3 or support animal because of a physical handicap or because the user is a handler or trainer of guide  
4 or support animals or familial status.

5 (ii) Nothing in this act prohibits a person engaged in the business of furnishing appraisals of  
6 real property to take into consideration factors other than race, color, religious creed, ancestry,  
7 national origin, sex, sexual orientation, gender identity or expression, age, handicap or disability, use of a  
8 guide or support animal because of a physical handicap or because the user is a handler or trainer of guide  
9 or support animals or familial status.

10 \*\*\*

11 (i) For any person being the owner, lessee, proprietor, manager, superintendent, agent or employee of  
12 any public accommodation, resort or amusement to: (1) Refuse, withhold from, or deny to any person  
13 because of his race, color, sex, sexual orientation, gender identity or expression, religious creed, ancestry,  
14 national origin or handicap or disability, or to any person due to use of a guide or support animal because of  
15 the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support  
16 or guide animals, either directly or indirectly, any of the accommodations, advantages, facilities or  
17 privileges of such public accommodation, resort or amusement.

18 (2) Publish, circulate, issue, display, post or mail, either directly or indirectly, any written or printed  
19 communication, notice or advertisement to the effect that any of the accommodations, advantages,  
20 facilities and privileges of any such place shall be refused, withheld from or denied to any person on  
21 account of race, color, religious creed, sex, sexual orientation, gender identity or expression, ancestry, national  
22 origin or handicap or disability, or to any person due to use of a guide or support animal because of the  
23 blindness, deafness or physical handicap of the user, or because the user is a handler or trainer of support  
24 or guide animals, or that the patronage or custom thereof of any person, belonging to or purporting to be  
25 of any particular race, color, religious creed, sex, sexual orientation, gender identity or expression, ancestry,  
26 national origin or handicap or disability, or to any person due to use of a guide or support animal because of  
27 the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support

*N.B. Sexual orientation remains the same. Gender identity must now read Gender identity or expression. In addition, Sec. 7 (f2) is modified and additions will be made to restore the Act's enforcement mechanisms.*

1 or guide animals, is unwelcome, objectionable or not acceptable, desired or solicited.

2 \*\*\*

3 (j) For any person subject to the act to fail to post and exhibit prominently in her or his place of  
4 business any fair practices notice prepared and distributed by the Pennsylvania Human Relations  
5 Commission. The notice shall include a section that specifically defines sexual harassment and lists  
6 it among the prohibited and unfair practices

7 \*\*\*

### 8 **Section 5.3. Prohibition of Certain Real Estate Practices.**

9 It shall be an unlawful discriminatory practice for any person to:

10 (a) Induce, solicit or attempt to induce or solicit for commercial profit any listing, sale or transaction  
11 involving any housing accommodation or commercial property by representing that such housing  
12 accommodation or commercial property is within any neighborhood, community or area adjacent to  
13 any other area in which there reside, or do not reside, persons of a particular race, color, familial  
14 status, age, religious creed, ancestry, sex, sexual orientation, gender identity or expression, national origin,  
15 handicap or disability, or who are guide or support animal dependent.

16 (b) Discourage, or attempt to discourage, for commercial profit, the purchase or lease of any housing  
17 accommodation or commercial property by representing that such housing accommodation or  
18 commercial property is within any neighborhood, community or area adjacent to any other area in  
19 which there reside, or may in the future reside in increased or decreased numbers, persons of a  
20 particular race, color, familial status, age, religious creed, ancestry, sex, sexual orientation, gender  
21 identity or expression, national origin, handicap or disability, or who are guide or support animal dependent.

22 (c) Misrepresent, create or distort a circumstance, condition or incident for the purpose of fostering  
23 the impression or belief, on the part of any owner, occupant or prospective owner or occupant of any  
24 housing accommodation or commercial property, that such housing accommodation or commercial  
25 property is within any neighborhood, community or area adjacent to any other area which would be  
26 adversely impacted by the residence, or future increased or decreased residence, of persons of a  
27 particular race, color, familial status, age, religious creed, ancestry, sex, sexual orientation, gender

1 identity or expression, national origin, handicap or disability, or who are guide or support animal dependent

*N.B. Sexual orientation remains the same. Gender identity must now read Gender identity or expression. In addition, Sec. 7 (f2) is modified and additions will be made to restore the Act's enforcement mechanisms.*

2 within such neighborhood, community or area.

3 (d) In any way misrepresent or otherwise misadvertise within a neighborhood or community,  
4 whether or not in writing, that any housing accommodation or commercial property within such  
5 neighborhood or community is available for inspection, sale, lease, sublease or other transfer, in any  
6 context where such misrepresentation or misadvertising would have the effect of fostering an  
7 impression or belief that there has been or will be an increase in real estate activity within such  
8 neighborhood or community due to the residence, or anticipated increased or decreased residence, of  
9 persons of a particular race, color, familial status, age, religious creed, ancestry, sex, sexual  
10 orientation, gender identity or expression, national origin, handicap or disability, or the use of a guide or  
11 support animal because of the blindness, deafness or physical handicap of the user.

12 **Section 7. Powers and Duties.** The Commission shall have the following powers and duties:

13 \*\*\*

14. ( f.2) On request of the Governor, the Legislature or the Attorney General, to investigate claims of  
excessive use of force by police in civil rights protests activities.

15 (g)(1) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, take  
16 testimony of any person under oath or affirmation and, in connection therewith, to compel answers to  
17 interrogatories (403) to require the production for examination of any books and papers relating to  
18 any matter under investigation where a complaint has been properly filed before the Commission.

19 The Commission may make rules as to the issuance of subpoenas by individual Commissioners. In  
20 case of contumacy or refusal to obey a subpoena issued to any person any court of jurisdiction, upon  
21 application by the Commission, may issue to such person an order requiring such person to appear  
22 before the Commission, there to produce documentary evidence, if so ordered, or there to give  
23 evidence touching the matter in question, and any failure to obey such order of the court may be  
24 punished by said court as a contempt thereof.

25 \*\*\*

26 (i) To create such advisory agencies and conciliation councils, local or state-wide, as will aid in

*N.B. Sexual orientation remains the same. Gender identity must now read Gender identity or expression. In addition, Sec. 7 (f2) is modified and additions will be made to restore the Act's enforcement mechanisms.*

1 effectuating the purposes of this act. The Commission may itself or it may empower these agencies  
2 and councils to (1) study the problems of discrimination in all or specific fields of human  
3 relationships when based on race, color, familial status, religious creed, ancestry, age, sex, sexual  
4 orientation, gender identity or expression, national origin or handicap or disability, and (2) foster, through  
5 community effort or otherwise, good will among the groups and elements of the population of the  
6 State. Such agencies and councils may make recommendations to the Commission for the  
7 development of policies and procedure in general. Advisory agencies and conciliation councils  
8 created by the Commission shall be composed of representative citizens, serving without pay, but the  
9 Commission may make provision for technical and clerical assistance to such agencies and councils,  
10 and for the payment of the expenses of such assistance.

11 (j) To issue such publications and such results of investigations and research as, in its judgment, will  
12 tend to promote good will and minimize or eliminate discrimination because of race, color, familial  
13 status, religious creed, ancestry, age, sex, sexual orientation, gender identity or expression,  
14 national origin or handicap or disability.

15 (k) To submit an annual report for each fiscal year by the following March 31 to the General  
16 Assembly, the Labor and Industry Committee of the Senate and the State Government Committee of  
17 the House of Representatives and the Governor describing in detail the types of complaints received,  
18 the investigations, status of cases, Commission action which has been taken, how many were found  
19 to have probable cause, how many were resolved by public hearing and the length of time from the  
20 initial complaint to final Commission resolution. It shall also contain recommendations for such  
21 further legislation concerning abuses and discrimination because of race, color, familial status,  
22 religious creed, ancestry, national origin, age, sex, sexual orientation, gender identity or expression, handicap  
23 or disability or the use of a guide or support animal because of the blindness, deafness or physical  
24 handicap of the user or because the user is a handler or trainer of support or guide animals, as may be  
25 desirable.

26 Section 9. Procedure. -- (a) Any person claiming to be aggrieved by an alleged unlawful  
27 discriminatory practice may make, sign and file with the Commission a verified complaint, in

*N.B. Sexual orientation remains the same. Gender identity must now read Gender identity or expression. In addition, Sec. 7 (f2) is modified and additions will be made to restore the Act's enforcement mechanisms.*

1 writing, which shall state the name and address of the person, employer, labor organization or  
2 employment agency alleged to have committed the unlawful discriminatory practice complained of,  
3 and which shall set forth the particulars thereof and contain such other information as may be  
4 required by the Commission. Commission representatives shall not modify the substance of the  
5 complaint. Whenever a person invokes the procedures set forth in this act, the Commission shall  
6 refuse to accept for filing a complaint it determines to be untimely with no grounds for equitable  
7 tolling, outside its jurisdiction or frivolous on its face. The Commission upon its own initiative or  
8 the Attorney General may, in like manner, make, sign and file such complaint. Any employer whose  
9 employees, or some of them, hinder or threaten to hinder compliance with the provisions of this act  
10 may file with the Commission a verified complaint, asking for assistance by conciliation or other  
11 remedial action and, during such period of conciliation or other remedial action, no hearings, orders  
12 or other actions shall be taken by the Commission against such employer.

13 \*\*\*

14 (b) (3) A respondent shall file with the Commission the original and one copy a written, verified  
15 answer to the complaint within thirty days of service of the complaint, along with any accompanying  
16 exhibits and a certificate of service that the answer and accompanying exhibits have been served on  
17 the complainant, unless otherwise required by the Fair Housing Act. The Commission, upon request  
18 of the respondent, may grant an extension of not more than thirty additional days, unless otherwise  
19 required by the Fair Housing Act. A respondent shall send a copy of the answer, any accompanying exhibits  
20 and the certificate of service to the named complainant at the time of filing the answer with the Commission.  
21 The Commission shall impose a fine of fifty dollars upon respondent, payable to the Commission, if the  
22 respondent fails to serve a copy of the answer and accompanying exhibits to the complainant at the  
23 time of filing the answer with the Commission

24 \*\*\*

26 (h) Any complaint filed pursuant to this section must be so filed within three hundred days after the  
27 alleged act of discrimination, unless otherwise required by the Fair Housing Act

*N.B. Sexual orientation remains the same. Gender identity must now read Gender identity or expression. In addition, Sec. 7 (f2) is modified and additions will be made to restore the Act's enforcement mechanisms.*

1   \*\*\*

2   (k) (1) At the conclusion of the Commission's involvement in a complaint, either party may  
3   request in writing a copy of the Commission's file of the investigation. Records provided to the  
4   requesting party shall be furnished at the requesting party's expense, except that these charges  
5   shall be waived if: (i) the requesting party requests a waiver of charges due to low family income;  
6   (ii) the Commission determines that the cost of producing the records is de minimis. The  
7   Commission shall inform the requesting party of the costs to produce the records, and the  
8   requesting party shall remit this amount to the Commission prior to release of the records, unless  
9   the charges are waived by the Commission as provided above. The Commission shall produce the  
10   records as soon as reasonably possible, but not later than forty-five days from receipt of the  
11   written request for the records, unless the required payment or request for waiver of fees has not  
12   been received by the Commission within forty-five days, in which case the Commission shall  
13   release the records promptly upon receipt of payment or request for waiver of fees. (2) The  
14   Commission shall not be required under this section to release any of the following:  
15   (i) A record not within its custody and control at the time of the request.  
16   (ii) A record, report, memorandum or communication dealing with the internal practice, policy  
17   and procedure of the Commission.  
18   (iii) A record, report, memorandum or mental impression prepared by a Commission attorney.  
19   (iv) A record, report, memorandum or communication regarding any endeavor to eliminate the  
20   unlawful discriminatory practice complained of by conference, conciliation or persuasion, as  
21   required by subsections (b)(4) and (c), commonly referred to as "settlement negotiations."  
21   (v) The identity and statements of a witness which the Commission's investigatory file states, in  
22   writing, was obtained with an assurance of confidentiality to the witness.  
23   (vi) Those investigatory records which constitute interim mental impressions of a Commission  
24   employee about a case. However, the final case analysis by the fact-finder supporting his or her  
25   finding shall be produced.  
26   (3) Any reasonably segregable portion of a record shall be provided to any person requesting

*N.B. Sexual orientation remains the same. Gender identity must now read Gender identity or expression. In addition, Sec. 7 (f2) is modified and additions will be made to restore the Act's enforcement mechanisms.*

1 such record after deletion of the portions which are exempt under paragraph (2).

2 (4) This section shall not create or alter any privilege under the law.

3 \*\*\*

4 **SECTION 2. Section 8: Education Program of the act amended is amended to read as follows:**

5 Each student is entitled to an educational experience that is free from bias and discrimination and that

6 reflects and supports the gender, race, and cultural diversity present in the Commonwealth of

7 Pennsylvania. The twin goals of the state's educational system are to provide equal opportunity for all

8 students in all state supported elementary, secondary, vocational, post-secondary, and higher educational

9 institutions and to maximize the potential of all students regardless of race or color, religion or creed,

10 national origin or cultural heritage, gender or gender identity or expression, sexual orientation, national origin,

11 ancestry, handicap or disability. [Title 22 and Statement of Equity Principles, 1993]

12 The Commission, in cooperation with the Department of Education, is authorized to support a

13 multiracial-multicultural-gender fair educational program, designed for the students of the schools in

14 this Commonwealth and for all other residents thereof, with emphasis on foreign cultural and language

15 studies, as well as on the basic, shared precepts and principles of United States culture, in order to

16 promote knowledge about and respect for diversity and pluralism o cultural understanding and

17 appreciation and o to further good will among all persons, inclusive of o without regard to o race, class,

18 color, familial status, religious creed, ancestry, age, sex, sexual orientation, gender identity or expression,

19 national origin, handicap or disability.

20 **Section 3. Section 12: Construction and Exclusiveness of Remedy** at (c), (c)(1), adding (g) of the act is

21 amended to read:

22 (a) The provisions of this act shall be construed liberally for the accomplishment of the purposes

23 thereof, and any law inconsistent with any provisions hereof shall not apply.

24 (b) Except as provided in subsection (c), nothing contained in this act shall be deemed to repeal or

25 supersede any of the provisions of any existing or hereafter adopted municipal ordinance, municipal

26 charter or of any law of this Commonwealth relating to discrimination because of race, color, familial

1 status, religious creed, ancestry, age, sex, sexual orientation, gender identity or expression national origin or

*N.B. Sexual orientation remains the same. Gender identity must now read Gender identity or expression. In addition, Sec. 7 (f2) is modified and additions will be made to restore the Act's enforcement mechanisms.*

2 handicap or disability, but as to acts declared unlawful by section five of this act the procedure herein  
3 provided shall, when invoked, be exclusive and the final determination therein shall exclude any other  
4 action, civil or criminal, based on the same grievance of the complainant concerned. If the complainant  
5 institutes any action based on such grievance without resorting to the procedure provided in this act, such  
6 complainant may not subsequently resort to the procedure herein. In the event of a conflict between the  
7 interpretation of a provision of this act and the interpretation of a similar provision contained in any  
8 municipal ordinance, the interpretation of the provision in this act shall apply to such municipal  
9 ordinance.

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

18 (g) In any action under this subsection any party may demand a trial by jury.

19. **SECTION 4.** The act is amended by adding a section to read (Allyson Schwartz's bill 403)

20. Section 9.4 Evidence of Complainant's Sexual Conduct in Sexual Harassment Cases.

21 (a) In cases including allegations of sexual harassment, evidence of specific instances of complainant's  
22 past sexual conduct, opinion evidence of the complainant's past sexual conduct and reputation  
23 evidence of the complainant's past sexual conduct shall not be admissible in proceedings under  
24 this act before the Commission or in court to prove welcomeness by the complainant or the  
25 absence of injury to the complainant, unless the injury alleged by the complainant is in the nature  
26 of loss of consortium. This prohibition shall not apply to past sexual conduct with the respondent  
27 where welcomeness of respondent's alleged conduct by the complainant is at issue and such  
1 evidence is otherwise admissible pursuant to the rules of evidence.

*N.B. Sexual orientation remains the same. Gender identity must now read Gender identity or expression. In addition, Sec. 7 (f2) is modified and additions will be made to restore the Act's enforcement mechanisms.*

2 (b) A respondent who proposes to offer evidence of the complainant's past sexual conduct under  
3 subsection (a) shall file a written motion and offer of proof at the time of a Commission hearing or  
4 trial in court, wherever the case may be. If, in connection with the Commission hearing or trial in  
5 court, the Commission or court determines that the motion and offer of proof are sufficient on  
6 their faces, the Commission or court shall order an in camera proceeding. If the Commission or  
7 court finds that evidence offered by the respondent regarding the sexual conduct of the  
8 complainant is relevant and that the probative value of the evidence offered is not outweighed by  
9 its collateral nature or the probability that its admission will create undue prejudice, confusion of  
10 the issues or unwarranted invasion of the privacy of the complainant, the Commission or court  
11 shall enter an order setting forth with specificity what evidence may be introduced and the reasons  
12 why the Commission or court finds that such evidence satisfies the standards contained in this  
13 section. The respondent may then offer evidence under the order of the Commission or court.

#####