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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1025 Session of  
2019

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INTRODUCED BY MADDEN, CIRESI, COMMITTA, DALEY, A. DAVIS, DAWKINS,  
DEASY, DERMODY, DONATUCCI, FITZGERALD, FLYNN, FRANKEL,  
FREEMAN, HILL-EVANS, INNAMORATO, ISAACSON, KINSEY, KIRKLAND,  
McCLINTON, MULLINS, MURT, NEILSON, SAMUELSON, SCHLOSSBERG,  
WILLIAMS AND BULLOCK, APRIL 29, 2019

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, APRIL 29, 2019

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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 unlawful  
12 discriminatory practices.

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

15 Section 1. Sections 4(b), (c) and (x) and 5(a) 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 4. Definitions.--As used in this act unless a  
19 different meaning clearly appears from the context:

20 \* \* \*

21 (b) The term "employer" includes the Commonwealth or any

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

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

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

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

28 \* \* \*

29 (x) The term "independent contractor" includes:

30 (1) any person who is subject to the provisions governing

1 any of the professions and occupations regulated by State  
2 licensing laws enforced by the Bureau of Professional and  
3 Occupational Affairs in the Department of State, or is included  
4 in the Fair Housing Act (Public Law 90-284, 42 U.S.C. § 3601 et  
5 seq.) [.] ; or

6 (2) a person, other than an employe, who performs a service  
7 for remuneration under a contract, written or oral, express or  
8 implied, for an employer.

9 \* \* \*

10 Section 5. Unlawful Discriminatory Practices.--It shall be  
11 an unlawful discriminatory practice, unless based upon a bona  
12 fide occupational qualification, or in the case of a fraternal  
13 corporation or association, unless based upon membership in such  
14 association or corporation, or except where based upon  
15 applicable security regulations established by the United States  
16 or the Commonwealth of Pennsylvania:

17 (a) For any employer because of the race, color, religious  
18 creed, ancestry, age, sex, national origin or non-job related  
19 handicap or disability or the use of a guide or support animal  
20 because of the blindness, deafness or physical handicap of any  
21 individual or independent contractor, to refuse to hire or  
22 employ or contract with, or to bar or to discharge from  
23 employment such individual or independent contractor, or to  
24 otherwise discriminate against such individual or independent  
25 contractor with respect to compensation, hire, tenure, terms,  
26 conditions or privileges of employment or contract, if the  
27 individual or independent contractor is the best able and most  
28 competent to perform the services required. The [provision]  
29 provisions of this paragraph shall not apply, to (1) operation  
30 of the terms or conditions of any bona fide retirement or

1 pension plan which have the effect of a minimum service  
2 requirement, (2) operation of the terms or conditions of any  
3 bona fide group or employe insurance plan, (3) age limitations  
4 placed upon entry into bona fide apprenticeship programs of two  
5 years or more approved by the State Apprenticeship and Training  
6 Council of the Department of Labor and Industry, established by  
7 the act of July 14, 1961 (P.L.604, No.304), known as "The  
8 Apprenticeship and Training Act." Notwithstanding any provision  
9 of this clause, it shall not be an unlawful employment practice  
10 [for a] to do any of the following:

11 (1) A religious corporation or association to hire or  
12 employ on the basis of sex in those certain instances where  
13 sex is a bona fide occupational qualification because of the  
14 religious beliefs, practices, or observances of the  
15 corporation, or association.

16 (2) An employer to express a preference in the hiring or  
17 firing of an individual in the home or personal residence of  
18 an employer in a personal or confidential capacity.

19 \* \* \*

20 Section 2. This act shall take effect in 90 days.