

The Philadelphia Fair Practices Ordinance

Section 9-1101 et seq. of the Philadelphia Code



**Enforced by the
City of Philadelphia
Commission on Human Relations**

Inclusive of Amendments through 2010

The Philadelphia Fair Practices Ordinance



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The Philadelphia Fair Practices Ordinance prohibits discrimination in the areas of employment, public accommodations and housing. The protected bases are outlined below.

Protected Bases

Basis	Employment	Public Accommodations (including delivery of City services)	Housing
Age	Yes (40 years +)	Not Covered	Yes (no limit)
Ancestry	Yes	Yes	Yes
Breast-feeding	Not Covered	Yes	Not Covered
Color	Yes	Yes	Yes
Disability	Yes	Physical	Physical
Domestic/Sexual Violence	Yes	Not Covered	Not Covered
Gender Identity	Yes	Yes	Yes
Marital Status	Yes	Yes	Yes
National Origin	Yes	Yes	Yes
Presence of Children	Not Covered	Not Covered	Yes
Race	Yes	Yes	Yes
Religion	Yes	Yes	Yes
Retaliation	Yes	Not Covered	Yes
Sex	Yes	Yes	Yes
Sexual Orientation	Yes	Yes	Yes
Source of Income	Not Covered	Not Covered	Yes

CHAPTER 9-1100. FAIR PRACTICES 719

§ 9-1101. Legislative Findings.

(1) The Council finds that:

(a) The population of the City consists of people of every race, color, religion, national origin and sexual orientation, many of whom are discriminated against in employment opportunities, public accommodations and obtaining adequate housing facilities. 720

(b) Discrimination in employment has and will prevent the gainful employment of large segments of the citizens of the City and tends to create breaches of the peace, the imposition of added burdens upon the public for relief and welfare.

(c) Discrimination in housing results in overcrowded, segregated areas, under substandard, unsafe, unsanitary living conditions.

(d) Discrimination in places of public accommodation causes embarrassment and inconvenience to citizens and visitors of the City, creates breaches of the peace, and is otherwise detrimental to the welfare and economic growth of the City.

(e) In order to assure that all persons regardless of race, color or creed enjoy the full benefits of citizenship and are afforded equal opportunities for employment, housing and use of public accommodation facilities, it is necessary that appropriate legislation be enacted.

§ 9-1102. Definitions. 721

(a) *Age*. For the purpose of employment, any person who is 40 or more years of age.

(b) *AIDS*. Acquired Immunodeficiency Syndrome.

(c) *Commercial Housing*. Housing accommodations held or offered for sale or rent:

(.1) by a real estate broker, salesman or agent or by any person pursuant to authorization of the owner;

(.2) by the owner himself, or

(.3) by legal representatives, but shall not include either the rental of a room or rooms in a personal residence or the rental of one living unit other than that of the owner in a personal residence, when such room, rooms or living unit is offered for rent by the owner or by his broker, salesman, agent or employee. 722

(d) *Commission*. The Commission on Human Relations.

(e) *Discrimination.* Any difference in treatment in hiring, referring for hire, promoting, training, membership in employee or labor organizations because of race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age or handicap; in rendering service in places of public accommodation because of race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry or handicap; the sale, lease, rental or financing of housing because of race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, handicap, marital status, age, presence of children or source of income. 723

(f) *Employer.* Any person who employs one or more employees exclusive of parents, spouse or children, including the City, its departments, boards and commissions, but excluding any fraternal, sectarian, charitable or religious group.

(g) *Employment.* Shall not include the employment of individuals as domestic servants or in a personal or confidential capacity.

(h) *Employment Agency.* Any person regularly undertaking with or without compensation to procure opportunities to work or to procure, recruit, refer or place employees.

(h. 1) *Gender Identity.* Self-perception, or perception by others, as male or female, and shall include a person's appearance, behavior, or physical characteristics, that may be in accord with, or opposed to, one's physical anatomy, chromosomal sex, or sex assigned at birth; and shall include, but is not limited to, persons who are undergoing or have completed sex reassignment. 724

(i) *Handicap.*

(1) For the purpose of employment, any handicap or disability which does not substantially interfere with the ability to perform the essential functions of the employment which a handicapped person applies for, is engaged in or has been engaged in. Uninsurability or increased cost of insurance under a group or employee insurance plan does not render a handicap or disability job related. A handicapped person is anyone who has a physical or mental impairment which substantially limits one or more of his major life activities, or has a record of such an impairment, or is regarded as having such an impairment.

(2) As used in paragraph (i) of this Section, the phrase: (i) "physical or mental impairment" means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory; including speech organs; cardiovascular; reproductive; digestive; genitourinary; heronic and lymphatic, skin; and endocrine; and includes, but is not limited to, (B) such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of controlled substance) and alcoholism.

(j) *Health Care Providers.* Any medical doctor, osteopath, dentist, podiatrist, optometrist, optician, chiropractor, psychologist, social worker, pharmacist, nurse, midwife, emergency medical technician, radiologist, x-ray technician, physician's assistant, or dental hygienist, licensed to practice under the laws of the Commonwealth of Pennsylvania.

(k) *HIV* Human Immunodeficiency virus.

(l) *HIV Disease.* The spectrum of disease clinically associated with HIV infection, encompassing both the symptomatic and asymptomatic forms of the infection.

(m) *Housing Accommodation.* Any building, structure or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied as the home residence or sleeping place of one or more individuals, groups, or families, and any vacant land offered for sale or lease for commercial housing.

(n) *Labor Organization.* Any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment or of other mutual aid or protection in relation to employment.

(o) *Lending Institution.* Any bank, insurance company, savings and loan association or any other person or organization regularly engaged in the business of lending money or guaranteeing loans.

(p) *Life Partner.* A member of a Life Partnership that is verified pursuant to § 9AD06(2). 725

(q) *Owner.* Shall include lessee, sublessee, assignee, manager, agent, or any other person having the right of ownership or possession or the authority to sell, rent, or lease any housing accommodation, including the City and its departments, boards and commissions.

(r) *Marital Status.* The status of being single, married, separated, divorced, widowed or a life partner. 726

(s) *Personal Residence.* A building or structure occupied by the owner thereof as a bona fide residence for himself and any member of his family forming his household containing living quarters occupied or intended to be occupied by either no more than two individuals, two groups or two families living independently of each other, or no more than three roomers living independently of each other in addition to the owner thereof and any of his family forming his household. 727

(t) *Presence of children.* Presence in a household of persons under twenty-one years of age who are related by blood or marriage to, or in the custody of, the household head. 728

(u) *Public Accommodation, Resort or Amusement.* Any accommodation, resort or amusement which is open to, accepts or solicits the patronage of the general public, including but not limited to inns, taverns, roadhouses, hotels, motels whether conducted for the entertainment of transient guests or for the accommodation of those seeking health related services, recreation, or restaurants or eating houses, or any place where food is sold for consumption on the premises, buffets, saloon barrooms or any store, park or enclosure where spirituous or malt liquors are sold, ice cream parlors, confectioneries, soda fountains and all stores where ice cream, ice and fruit preparations or their derivatives, or where beverages of any kind are retailed for consumption on the premises, drug stores, dispensaries, clinics, hospitals, nursing homes, substance-abuse treatment or rehabilitation programs, ambulance services, health care providers' professional offices, bathhouses, swimming pools, barber shops, beauty parlors, retail stores and establishments, theaters, motion picture houses, airdomes, roof gardens, music halls, race courses, skating rinks, amusement and recreation parks, fairs, bowling alleys, gymnasiums, shooting galleries, billiard and pool parlors, public libraries, kindergartens, primary and secondary schools, high school, academies, colleges and universities, extension courses and all educational institutions, mortuaries and funeral parlors, non-sectarian cemeteries, garages and all public conveyances operated on land or water or in the air as well as the stations, terminals and airports, financial institutions and all City facilities and services but not any accommodations which are in their nature distinctly

private. No entity covered by this definition shall invoke its private character for the purpose of excluding or discriminating against any member of a group protected under this Chapter. 729

(v) *Roomer.* A person occupying any room or group of not more than two rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes. 730

(w) *Living Unit.* Any room or group of rooms forming a single habitable unit used or intended to be used for living, sleeping, cooking and eating purposes and to be occupied by no more than one family, one group or one individual. 731

(x) *Source of Income.* Shall include any lawful source of income, and shall include, but not be limited to, earned income, child support, alimony, insurance and pension proceeds, and all forms of public assistance, including Aid For Dependent Children and housing assistance programs. 732

(y) *Sexual Orientation.* Male or female homosexuality, heterosexuality and bisexuality, by preference, practice or as perceived by others. 733

§ 9-1103. Unlawful Employment Practices. 734

(A) It shall be an unlawful employment practice:

(1) For any employer to refuse to hire, discharge, or discriminate against any person because of race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, handicap, or marital status with respect to tenure, promotions, terms, conditions or privileges of employment or with respect to any matter directly or indirectly related to employment.

(2) For any employer, employment agency or labor organization to establish, announce or follow a policy of denying or limiting, through a quota system or otherwise, the employment or membership opportunities, of any individual or group because of race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, handicap or marital status.

(3) For any employer, employment agency or labor organization prior to employment or admission to membership to:

(a) make any inquiry concerning, or make any record of the race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, past handicap or marital status of any applicant for employment or membership.

(b) use any form of application for employment of personnel or membership blanks containing questions or entries regarding race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, past handicap or marital status.

(c) cause to be printed, published, or circulated any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, handicap or marital status.

(4) For any employment agency because of a person's race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, handicap or marital status to:

- (a) fail or refuse to classify properly or refer for employment.
- (b) otherwise discriminate against any person.
- (c) Exemptions:

(.1) If an employer makes application to the Commission on Human Relations and the Commission finds that a job classification has characteristics which would provide a reasonable basis upon which only male or female personnel should be employed, then no employer shall be considered to violate the provisions of this ordinance with regard to that job classification.

(5) For any labor organization to discriminate against any individual or to limit, segregate or classify its membership in any way which would deprive such individual of employment opportunities or limit his employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment or would affect adversely his wages, hours or conditions of employment, because of race, religion, color, sex, sexual orientation, gender identity, national origin, ancestry, age, handicap or marital status.

(6) For any employer, employment agency or labor organization to violate any provision of Chapter 9-3200 of The Philadelphia Code, entitled "Entitlement To Leave Due To Domestic Violence, Sexual Assault or Stalking". 734.1

(7) For any employer, employment agency or labor organization to penalize or discriminate in any manner against any individual because he has opposed any practice forbidden by this Chapter or because he has made a charge, testified or assisted in any manner in any investigation, proceeding or hearing hereunder. 734.2

(8) For any person to aid, abet, incite, compel or coerce the doing of any unfair employment practice or to obstruct or prevent any person from complying with the provisions of this Chapter or any order issued hereunder or to attempt directly or indirectly to commit any act declared by this Chapter to be an unfair employment practice. 734.3

(B) Exceptions. It shall not be an unlawful employment practice for:

(1) An employer to express a preference for a certain kind of applicant where the position to be filled requires special qualifications, skills or experience.

(2) An employer to express a preference for a certain kind of applicant where the position to be filled is that of a domestic or the position is of a personal or confidential nature.

(3) An employer, employment agency or labor organization to inquire as to the existence and nature of any present handicap to determine whether such handicap substantially interferes with the ability to perform the essential functions of the employment which is applied for, is being engaged in or has been engaged in.

(4) An employer, employment agency or labor organization to inquire into the age of any individual where age is a bona fide occupational qualification.

(5) An employer, employment agency or labor organization to observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as retirement, pension, or insurance plan,

which is not a subterfuge to evade the purposes of this Chapter, except that no such employee benefit plan shall excuse the failure to hire any individual, and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual because of the age of such individual, and no such employee benefit plan shall excuse the failure to provide to the Life Partner of any employee any benefit that is provided to the dependent of any employee.

(6) An employer to discharge or otherwise discipline an employee for good cause.

(C) *Employee benefits.* Nothing in this Section shall apply with respect to employee benefits offered by an employer whose employee benefits plan is governed by the Employee Retirement Income Security Act of 1974 ("ERISA"), including, but not limited to, employee benefits that are not part of an "employee benefits plan" as defined by ERISA. 735

§ 9-1104. Unlawful Housing Practices. 736

(A) It shall be an unlawful housing practice:

(1) For the owner of any commercial housing, or any other real property except as provided in Section 9-1102(a)(3) hereof, to refuse to sell, rent, lease or in any way discriminate because of race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, physical handicap, marital status, age, presence of children or sources of income in the terms, conditions, or privileges of the sale, rental or lease of any commercial housing accommodation or other real property or in the furnishing of facilities or services in connection therewith. 737

(2) For any lending institution, to discriminate against any person because of race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, physical handicap, marital status, age, presence of children or source of income in lending, guaranteeing loans, accepting mortgages or otherwise making available funds for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation. 738

(3) For any person to make, print or circulate or cause to be made, printed or circulated any written or oral statement, advertisement, or publication, or to use any form of application for the purchase, rental or lease of housing accommodations or to make real estate appraisals, financial or credit reports or any record or inquiry in connection with the prospective purchase, rental or lease of housing accommodations which express, directly or indirectly, any limitation, specification or discrimination as to race, color, sex, sexual orientation, gender identity, religion, national origin, physical handicap, marital status, age, presence of children or sources of income or any intent to make any such limitation, specification or discrimination. 739

(4) For any person with the intention of defeating the purposes of this Chapter to sell, lease or transfer any housing accommodation which is the subject of a written verified complaint filed with the Commission.

(5) For any person, after a complaint regarding a housing accommodation has been filed and prior to a final determination by the Commission, to fail to include a notice of the complaint in any subsequent lease or agreement of sale involving that housing accommodation.

(6) For any person being the owner, lessee, manager, superintendent, agent or broker of any commercial housing, or any other person whose duties, whether voluntary or for compensation, relate to the rental, sale or leasing of commercial housing, to establish, announce, follow a policy of denying or

limiting, through a quota system or otherwise, the housing opportunities of any individual or group because of race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, physical handicap, marital status, age, presence of children or source of income. 740

(7) For any person to harass, threaten, harm, damage or otherwise penalize any individual, group or business because he or they have complied with the provisions of this Chapter, or because he or they have exercised his or their rights under this Chapter, or enjoyed the benefits of this Chapter, or because he or they have made a charge, testified or assisted in any manner in any investigation, proceeding or hearing hereunder.

(8) For any person subject to this Chapter to fail to post and exhibit prominently in any place of business where the sale or rental of housing accommodations is carried on, any fair practices notice prepared and distributed by the Commission.

(9) For any person to give false or misleading information written or oral, with regard to the sale or rental of any commercial housing for the purpose of discriminating on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, physical handicap, marital status, age, presence of children or source of income. 741

(10) For any person to make any distinctions in the location of a house, lot, apartment or other commercial housing or to make any distinctions relating to the time of delivery of a house or the date of availability of an apartment or other commercial housing on the basis of race, color, sex, sexual orientation, gender identity, creed, national origin, ancestry, marital status, age, presence of children or source of income. 742

(11) For any person to aid, abet, incur, induce, compel or coerce the doing of any unlawful housing practice prohibited by this Chapter or to obstruct or prevent any person from complying with the provisions of this Chapter or any order issued hereunder. 743

(12) For any person selling, renting or leasing housing accommodations, as broker or agent or as an employee or representative of a broker or agent, to refuse or limit service to any person on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, physical handicap, marital status, age, presence of children or source of income or to accept or retain a listing of any housing accommodation for sale, rent or lease with an understanding that discrimination may be practiced in connection with the sale, rental or lease thereof. 744

(13) For any real estate broker or agent, or the employee or representative of any such broker or agent to solicit any property for sale or rental, or the listing of any property for sale or rental at any time after such broker, agent, employee or representative shall have notice that any owner of such real estate does not desire to sell such real estate, or does not desire to be solicited, either by such broker or agent, or by any and all brokers or agents. The word "solicit" shall mean any printed matter mailed or delivered to the owner or occupant of a residential property by any real estate broker or agent or representative of any such broker or agent or any oral communication made either in person or by telephone to the owner or occupant of a residential property by any real estate broker or agent which advertises the accomplishments and/or abilities of the real estate broker or agent to sell homes or rent apartments or requests or suggests that the owner list his house for sale or rent with the real estate broker or agent or which offers to purchase or rent the owner's house or apartment.

(B) Exceptions. Nothing herein contained shall:

(1) Bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, from limiting admission to or giving preference to persons of the same religion or denomination with regard to the occupancy, leasing, sale or purchase of real estate, or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained.

(2) Apply to the rental or leasing of a room or rooms in a personal residence or the furnishing of facilities or services in connection therewith.

(3) Prohibit the owners of any federally regulated housing for senior citizens from operating in accordance with federal law. 745

§ 9-1105. Unlawful Public Accommodations Practice. 746

(A) It shall be an unlawful public accommodations practice:

(1) For any person being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement to:

(a) Refuse, withhold from, or deny to any person because of his race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, physical handicap or marital status, either directly or indirectly, any of the accommodations, advantages, facilities or privileges of such place of public accommodation, resort or amusement. 747

(b) Publish, circulate, issue, display, post or mail, either directly or indirectly, any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities, and privileges of any such place shall be refused, withheld or denied to any person on account of race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, physical handicap or marital status, or that the patronage of any person of any particular race, color, sex, religious creed, ancestry, national origin, physical handicap or marital status is unwelcome, objectionable or not acceptable, desired or solicited. 748

(c) Prohibit a breastfeeding mother from or segregate a breastfeeding mother within any public accommodation where she would otherwise be authorized to be, irrespective of whether or not the nipple of the mother's breast is covered during or incidental to breastfeeding. 749

(2) Private entities providing taxi service shall not discriminate against individuals with disabilities by actions including, but not limited to, refusing to provide service to individuals with disabilities who can use taxi vehicles, refusing to accommodate such individuals in the use of a guide or support animal due to blindness, deafness or refusing to assist with the stowing of mobility devices, and any other assistive instrument and charging higher fares or fees for carrying individuals with disabilities and their equipment than are charged to other persons. 749.1

§ 9-1106. Administration and Enforcement. 750

(1) The Commission on Human Relations is hereby vested with the authority to administer and enforce this Chapter and in connection therewith may promulgate and issue regulations.

(2) *Life Partnerships.*

(a) *Definition.* For purposes of this Chapter, "Life Partnership" shall mean a long-term committed relationship between two unmarried individuals of the same gender who:

- (i) are at least 18 years old and competent to contract;
- (ii) are not related to the other Life Partner by blood in any way which would prohibit marriage in the Commonwealth of Pennsylvania;
- (iii) are the sole Life Partner of the other person;
- (iv) have not been a member of a different Life Partnership for the past twelve months (unless the prior Life Partnership ended as a result of the death of the other Life Partner);
- (v) agree to share the common necessities of life and to be responsible for each other's common welfare;
- (vi) share at least one residence with the other Life Partner; and
- (vii) agree under penalty of law to notify the Commission of any change in the status of the Life Partnership.

(b) *Verification.* No Life Partnership shall be recognized as such under this Chapter unless the members of the Life Partnership have verified the Life Partnership by: (i) filing with the Commission a Verification Statement, in the form and manner required by the Commission, which states, on penalty of perjury, that the Life Partnership meets all the provisions of § 9-1106(2)(a); and (ii) filing with the Commission proof that the Life Partners have been interdependent for a least six (6) months prior to the date the Verification Statement is filed, such proof to include at least three of the following:

- (.1) common ownership of real property or a common leasehold interest in property;
- (.2) common ownership of a motor vehicle;
- (.3) driver's licenses listing a common address;
- (A) proof of joint bank accounts or credit accounts;
- (.5) proof of designation as a beneficiary for life insurance or retirement benefits, or beneficiary designation under a partner's will;
- (.6) assignment of a durable power of attorney or health care power of attorney.

(c) *Termination.* Either Life Partner may terminate the Life Partnership by filing a sworn Termination Statement with the Commission, in the form and manner required by the Commission, stating that the Life Partnership is to be terminated. The termination shall become effective sixty (60) days from the date the Termination Statement is filed, if it is signed by both Life Partners. If it is not signed by both Life Partners, the Termination Statement shall become effective sixty (60) days from the date proof is filed with the Commission that a copy of the Termination Statement was served, either personally or by certified or registered mail, on the other Life Partner.

§ 9-1107. Procedure. ⁷³ 1

(1) Any individual claiming to be aggrieved by unlawful housing practice, an unlawful employment practice or an unlawful public accommodation practice, may make, sign and file with the Commission a verified complaint in writing which shall state the name and address of the person or persons alleged to have committed the unlawful practice and the particulars thereof. The complaint shall also contain such other information as maybe required by the Commission. The Commission, upon its own initiative, may in like manner sign and file a complaint. The Commission, however, shall not accept a complaint from any person who has filed a complaint with the Pennsylvania Human Relations Commission with respect to the same grievance. The Commission or the complainant shall have the power reasonably and fairly to amend any complaint, and the respondent shall have like power to amend his answer.

(2) After the filing of any complaint the Commission shall make a prompt investigation. In the conduct of such investigation the Commission may issue subpoenas to any person charged with an unlawful practice to furnish information, records or other documents in accordance with Section 8-409 of the Philadelphia Home Rule Charter.

(3) If it shall be determined after such investigation that there is no basis for the allegations of the complaint, the Commission shall within ten (10) days from such determination, cause to be issued and served upon the complainant written notice of such determination. The notices shall also state that the complaint will be dismissed unless within ten (10) days after such service the complainant or his attorney file, with the Commission, a request for a review hearing. The Commission shall upon request for such a hearing provide the complainant and his attorney, if any, an opportunity to appear before the Commission, a member thereof, or a staff representative of the Commission, at the election of the Commission to present such additional information as may be available to support the allegations of the complaint. If after such a hearing the Commission or its representative determine that there is no basis for the allegation the complaint shall be dismissed and there shall be no appeal from such a decision.

(4) (a) If the Commission, after investigation, determines that probable cause exists for the allegation of the complaint, the Commission may immediately endeavor to eliminate the unlawful practice complained of by persuasion.

(b) If a complaint alleges a violation of Section 9-1104, and it appears that a housing accommodation may be sold, rented or transferred before a determination of the case has been made, the Law Department, at the request of the Commission, is authorized to seek, in the name of the City, injunctive relief by an appropriate court restraining the sale, rental or transfer of the housing accommodation except in compliance with the order of the court pending final determination of such complaint. In any case, where an injunction has been obtained, the Commission shall, within thirty (30) days thereafter, render a decision and order. Findings of fact may be issued by the Commission on a later date. Where the Commission has rendered a decision in which it finds that discrimination exists, the Court may, upon application by the Law Department, extend such injunction. It is the intent of this Chapter that a bond shall not be a requisite to the granting or extension of any injunction provided herein.

(5) If the Commission, in its discretion, finds it is not feasible to eliminate such unlawful practices by persuasion, the Commission shall cause to be issued and served a written notice, together with a copy of such complaint as originally filed or as the same may have been amended by the Commission, requiring the party named in such complaint, hereinafter referred to as Respondent, to answer the

charges of such complaint at a hearing before the Commission at a time and place to be specified in such notice. The Commission may designate one or more of its members to preside at such meeting, or it may at its election conduct said hearing en banc.

(6) The case in support of the complaint shall be presented to the Commission by its attorney or by a member of its staff. The Respondent shall file a written verified Answer to the Complaint and may appear at such hearing in person or with counsel. The Commission shall not be bounded by the strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearings shall be under oath and shall be transcribed.

(7) If, upon all the evidence at the hearing, the Commission shall find that Respondent has been engaged in or is engaged in any unlawful practice, the Commission shall state its findings of fact and shall issue and cause to be served on the Respondent an order requiring the Respondent to cease and desist from such unlawful practice or practices and to take such affirmative action which in the judgment of the Commission will effectuate the purposes of this Chapter, including but not limited to, an order directing the Respondent to any of the following with respect to any person:

- (a) hire, reinstate or upgrade with or without back pay;
- (b) admit or restore membership in a labor organization;
- (c) admit participation in a guidance, apprentice-training or retraining program;
- (d) extend full, equal and unsegregated public accommodations, advantages and facilities;
- (e) extend full, equal and unsegregated commercial housing and housing accommodations, advantages and facilities;
- (f) sell, rent or lease specified commercial housing facilities upon equal terms and conditions;
- (g) lend money for repair or maintenance of commercial housing and housing accommodations upon equal terms and conditions;
- (h) lend money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair or maintenance of commercial housing and housing accommodations upon terms and conditions generally available.

(8) An order by the Commission may require a Respondent to file a report showing compliance and the procedures adopted to effect compliance.

(9) If, upon all the evidence, the Commission shall find that the Respondent has not engaged in any unlawful practice, the Commission shall state its findings of fact and shall dismiss the complaint. Notice of such action shall be given to the Complainant and Respondent.

(10) Any party aggrieved by any order of the Commission may appeal to any court of competent jurisdiction within (30) days after the mailing of notice of such order to the aggrieved party or his attorney by the Commission.

(11) If no appeal is taken within thirty (30) days, the order of the Commission shall be final and conclusive and shall not be subject to review by any court in any action, including any proceedings to

obtain enforcement.

(12) No complaint shall be considered unless it is filed with the Commission within three hundred (300) days after the occurrence of the alleged unlawful practice. 752

§ 9-1108. Enforcement. 753

(1) In the event the Respondent refuses or fails to comply with any order of the Commission or violates any of the provisions of this Chapter, the Commission shall certify the case and the entire record of its proceedings to the Law Department, which may certify the case and record to an appropriate court and seek enforcement or compliance with the order of the Commission. If an appeal has been taken by Respondent, the Law Department may move to consolidate the appeal and enforcement proceedings.

(2) In addition to the remedies provided in § 9-1108(1), the Law Department is authorized in an appropriate action to seek imposition by the appropriate court of the penalties set forth in Section 9-1109.

§ 9-1109. Penalties. 754

(1) Any person who shall willfully resist, prevent, impede or interfere with the Commission, its members, agents or agencies in the performance of duties pursuant to this Act, or shall violate any order of the Commission or any provision of this Chapter shall be subject to a fine of not more than three hundred (300) dollars in addition to such order or decree that may be issued by any court.

(2) *Repeat Offenders.* Any person who violates, on more than one occasion, any order of the Commission or any provision of this Chapter, or who, on more than one occasion, willfully resists, prevents, impedes or interferes with the Commission, its members, agents or agencies in the performance of duties pursuant to this Chapter, shall be guilty of a separate offense of Repeat Violation, and for each such Repeat Violation shall be subject to a fine of not more than three hundred (300) dollars, or imprisonment for not more than ninety (90) days, or both. A person shall be guilty of a Repeat Violation regardless whether the second or subsequent violation occurs before or after a judicial finding of a first or previous violation. Each violation, after the first, shall constitute a separate Repeat Violation offense.

§ 9-1110. Private Right of Action. 755

(1) Notwithstanding the provisions of Section 9-1106 to 9-1109, any person aggrieved by a violation of this ordinance shall have a right of action in a court of competent jurisdiction and may recover for each violation:

- (i) Back pay and other actual damages;
- (ii) Exemplary damages of three hundred (\$300) dollars for each violation;
- (iii) Reasonable attorney's fees and court costs;
- (iv) Such other relief, including injunctive relief, as the court may deem appropriate.

(2) Nothing in this ordinance limits the right of an injured person to recover damages under any

other applicable law or legal theory.

§ 9-1111. Severability. 756

(1) If any clause, sentence, paragraph or part of this ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance nor the application of such clause, sentence, paragraph or part to other persons or circumstances but shall be confined in its operation to the clause, sentence, paragraph or part thereof and to the persons or circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that this ordinance would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from their coverage.

Notes

719 Amended, 1963 Ordinances, p. 411.

720 Amended, 1982 Ordinances, p. 1476.

721 Amended, 1982 Ordinances, p. 1533; amended by adding definitions and renumbering, 1990 Ordinances, p. 822.

722 Amended, 1967 Ordinances, p. 1328.

723 Amended, 1972 Ordinances, p. 687; amended, 1980 Ordinances, p. 556; amended, 1982 Ordinances, p. 1476; amended, Bill No. 010719 (approved May 29, 2002).

724 Added, Bill No. 010719 (approved May 29, 2002).

725 Added and subsequent subsections renumbered, Bill No. 970750 (approved May 19, 1998).

726 Added, 1980 Ordinances, p. 556; amended, Bill No. 970750 (approved May 19, 1998).

727 Amended, 1967 Ordinances, p. 1328; amended, 1980 Ordinances, p. 556.

728 Added, 1980 Ordinances, p. 556.

729 Amended, 1990 Ordinances, p. 822.

730 Added, 1967 Ordinances, p. 1328; amended, 1980 Ordinances, p. 556.

731 Added, 1967 Ordinances, p. 1328; amended, 1980 Ordinances, p. 556.

732 Added, 1980 Ordinances, p. 556.

733 Added, 1982 Ordinances, p. 1476.

- 734 Amended, 1972 Ordinances, p. 687; amended, 1982 Ordinances, p. 1476; amended, 1982 Ordinances, p. 1533; amended, Bill No. 970750 (approved May 19, 1998); amended, Bill No. 010719 (approved May 29, 2002).
- 734.1 Added, Bill No. 080468-A (approved November 5, 2008); amended, Bill No. 090660-A (approved December 1, 2009). Section 3 of Bill No. 080468-A, as amended by Bill No. 090660-A, provides: "Effective Date. This Ordinance shall take effect sixty days after becoming law."
- 734.2 Renumbered, Bill No. 080468-A (approved November 5, 2008). See note 734.1 for effective date provisions.
- 734.3 Renumbered, Bill No. 080468-A (approved November 5, 2008). See note 734.1 for effective date provisions.
- 735 Added, Bill No. 970750 (approved May 19, 1998).
- 736 Amended, 1967 Ordinances, pp. 1328, 1332; amended, 1969 Ordinances, p. 1231; amended, 1970 Ordinances, p. 150; amended, 1972 Ordinances, p. 687.
- 737 Amended, 1980 Ordinances, p. 556; amended, 1982 Ordinances, p. 1476; amended, Bill No. 010719 (approved May 29, 2002).
- 738 Amended, 1980 Ordinances, p. 556; amended, 1982 Ordinances, p. 1476; amended, Bill No. 010719 (approved May 29, 2002).
- 739 Amended, 1980 Ordinances, p. 556; amended, 1982 Ordinances, p. 1476; amended, Bill No. 010719 (approved May 29, 2002).
- 740 Amended, 1980 Ordinances, p. 556; amended, 1982 Ordinances, p. 1476; amended, Bill No. 010719 (approved May 29, 2002).
- 741 Amended, 1980 Ordinances, p. 556; amended, 1982 Ordinances, p. 1476; amended, Bill No. 010719 (approved May 29, 2002).
- 742 Amended, 1980 Ordinances, p. 556; amended, 1982 Ordinances, p. 1476; amended, Bill No. 010719 (approved May 29, 2002).
- 743 Amended, 1980 Ordinances, p. 556.
- 744 Amended, 1980 Ordinances, p. 556; amended, 1982 Ordinances, p. 1476; amended, Bill No. 010719 (approved May 29, 2002).
- 745 Added, 1980 Ordinances, p. 556.
- 746 Amended, 1969 Ordinances, p. 1231; amended, 1972 Ordinances, p. 687; amended, 1982 Ordinances, p. 1476; amended, Bill No. 970750 (approved May 19, 1998).
- 747 Amended, Bill No. 010719 (approved May 29, 2002).

- 748 Amended, Bill No. 010719 (approved May 29, 2002).
- 749 Added, Bill No. 960849 (approved June 25, 1997).
- 749.1 Added, Bill No. 070154 (approved November 15, 2007).
- 750 Amended by adding subsection (2), Bill No. 970750 (approved May 19, 1998).
- 751 Amended, 1967 Ordinances, p. 1332.
- 752 Amended, Bill No. 960326 (approved July 5, 1996), 1996 Ordinances, p. 601. Section 2 of Bill No. 960326 provides for an effective date and application as follows: "This Ordinance shall take effect immediately, and shall apply to all complaints pending before the Human Relations Commission on such effective date, and to all complaints filed with the Human Relations Commission on and after such effective date."
- 753 Amended, 1967 Ordinances, p. 1332.
- 754 Amended, 1967 Ordinances, p. 1332; amended, Bill No. 758 (approved July 24, 1995), 1995 Ordinances, P. 1081.
- 755 Added and former Section 9-1110 renumbered as Section 9-1111, 1990 Ordinances, p. 822.
- 756 Added, 1967 Ordinances, p. 1332.

CHAPTER 9-3200. ENTITLEMENT TO LEAVE DUE TO DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING *soo*

§ 9-3201. Definitions.

(1) "*Domestic violence*" means the occurrence of one or more of the following acts between family or household members, sexual or intimate partners or persons who share biological parenthood:

(a) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury, serious bodily injury, rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest, with or without a deadly weapon.

(b) Placing another in reasonable fear of imminent serious bodily injury.

(c) The infliction of false imprisonment pursuant to 18 Pa. C.S. § 2903 (relating to false imprisonment).

(d) Physically or sexually abusing minor children, including sexual abuse as defined at 23 Pa. C.S. § 6303.

(e) Stalking (as defined in § 9-3201.(7)).

(2) "*Employer*" means an individual, co- partnership, association, corporation, governmental body or unit or agency, or any other entity, who or that employs one or more persons on a salary, wage, commission or other compensation basis.

(3) "*Family or household members*" means spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners, persons who share biological parenthood or "Life Partners" as that term is defined in § 9-1102(p) of the Philadelphia Code.

(4) "*Reduced work schedule*" means a work schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

(5) "*Repeatedly*" means on 2 or more occasions.

(6) "*Sexual assault*" means any conduct enumerated in 18 Pa.C.S. §§ 3121 (relating to rape), 4302 (relating to incest), 6312 (relating to sexual abuse of children), 6318 (relating to unlawful contact with minor), 6320 (relating to sexual exploitation of children), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault) and 3126 (relating to indecent assault).

(7) "*Stalking*" means either:

(a) engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or

(b) engaging in a course of conduct or repeatedly communicating to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person.

(8) "*Victim*" or "*survivor*" means an individual who has been subjected to domestic violence, sexual assault, or stalking.

(9) "*Victim services organization*" means a nonprofit, nongovernmental organization that provides assistance to victims of domestic violence, sexual assault, or stalking or to advocates for such victims, including a rape crisis center, an organization carrying out a domestic violence program, an organization operating a shelter or providing counseling services, or a legal services organization or other organization providing assistance through the legal process.

§ 9-3202. Leave Requirement.

(1) *Basis.* An employee who is a victim of domestic violence, sexual assault, or stalking or has a family or household member who is a victim of domestic violence, sexual assault, or stalking whose interests are not adverse to the employee as it relates to the domestic violence, sexual assault, or stalking may take unpaid leave from work to address domestic violence, sexual assault, or stalking by:

(a) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic violence, sexual assault, or stalking to the employee or the employee's family or household member;

(b) obtaining services from a victim services organization for the employee or the employee's family or household member;

(c) obtaining psychological or other counseling for the employee or the employee's family or household member;

(d) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee's family or household member from future domestic violence, sexual assault, or stalking or ensure economic security; or

(e) seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's family or household member, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic violence, sexual assault, or stalking.

(2) *Period* Subject to § 9-3203, an employee shall be entitled to a total of:

(a) 8 workweeks of leave during any 12- month period from an employer who employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year; or

(b) 4 workweeks of leave during any 12-month period from an employer who employs less than

50 employees for each working day during each of 33 or more calendar workweeks in the current and preceding calendar year.

(3) *Schedule*. Leave described in paragraph (1) may be taken intermittently or on a reduced work schedule.

§ 9-3203. Notice.

The employee shall provide the employer with at least 48 hours' advance notice of the employee's intention to take the leave, unless providing such notice is not practicable. When an unscheduled absence occurs, the employer may not take any action against the employee if the employee, within forty five (45) days after the employer requests certification, provides such certification under § 9-3204.

§ 9-3204. Certification.

(1) *In general*. The employer may require the employee to provide certification to the employer that:

- (a) the employee or the employee's family or household member is a victim of domestic violence, sexual assault, or stalking; and
- (b) the leave is for one of the purposes enumerated in § 9-3202(1).

The employee shall provide such certification to the employer within forty-five (45) days after the employer requests certification.

(2) *Contents*. An employee may satisfy the certification requirement of paragraph (1) by providing to the employer a sworn statement of the employee along with at least one of the following described documents which corroborate the employee's certification:

- (a) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional from whom the employee or the employee's family or household member has sought assistance in addressing domestic violence, sexual assault, or stalking or the effects of the violence; or
- (b) a police or court record; or
- (c) other corroborating evidence.

§ 9-3205. Confidentiality.

All information provided to the employer pursuant to the terms of this Chapter, including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee has requested or obtained leave pursuant to this Chapter, shall be retained in the strictest confidence by the employer, except to the extent that disclosure is:

- (1) requested or consented to in writing by the employee; or

(2) otherwise required by applicable federal, state or local law.

§ 9-3206. Employment and Benefits.

(1) *Restoration to position.*

(a) *In general.* Any employee who takes leave under this Chapter for the intended purpose of the leave shall be entitled, on return from such leave:

(i) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(ii) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(b) *Loss of benefits.* The taking of leave under this Chapter shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(c) *Limitations.* Nothing in this subsection shall be construed to entitle any restored employee to:

(i) the accrual of any seniority or employment benefits during any period of leave; or

(ii) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(d) *Construction.* Nothing in this Chapter shall be construed to prohibit an employer from requiring an employee on leave under this Chapter to report periodically to the employer on the status and intention of the employee to return to work.

(2) *Maintenance of health benefits.*

(a) *Coverage.* Except as provided in subparagraph (b), during any period that an employee takes leave under this Chapter, the employer shall maintain coverage for the employee and any family or household member under any group health plan for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.

(b) *Failure to return from leave.* The employer may recover the premium that the employer paid for maintaining coverage for the employee and the employee's family or household member under such group health plan during any period of leave under this Chapter if:

(i) the employee fails to return from leave under this Chapter after the period of leave to which the employee is entitled has expired; and

(ii) the employee fails to return to work for a reason other than the continuation, recurrence, or onset of domestic violence, sexual assault, or stalking that entitles the employee to leave pursuant to this Chapter.

(c) *Certification.*

(i) *Issuance.* An employer may require an employee who claims that the employee is unable to return to work because of a reason described in subparagraph (b)(ii) to provide, within forty-five.(45) days after making the claim, certification to the employer that the employee is unable to return to work because of that reason.

(ii) *Contents.* An employee may satisfy the certification requirement of clause (i) by providing to the employer:

(I) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional from whom the employee has sought assistance in addressing domestic violence, sexual assault, or stalking or the effects of that violence;

(II) a police or court record; or

(III) other corroborating evidence. §

§ 9-3207. Prohibited Acts.

(1) *Interference with rights.*

(a) *Exercise of rights.* It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided under this Chapter.

(b) *Employer discrimination.* It shall be unlawful for any employer to discharge or harass any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment of the individual (including retaliation in any form or manner) because the individual:

(i) exercised any right provided under this Chapter; or

(ii) opposed any practice made unlawful by this Chapter.

(2) *Interference with proceedings or inquiries.* It shall be unlawful for any person to discharge or in any other manner discriminate (as described in subparagraph (b) of paragraph (1)) against any individual because such individual:

(a) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this Chapter;

(b) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this Chapter; or

(c) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this Chapter.

§ 9-3208. Existing Leave Usable for Addressing Domestic Violence, Sexual Assault, or Stalking.

An employee who is entitled to take paid or unpaid leave (including family, medical, sick, annual, personal, or similar leave) from employment, pursuant to federal, state, or local law, a collective bargaining agreement, or an employment benefits program or plan, may elect to substitute any period of such leave for an equivalent period of leave provided under § 9-3202. If an employee exercises his or her rights to substitute other categories of leave time under this Section, the amount of such substituted leave taken by said employee shall be subtracted from the leave time said employee is entitled to under § 9-3202.

§ 9-3209. Notification.

Every employer in the City shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees are customarily posted and on the employer's public and internal websites, if such exist, in locations where employment related notices are customarily posted online, a notice, to be prepared or approved by the Philadelphia Commission on Human Relations, summarizing the requirements of this Chapter and information pertaining to the filing of a charge. The notice shall include the contact information of organizations which provide free assistance to victims of domestic violence, sexual assault or stalking, and shall encourage employees to seek assistance from such organizations in complying with the terms of this Chapter. The Philadelphia Commission on Human Relations shall furnish copies of summaries and rules to employers upon request without charge and shall publish these documents on the City's official website.

§ 9-3210. Effect on Other Laws and Employment Benefits.

(a) *More protective laws, agreements, programs and plans.* Nothing in this Chapter shall be construed to supersede any provision of any federal, state, or local law, collective bargaining agreement, or employment benefits program or plan that provides:

(1) greater leave benefits for victims of domestic violence, sexual assault, or stalking than the rights established under this Chapter; or

(2) leave benefits for a larger population of victims of domestic violence, sexual assault, or stalking (as defined in such law, agreement, program or plan) than the victims of domestic violence, sexual assault, or stalking covered under this Chapter.

(b) *Less protective laws, agreements, programs and plans.* The rights established for employees who are victims of domestic violence, sexual assault, or stalking and employees with a family or household member who is a victim of domestic violence, sexual assault, or stalking under this Chapter

Notes

800 Added, Bill No. 080468-A (approved November 5, 2008); amended, Bill No. 090660-A (approved December 1, 2009). Section 3 of Bill No. 080468-A, as amended by Bill No. 090660-A, provides: "Effective Date. This Ordinance shall take effect sixty days after becoming law."