

## CHAPTER 11

AN ACT to amend the title of "An act to prevent and eliminate practices of discrimination in employment and otherwise against persons because of race, creed, color, national origin or ancestry; to create a division in the Department of Education to effect such prevention and elimination; and making an appropriation therefor," approved April sixteenth, one thousand nine hundred and forty-five (P. L. 1945, c. 169), so that the same shall read "An act to protect all persons in their civil rights; to prevent and eliminate practices of discrimination against persons because of race, creed, color, national origin or ancestry; to create a division in the Department of Education to effect such prevention and elimination; and making an appropriation therefor," and to amend the body of said act.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. The title of "An act to prevent and eliminate practices of discrimination in employment and otherwise against persons because of race, creed, color, national origin or ancestry; to create a division in the Department of Education to effect such prevention and elimination; and making an appropriation therefor," approved April sixteenth, one thousand nine hundred and forty-five, is amended to read "An act to protect all persons in their civil rights; to prevent and eliminate practices of discrimination against persons because of race, creed, color, national origin or ancestry; to create a division in the Department of Education to effect such prevention and elimination, and making an appropriation therefor."

Title  
amended.

New title.

Section amended.	2. Section four of the act of which this act is amendatory is amended to read as follows:
C. 18:25-4. Civil right.	4. All persons shall have the opportunity to obtain employment and to obtain all the accommodations, advantages, facilities, and privileges of any place of public accommodation, without discrimination because of race, creed, color, national origin or ancestry, subject only to conditions and limitations applicable alike to all persons. This opportunity is recognized as and declared to be a civil right.
Section amended.	3. Section five of the act of which this act is amendatory is amended to read as follows:
C. 18:25-5. Terms defined:	5. As used in this act, unless a different meaning clearly appears from the context:
Person;	a. "Person" includes one or more individuals, partnerships, associations, labor organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and fiduciaries.
Employment agency;	b. "Employment agency" includes any person undertaking to procure employees or opportunities for others to work.
Labor organization;	c. "Labor organization" includes any organization which exists and is constituted 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 connection with employment.
Unlawful employment practice;	d. "Unlawful employment practice" and "unlawful discrimination" includes only those unlawful practices and acts specified in section eleven of this act.
Employer;	e. "Employer" does not include a club exclusively social or a fraternal, charitable, educational or religious association or corporation, if such club, association or corporation is not organized and operated for private profit nor does it include any employer with fewer than six persons in his employ.
Employee;	f. "Employee" does not include any individual employed by his parents, spouse or child, or in the domestic service of any person.

- g. "Division" means the State "Division against Discrimination" created by this act. Division;
- h. "Commissioner" means the State Commissioner of Education. Commissioner;
- i. "Commission" means the Commission on Civil Rights created by this act. Commission;
- j. "A place of public accommodation" shall include any tavern, roadhouse, or hotel, whether for entertainment of transient guests or accommodation of those seeking health, recreation or rest; any retail shop or store; any restaurant, eating house, or place where food is sold for consumption on the premises; any place maintained for the sale of ice cream, ice and fruit preparations or their derivatives, soda water or confections, or where any beverages of any kind are retailed for consumption on the premises; any garage, any public conveyance operated on land or water, or in the air, and stations and terminals thereof; any public bathhouse, public boardwalk, public seashore accommodation; any auditorium, meeting place, or public hall; any theatre, or other place of public amusement, motion-picture house, music hall, roof garden, skating rink, swimming pool, amusement and recreation park, fair, bowling alley, gymnasium, shooting gallery, billiard and pool parlor; any comfort station; any dispensary, clinic or hospital; and any public library, any kindergarten, primary and secondary school, trade or business school, high school, academy, college and university, or any educational institution under the supervision of the State Board of Education, or the Commissioner of Education of the State of New Jersey. Nothing herein contained shall be construed to include, or to apply to, any institution, bona fide club, or place of accommodation, which is in its nature distinctly private; nor shall anything herein contained apply to any educational facility operated or maintained by a bona fide religious or sectarian institution, and the right of a natural parent or one in loco parentis to direct the education and upbringing of a child under his control is hereby affirmed; nor shall any-
- A place of public accommodation;
- Construing.

thing herein contained be construed to bar any private secondary or post-secondary school from using in good faith criteria other than race, creed, color, national origin or ancestry, in the admission of students.

Section  
amended.

C. 18:25-7.  
Commission,  
members,  
terms.

Vacancies.

Section  
amended.

C. 18:25-8.  
Commis-  
sioner's  
duties.

4. Section seven of the act of which this act is amendatory is amended to read as follows:

7. The said division shall consist of the Commissioner of Education and the commission. The commission shall consist of seven members; each member shall be appointed by the Governor, with the advice and consent of the Senate, for a term of five years and until his successor is appointed and qualified, except that of those first appointed, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years and two for a term of four years. Vacancies caused other than by expiration of term shall be filled in the same manner but for the unexpired term only. Members of the commission shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties. The first chairman of the commission shall be designated by the Governor and thereafter, the chairman shall be elected by the members, annually.

5. Section eight of the act of which this act is amendatory is amended to read as follows:

8. The commissioner shall

a. Exercise all powers of the division not vested in the commission.

b. Administer the work of the division.

c. Organize the division into two sections, one of which shall receive, investigate, and act upon complaints alleging discrimination in employment against persons because of race, creed, color, national origin or ancestry, and the other of which shall receive, investigate, and act upon complaints alleging other unlawful acts of discrimination against persons because of race, creed, color, national origin or ancestry; prescribe the organization of said sections and the duties of his subordinates and assistants.

d. Subject to the approval of the commission and the Governor, appoint an assistant Commissioner of Education, who shall act for the commissioner, in his place and with his powers, and such other directors, field representatives and assistants as may be necessary for the proper administration of the division and fix their compensation within the limits of available appropriations. The assistant commissioner, directors, field representatives, and assistants shall not be subject to the civil service act and shall be removable by the commissioner at will.

e. Appoint such clerical force and employees as he may deem necessary and fix their duties, all of whom shall be subject to the civil service act.

f. Maintain liaison with local and State officials and agencies concerned with matters related to the work of the division.

g. Subject to the approval of the commission adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this act.

h. Receive, investigate, and pass upon complaints alleging acts in violation of the provisions of this act.

i. Hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person, under oath, and, in connection therewith, require the production for examination of any books or papers relating to any subject matter under investigation or in question before the commissioner. The commissioner may make rules as to the issuance of subpoenas by the assistant commissioner.

j. Issue such publications and such results of investigations and research tending to promote good will and to minimize or eliminate discrimination because of race, creed, color, national origin or ancestry, as the commission shall direct.

k. Render each year to the Governor and Legislature a full written report of all the activities of the division.

Section  
amended.

C. 18:25-9.  
Commission's  
duties.

6. Section nine of the act of which this act is amendatory is amended to read as follows:

9. The commission shall

a. Consult with and advise the commissioner with respect to the work of the division.

b. Approve or disapprove the appointment of officers, employees and agents, and the fixing of their compensation by the commissioner.

c. Survey and study the operations of the division.

d. Report to the Governor and the Legislature with respect to such matters relating to the work of the division and at such times as it may deem in the public interest.

The mayors or chief executive officers of the municipalities in the State may appoint local commissions on civil rights to aid in effectuating the purposes of this act. Such local commissions shall be composed of representative citizens serving without compensation. Such commissions shall attempt to foster through community effort or otherwise good will, co-operation and conciliation among the groups and elements of the inhabitants of the community, and they may be empowered by the local governing bodies to make recommendations to them for the development of policies and procedures in general and for programs of formal and informal education that will aid in eliminating all types of discrimination based on race, creed, color, national origin, or ancestry. The State commission may make provision for technical and clerical assistance to municipal officials to aid in organizing such commissions in all of the municipalities in this State.

Section  
amended.

C. 18:25-11.  
Unlawful  
employment.

7. Section eleven of the act of which this act is amendatory is amended to read as follows:

11. It shall be an unlawful employment practice, or, as the case may be, an unlawful discrimination:

a. For an employer, because of the race, creed, color, national origin or ancestry of any individual, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate

against such individual in compensation or in terms, conditions or privileges of employment.

b. For a labor organization, because of the race, creed, color, national origin or ancestry of any individual, to exclude or to expel from its membership such individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer.

c. For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin or ancestry or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

d. For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because he has opposed any practices or acts forbidden under this act or because he has filed a complaint, testified or assisted in any proceeding under this act.

e. For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or to attempt to do so.

f. For any owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation directly or indirectly to refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any person in the furnishing thereof, or directly or indirectly to publish, circulate, issue, display, post or mail any written or printed communication, notice, or advertisement to the effect that any of the accommodations, advantages, facilities, or privileges of any such place will be refused, withheld from, or denied to any person on account of the

race, creed, color, national origin, or ancestry of such person, or that the patronage or custom thereat of any person of any particular race, creed, color, national origin or ancestry is unwelcome, objectionable or not acceptable, desired or solicited, and the production of any such written or printed communication, notice or advertisement, purporting to relate to any such place and to be made by any owner, lessee, proprietor, superintendent, or manager thereof, shall be presumptive evidence in any action that the same was authorized by such person.

Section  
amended.

8. Section twelve of the act of which this act is amendatory is amended to read as follows:

C. 18:25-12.  
Complaint by  
aggrieved  
person.

12. Any person claiming to be aggrieved by an unlawful employment practice or an unlawful discrimination may, by himself, or his attorney-at-law, make, sign and file with the commissioner a verified complaint in writing which shall state the name and address of the person, employer, labor organization, employment agency, owner, lessee, proprietor, manager, superintendent, or agent alleged to have committed the unlawful employment practice or unlawful discrimination complained of and which shall set forth the particulars thereof and shall contain such other information as may be required by the commissioner. The Commissioner of Labor or Attorney-General may, in like manner, make, sign and file such complaint. Any employer whose employees, or some of them, refuse or threaten to refuse to co-operate with the provisions of this act, may file with the commissioner a verified complaint asking for assistance by conciliation or other remedial action.

Section  
amended.

9. Section thirteen of the act of which this act is amendatory is amended to read as follows:

C. 18:25-13.  
Investigation.

13. After the filing of any complaint, the commissioner shall cause prompt investigation to be made in connection therewith; and if the commissioner shall determine after such investigation that probable cause exists for crediting the allegations of the complaint, he shall immediately endeavor to



eliminate the unlawful employment practice or the unlawful discrimination complained of by conference, conciliation and persuasion. Neither the commissioner nor any officer or employee of the division shall disclose what has transpired in the course of such endeavors.

10. Section fourteen of the act of which this act is amendatory is amended to read as follows:

Section  
amended.

14. In case of failure so to eliminate such practice or discrimination, or in advance thereof if in his judgment circumstances so warrant, the commissioner shall cause to be issued and served in the name of the division, a written notice, together with a copy of such complaint, as the same may have been amended, requiring the person, employer, labor organization, employment agency, owner, lessee, proprietor, manager, superintendent, or agent named in such complaint, hereinafter referred to as respondent, to answer the charges of such complaint at a hearing before the commissioner at a time and place to be specified in such notice. The place of any such hearing shall be the office of the commissioner or such other place as may be designated by him.

C. 18:25-14.  
Notice to  
answer  
charges.

11. Section sixteen of the act of which this act is amendatory is amended to read as follows:

Section  
amended.

16. If, upon all the evidence at the hearing the commissioner shall find that the respondent has engaged in any unlawful employment practice or unlawful discrimination as defined in this act, the commissioner shall state his findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful employment practice or unlawful discrimination and to take such affirmative action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, or restoration to membership in any respondent labor organization, or extending full and equal accommodations, advantages, facilities, and privileges to all persons, as, in the judgment of the commissioner, will effectuate the pur-

Orders by  
commissioner.

pose of this act, and including a requirement for report of the manner of compliance. If, upon all the evidence, the commissioner shall find that the respondent has not engaged in any such unlawful employment practice or unlawful discrimination, the commissioner shall state his findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to such respondent. The failure of the commissioner to file his findings of fact and to issue and serve an order as in this section provided, within ninety days after the filing of the verified complaint with him in the manner provided by section twelve of this act, or within such additional period as may, for good cause shown, be granted by the commission, may, at the election of the complainant, be deemed to be the equivalent of an order of the commissioner dismissing the complaint, from which an appeal shall lie as hereinafter provided.

Section  
amended.

C. 18:25-18.  
Enforcement  
of orders.

12. Section eighteen of the act of which this act is amendatory is amended to read as follows:

18. Observance of an order of the commissioner may be enforced by proceedings in the County Court to compel the specific performance of the order or of the duties imposed by law upon the respondent named in the order. Such proceedings shall be brought in the County Court to which an appeal from the order would lie as hereinafter provided.

Section  
amended.

C. 18:25-19.  
Appeals  
not to  
stay orders.

13. Section nineteen of the act of which this act is amendatory is amended to read as follows:

19. An appeal from any order of the commissioner shall not supersede or stay such order unless the County Court to which such appeal is taken shall so direct.

Section  
amended.

C. 18:25-20.  
Court of  
appeal,  
proviso.

14. Section twenty of the act of which this act is amendatory is amended to read as follows:

20. Any person aggrieved by a final order of the commissioner may take an appeal therefrom to the County Court of the county in which the alleged unlawful employment practice or unlawful discrimination took place; *provided*, that notice of

such appeal be filed in such County Court within thirty days after the making of such order, together with an affidavit or an acknowledgment of service of copies of the notice of appeal upon the commissioner and all other parties to the proceeding or their attorneys. Within twenty days after the service of such notice of appeal, the commissioner shall file in the County Court the original or a certified copy of the record of the proceedings under review, including such testimony as shall have been taken stenographically, and shall serve notice of the filing of such record upon the appellant. By order of the County Court or upon stipulation of the parties, the record may be shortened by eliminating any portion thereof, or by the submission of an agreed statement of facts. Within twenty days after service of the notice by the commissioner that the record has been filed in the County Court, the appellant shall move the appeal to the County Court in the manner provided by law and the rules of court in respect to the making of motions in the County Court, and thereafter the matter shall proceed in the same manner as in other motions in the County Court.

15. Section twenty-one of the act of which this act is amendatory is amended to read as follows:

Section  
amended.

21. No order of the commissioner shall be set aside upon appeal in whole or in part for any irregularity or informality in the proceedings of the commissioner unless the irregularity or informality tends to defeat or impair the substantial right or interest of the appellant.

C. 18:25-21.  
Orders not  
set aside.

16. Section twenty-two of the act of which this act is amendatory is amended to read as follows:

Section  
amended.

22. Upon appeal, the County Court may affirm, reverse or modify any such order or may make such other order as shall appear equitable and just. Any final order or judgment of the County Court shall be subject to appeal by the commissioner or by any party as in other causes in such court.

C. 18:25-22.  
Court's order  
upon appeal.

Section  
amended.

17. Section twenty-three of the act of which this act is amendatory is amended to read as follows:

C. 18:25-23.  
Testimony  
available.

23. The commissioner's copy of the testimony shall be available at all reasonable times to all parties for examination without cost.

Section  
amended.

18. Section twenty-five of the act of which this act is amendatory is amended to read as follows:

C. 18:25-25.  
Misdemeanor.

25. Any person who shall willfully resist, prevent, impede or interfere with the commissioner or any representative of the division in the performance of duty under this act, or shall willfully violate an order of the commissioner, shall be guilty of a misdemeanor and shall be punishable by imprisonment for not more than one year, or by a fine of not more than five hundred dollars, or by both; but procedure for the review of the order shall not be deemed to be such willful conduct.

Section  
amended.

19. Section twenty-six of the act of which this act is amendatory is amended to read as follows:

C. 18:25-26.  
Construing.

26. The provisions of this act shall be construed fairly and justly with due regard to the interests of all parties. Nothing contained in this act shall be deemed to repeal any of the provisions of the civil rights law or of any other law of this State relating to discrimination because of race, creed, color, national origin or ancestry; except that, as to practices and acts declared unlawful by section eleven of this act, the procedure herein provided shall, while pending, be exclusive; and the final determination therein shall exclude any other action, civil or criminal, based on the same grievance of the individual concerned. Nothing herein contained shall bar, exclude, or otherwise affect any right or action, civil or criminal, which may exist independently of any right to redress against or specific relief from an unlawful employment practice or unlawful discrimination.

20. This act shall take effect immediately.

Approved April 5, 1949.