

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Human Rights Act is amended by changing Sections 7B-102, 8-101, and 10-103 as follows:

(775 ILCS 5/7B-102) (from Ch. 68, par. 7B-102)

Sec. 7B-102. Procedures.

(A) Charge.

(1) Within one year after the date that a civil rights violation allegedly has been committed or terminated, a charge in writing under oath or affirmation may be filed with the Department by an aggrieved party or issued by the Department itself under the signature of the Director.

(2) The charge shall be in such detail as to substantially apprise any party properly concerned as to the time, place, and facts surrounding the alleged civil rights violation.

(B) Notice and Response to Charge.

(1) The Department shall serve notice upon the aggrieved party acknowledging such charge and advising the aggrieved party of the time limits and choice of forums provided under this Act. The Department shall, within 10 days of the date on which the charge was filed or the

identification of an additional respondent under paragraph (2) of this subsection, serve on the respondent a copy of the charge along with a notice identifying the alleged civil rights violation and advising the respondent of the procedural rights and obligations of respondents under this Act and may require the respondent to file a response to the allegations contained in the charge. Upon the Department's request, the respondent shall file a response to the charge within 30 days and shall serve a copy of its response on the complainant or his or her representative. Notwithstanding any request from the Department, the respondent may elect to file a response to the charge within 30 days of receipt of notice of the charge, provided the respondent serves a copy of its response on the complainant or his or her representative. All allegations contained in the charge not denied by the respondent within 30 days after the Department's request for a response may be deemed admitted, unless the respondent states that it is without sufficient information to form a belief with respect to such allegation. The Department may issue a notice of default directed to any respondent who fails to file a response to a charge within 30 days of the Department's request, unless the respondent can demonstrate good cause as to why such notice should not issue. The term "good cause" shall be defined by rule promulgated by the Department. Within 10 days of the date

he or she receives the respondent's response, the complainant may file his or her reply to said response. If he or she chooses to file a reply, the complainant shall serve a copy of said reply on the respondent or his or her representative. A party may supplement his or her response or reply at any time that the investigation of the charge is pending.

(2) A person who is not named as a respondent in a charge, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under subsection (B), to such person, from the Department. Such notice, in addition to meeting the requirements of subsections (A) and (B), shall explain the basis for the Department's belief that a person to whom the notice is addressed is properly joined as a respondent.

(C) Investigation.

(1) The Department shall conduct a full investigation of the allegations set forth in the charge and complete such investigation within 100 days after the filing of the charge, unless it is impracticable to do so. The Department's failure to complete the investigation within 100 days after the proper filing of the charge does not deprive the Department of jurisdiction over the charge.

(2) If the Department is unable to complete the investigation within 100 days after the charge is filed,

the Department shall notify the complainant and respondent in writing of the reasons for not doing so.

(3) The Director or his or her designated representative shall have authority to request any member of the Commission to issue subpoenas to compel the attendance of a witness or the production for examination of any books, records or documents whatsoever.

(4) If any witness whose testimony is required for any investigation resides outside the State, or through illness or any other good cause as determined by the Director is unable to be interviewed by the investigator or appear at a fact finding conference, his or her testimony or deposition may be taken, within or without the State, in the same manner as provided for in the taking of depositions in civil cases in circuit courts.

(5) Upon reasonable notice to the complainant and the respondent, the Department may ~~shall~~ conduct a fact finding conference, ~~unless prior to 100 days from the date on which the charge was filed, the Director has determined whether there is substantial evidence that the alleged civil rights violation has been committed or the parties voluntarily and in writing agree to waive the fact finding conference.~~ When requested by the Department, a party's failure to attend the conference without good cause may result in dismissal or default. A notice of dismissal or default shall be issued by the Director and shall notify the relevant party

that a request for review may be filed in writing with the Commission within 30 days of receipt of notice of dismissal or default.

(D) Report.

(1) Each charge investigated under subsection (C) shall be the subject of a report to the Director. The report shall be a confidential document subject to review by the Director, authorized Department employees, the parties, and, where indicated by this Act, members of the Commission or their designated hearing officers.

The report shall contain:

- (a) the names and dates of contacts with witnesses;
- (b) a summary and the date of correspondence and other contacts with the aggrieved party and the respondent;
- (c) a summary description of other pertinent records;
- (d) a summary of witness statements; and
- (e) answers to questionnaires.

A final report under this paragraph may be amended if additional evidence is later discovered.

(2) Upon review of the report and within 100 days of the filing of the charge, unless it is impracticable to do so, the Director shall determine whether there is substantial evidence that the alleged civil rights violation has been committed or is about to be committed.

If the Director is unable to make the determination within 100 days after the filing of the charge, the Director shall notify the complainant and respondent in writing of the reasons for not doing so. The Director's failure to make the determination within 100 days after the proper filing of the charge does not deprive the Department of jurisdiction over the charge.

(a) If the Director determines that there is no substantial evidence, the charge shall be dismissed and the aggrieved party notified that he or she may seek review of the dismissal order before the Commission. The aggrieved party shall have 90 days from receipt of notice to file a request for review by the Commission. The Director shall make public disclosure of each such dismissal.

(b) If the Director determines that there is substantial evidence, he or she shall immediately issue a complaint on behalf of the aggrieved party pursuant to subsection (F).

(E) Conciliation.

(1) During the period beginning with the filing of charge and ending with the filing of a complaint or a dismissal by the Department, the Department shall, to the extent feasible, engage in conciliation with respect to such charge.

When the Department determines that a formal

conciliation conference is feasible, the aggrieved party and respondent shall be notified of the time and place of the conference by registered or certified mail at least 7 days prior thereto and either or both parties shall appear at the conference in person or by attorney.

(2) The place fixed for the conference shall be within 35 miles of the place where the civil rights violation is alleged to have been committed.

(3) Nothing occurring at the conference shall be made public or used as evidence in a subsequent proceeding for the purpose of proving a violation under this Act unless the complainant and respondent agree in writing that such disclosure be made.

(4) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Department and Commission.

(5) A conciliation agreement may provide for binding arbitration of the dispute arising from the charge. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

(6) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Department determines that disclosure is not required to further the purpose of this Act.

(F) Complaint.

(1) When there is a failure to settle or adjust any charge through a conciliation conference and the charge is not dismissed, the Department shall prepare a written complaint, under oath or affirmation, stating the nature of the civil rights violation and the relief sought on behalf of the aggrieved party. Such complaint shall be based on the final investigation report and need not be limited to the facts or grounds alleged in the charge filed under subsection (A).

(2) The complaint shall be filed with the Commission.

(3) The Department may not issue a complaint under this Section regarding an alleged civil rights violation after the beginning of the trial of a civil action commenced by the aggrieved party under any State or federal law, seeking relief with respect to that alleged civil rights violation.

(G) Time Limit.

(1) When a charge of a civil rights violation has been properly filed, the Department, within 100 days thereof, unless it is impracticable to do so, shall either issue and file a complaint in the manner and form set forth in this Section or shall order that no complaint be issued. Any such order shall be duly served upon both the aggrieved party and the respondent. The Department's failure to either issue and file a complaint or order that no complaint be issued within 100 days after the proper filing

of the charge does not deprive the Department of jurisdiction over the charge.

(2) The Director shall make available to the aggrieved party and the respondent, at any time, upon request following completion of the Department's investigation, information derived from an investigation and any final investigative report relating to that investigation.

(H) This amendatory Act of 1995 applies to causes of action filed on or after January 1, 1996.

(I) The changes made to this Section by Public Act 95-243 apply to charges filed on or after the effective date of those changes.

(J) The changes made to this Section by this amendatory Act of the 96th General Assembly apply to charges filed on or after the effective date of those changes.

(Source: P.A. 100-492, eff. 9-8-17; 100-1066, eff. 8-24-18.)

(775 ILCS 5/8-101) (from Ch. 68, par. 8-101)

Sec. 8-101. Illinois Human Rights Commission.

(A) Creation; appointments. The Human Rights Commission is created to consist of 7 members appointed by the Governor with the advice and consent of the Senate. No more than 4 members shall be of the same political party. The Governor shall designate one member as chairperson. All appointments shall be in writing and filed with the Secretary of State as a public record.

(B) Terms. Of the members first appointed, 4 shall be appointed for a term to expire on the third Monday of January, 2021, and 3 (including the Chairperson) shall be appointed for a term to expire on the third Monday of January, 2023.

Notwithstanding any provision of this Section to the contrary, the term of office of each member of the Illinois Human Rights Commission is abolished on January 19, 2019. Incumbent members holding a position on the Commission that was created by Public Act 84-115 and whose terms, if not for this amendatory Act of the 100th General Assembly, would have expired January 18, 2021 shall continue to exercise all of the powers and be subject to all of the duties of members of the Commission until June 30, 2019 or until their respective successors are appointed and qualified, whichever is earlier.

Thereafter, each member shall serve for a term of 4 years and until his or her successor is appointed and qualified; except that any member chosen to fill a vacancy occurring otherwise than by expiration of a term shall be appointed only for the unexpired term of the member whom he or she shall succeed and until his or her successor is appointed and qualified.

(C) Vacancies.

(1) In the case of vacancies on the Commission during a recess of the Senate, the Governor shall make a temporary appointment until the next meeting of the Senate when he or she shall appoint a person to fill the vacancy. Any person

so nominated and confirmed by the Senate shall hold office for the remainder of the term and until his or her successor is appointed and qualified.

(2) If the Senate is not in session at the time this Act takes effect, the Governor shall make temporary appointments to the Commission as in the case of vacancies.

(3) Vacancies in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission. Except when authorized by this Act to proceed through a 3 member panel, a majority of the members of the Commission then in office shall constitute a quorum.

(D) Compensation. On and after January 19, 2019, the Chairperson of the Commission shall be compensated at the rate of \$125,000 per year, or as set by the Compensation Review Board, whichever is greater, during his or her service as Chairperson, and each other member shall be compensated at the rate of \$119,000 per year, or as set by the Compensation Review Board, whichever is greater. In addition, all members of the Commission shall be reimbursed for expenses actually and necessarily incurred by them in the performance of their duties.

(E) Notwithstanding the general supervisory authority of the Chairperson, each commissioner, unless appointed to the special temporary panel created under subsection (H), has the authority to hire and supervise a staff attorney. The staff attorney shall report directly to the individual commissioner.

(F) A formal training program for newly appointed commissioners shall be implemented. The training program shall include the following:

(1) substantive and procedural aspects of the office of commissioner;

(2) current issues in employment and housing discrimination and public accommodation law and practice;

(3) orientation to each operational unit of the Human Rights Commission;

(4) observation of experienced hearing officers and commissioners conducting hearings of cases, combined with the opportunity to discuss evidence presented and rulings made;

(5) the use of hypothetical cases requiring the newly appointed commissioner to issue judgments as a means of evaluating knowledge and writing ability;

(6) writing skills; and

(7) professional and ethical standards.

A formal and ongoing professional development program including, but not limited to, the above-noted areas shall be implemented to keep commissioners informed of recent developments and issues and to assist them in maintaining and enhancing their professional competence. Each commissioner shall complete 20 hours of training in the above-noted areas during every 2 years the commissioner remains in office.

(G) Commissioners must meet one of the following

qualifications:

- (1) licensed to practice law in the State of Illinois;
- (2) at least 3 years of experience as a hearing officer at the Human Rights Commission; or
- (3) at least 4 years of professional experience working for or dealing with individuals or corporations affected by this Act or similar laws in other jurisdictions, including, but not limited to, experience with a civil rights advocacy group, a fair housing group, a trade association, a union, a law firm, a legal aid organization, an employer's human resources department, an employment discrimination consulting firm, or a municipal human relations agency.

The Governor's appointment message, filed with the Secretary of State and transmitted to the Senate, shall state specifically how the experience of a nominee for commissioner meets the requirement set forth in this subsection. The Chairperson must have public or private sector management and budget experience, as determined by the Governor.

Each commissioner shall devote full time to his or her duties and any commissioner who is an attorney shall not engage in the practice of law, nor shall any commissioner hold any other office or position of profit under the United States or this State or any municipal corporation or political subdivision of this State, nor engage in any other business, employment, or vocation.

(H) Notwithstanding any other provision of this Act, the

Governor shall appoint, by and with the consent of the Senate, a special temporary panel of commissioners comprised of 3 members. The members shall hold office until the Commission, in consultation with the Governor, determines that the caseload of requests for review has been reduced sufficiently to allow cases to proceed in a timely manner, or for a term of 18 months from the date of appointment by the Governor, whichever is earlier. Each of the 3 members shall have only such rights and powers of a commissioner necessary to dispose of the cases assigned to the special panel. Each of the 3 members appointed to the special panel shall receive the same salary as other commissioners for the duration of the panel. The panel shall have the authority to hire and supervise a staff attorney who shall report to the panel of commissioners.

(Source: P.A. 99-642, eff. 7-28-16; 100-1066, eff. 8-24-18.)

(775 ILCS 5/10-103) (from Ch. 68, par. 10-103)

Sec. 10-103. Circuit Court Actions Pursuant To Election.

(A) If an election is made under Section 8B-102, the Department shall authorize and not later than 30 days after the entry of the administrative closure order by the Commission ~~election is made~~ the Attorney General shall commence and maintain a civil action on behalf of the aggrieved party in a circuit court of Illinois seeking relief under this Section. Venue for such civil action shall be determined under Section 8-111(B) (6).

(B) Any aggrieved party with respect to the issues to be

determined in a civil action under this Section may intervene as of right in that civil action.

(C) In a civil action under this Section, if the court finds that a civil rights violation has occurred or is about to occur the court may grant as relief any relief which a court could grant with respect to such civil rights violation in a civil action under Section 10-102. Any relief so granted that would accrue to an aggrieved party in a civil action commenced by that aggrieved party under Section 10-102 shall also accrue to that aggrieved party in a civil action under this Section. If monetary relief is sought for the benefit of an aggrieved party who does not intervene in the civil action, the court shall not award such relief if that aggrieved party has not complied with discovery orders entered by the court.

(Source: P.A. 86-910.)