



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4827

Introduced 2/18/2020, by Rep. Ann M. Williams

SYNOPSIS AS INTRODUCED:

775 ILCS 5/7-101	from Ch. 68, par. 7-101
775 ILCS 5/8A-102	from Ch. 68, par. 8A-102
775 ILCS 5/10-101	from Ch. 68, par. 10-101
775 ILCS 5/10-105 new	

Amends the Illinois Human Rights Act. Provides that the Department of Human Rights may petition and shall be permitted as a matter of right to intervene as a party in the proceeding if the Commission determines that: (i) the case involves matters of public interest or importance beyond the issues in the case; (ii) the Department has an interest different from one or more of the parties; (iii) the expertise of the Department makes it better suited to articulate a particular point of view; or (iv) the representation of the Department's interest by existing parties is or may be inadequate and the Department will or may be bound by an order or judgment in the action. Provides that the Department, as an intervenor, shall have all of the rights of an original party. Allows the Attorney General to intervene on behalf of the Department in a civil action filed by a complainant in State or federal court if the Department certifies that the case is of general public importance. Makes conforming changes.

LRB101 16919 LNS 70186 b

1 AN ACT concerning human rights.

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

4 Section 5. The Illinois Human Rights Act is amended by
5 changing Sections 7-101, 8A-102, and 10-101 and by adding
6 Section 10-105 as follows:

7 (775 ILCS 5/7-101) (from Ch. 68, par. 7-101)

8 Sec. 7-101. Powers and Duties. In addition to other powers
9 and duties prescribed in this Act, the Department shall have
10 the following powers:

11 (A) Rules and Regulations. To adopt, promulgate, amend, and
12 rescind rules and regulations not inconsistent with the
13 provisions of this Act pursuant to the Illinois Administrative
14 Procedure Act.

15 (B) Charges. To issue, receive, investigate, conciliate,
16 settle, and dismiss charges filed in conformity with this Act.

17 (C) Compulsory Process. To request subpoenas as it deems
18 necessary for its investigations.

19 (D) Complaints. To file complaints with the Commission in
20 conformity with this Act and to intervene in complaints filed
21 under this Act pending before the Commission.

22 (E) Judicial Enforcement. To seek temporary relief and to
23 enforce orders of the Commission in conformity with this Act.

1 (F) Equal Employment Opportunities. To take such action as
2 may be authorized to provide for equal employment opportunities
3 and affirmative action.

4 (G) Recruitment; Research; Public Communication; Advisory
5 Councils. To engage in such recruitment, research and public
6 communication and create such advisory councils as may be
7 authorized to effectuate the purposes of this Act.

8 (H) Coordination with other Agencies. To coordinate its
9 activities with federal, state, and local agencies in
10 conformity with this Act.

11 (I) Public Grants; Private Gifts. To accept public grants
12 and private gifts as may be authorized.

13 (J) Education and Training. To implement a formal and
14 unbiased program of education and training for all employees
15 assigned to investigate and conciliate charges under Articles
16 7A and 7B. The training program shall include the following:

17 (1) substantive and procedural aspects of the
18 investigation and conciliation positions;

19 (2) current issues in human rights law and practice;

20 (3) lectures by specialists in substantive areas
21 related to human rights matters;

22 (4) orientation to each operational unit of the
23 Department and Commission;

24 (5) observation of experienced Department
25 investigators and attorneys conducting conciliation
26 conferences, combined with the opportunity to discuss

1 evidence presented and rulings made;

2 (6) the use of hypothetical cases requiring the
3 Department investigator and conciliation conference
4 attorney to issue judgments as a means to evaluating
5 knowledge and writing ability;

6 (7) writing skills;

7 (8) computer skills, including but not limited to word
8 processing and document management.

9 A formal, unbiased and ongoing professional development
10 program including, but not limited to, the above-noted areas
11 shall be implemented to keep Department investigators and
12 attorneys informed of recent developments and issues and to
13 assist them in maintaining and enhancing their professional
14 competence.

15 (Source: P.A. 99-74, eff. 7-20-15.)

16 (775 ILCS 5/8A-102) (from Ch. 68, par. 8A-102)

17 Sec. 8A-102. Hearing on Complaint.

18 (A) Services. Within five days after a complaint is filed
19 by the Department, or the aggrieved party, as the case may be,
20 the Commission shall cause it to be served on the respondent
21 together with a notice of hearing before a hearing officer of
22 the Commission at a place therein fixed.

23 (B) Time and Location of Hearing. An initial hearing date
24 shall be scheduled for not less than thirty nor more than
25 ninety days after service of the complaint at a place that is

1 within one hundred miles of the place at which the civil rights
2 violation is alleged to have occurred. The hearing officer may,
3 for good cause shown, extend the date of the hearing.

4 (B-5) Intervention by the Department.

5 (1) After the filing of a complaint, the Department may
6 petition and shall be permitted as a matter of right to
7 intervene as a party in the proceeding if the Commission
8 determines that: (i) the case involves matters of public
9 interest or importance beyond the issues in the case; (ii) the
10 Department has an interest different from one or more of the
11 parties; (iii) the expertise of the Department makes it better
12 suited to articulate a particular point of view; or (iv) the
13 representation of the Department's interest by existing
14 parties is or may be inadequate and the Department will or may
15 be bound by an order or judgment in the action.

16 (2) The Department, as an intervenor, shall have all of the
17 rights of an original party subject to the order of the
18 administrative law judge.

19 (3) Upon such intervention, the Commission may award such
20 relief as is authorized to be granted to a complainant under
21 Section 8A-104.

22 (C) Amendment.

23 (1) A complaint may be amended under oath by leave of
24 the presiding hearing officer, for good cause shown, upon
25 timely written motion and reasonable notice to all
26 interested parties at any time prior to the issuance of a

1 recommended order pursuant to Section 8A-102(I) or
2 8B-102(J). The amended complaint shall be served upon all
3 parties of record and the Department of Human Rights by the
4 complainant, or by the Department if it prepared and filed
5 the amended complaint, within 7 days of the date of the
6 order permitting its filing or such additional time as the
7 hearing officer may order. Amendments to the complaint may
8 encompass any unlawful discrimination which is like or
9 reasonably related to the charge and growing out of the
10 allegations in such charge, including, but not limited to,
11 allegations of retaliation.

12 (2) A motion that the complaint be amended to conform
13 to the evidence, made prior to the close of the public
14 hearing, may be addressed orally on the record to the
15 hearing officer, and shall be granted for good and
16 sufficient cause.

17 (D) Answer.

18 (1) The respondent shall file an answer under oath or
19 affirmation to the original or amended complaint within 30
20 days of the date of service thereof, but the hearing
21 officer may, for good cause shown, grant further time for
22 the filing of an answer.

23 (2) When the respondent files a motion to dismiss the
24 complaint within 30 days and the motion is denied by the
25 hearing officer, the time for filing the answer shall be
26 within 15 days of the date of denial of the motion.

1 (3) Any allegation in the complaint which is not denied
2 or admitted in the answer is deemed admitted unless the
3 respondent states in the answer that he is without
4 sufficient knowledge or information to form a belief with
5 respect to such allegation.

6 (4) The failure to file an answer is deemed to
7 constitute an admission of the allegations contained in the
8 complaint.

9 (5) The respondent has the right to amend his answer,
10 upon leave of the hearing officer, for good cause shown.

11 (E) Proceedings In Forma Pauperis.

12 (1) If the hearing officer is satisfied that the
13 complainant or respondent is a poor person, and unable to
14 prosecute or defend the complaint and pay the costs and
15 expenses thereof, the hearing officer may permit the party
16 to commence and prosecute or defend the action as a poor
17 person. Such party shall have all the necessary subpoenas,
18 appearances, and proceedings without prepayment of witness
19 fees or charges. Witnesses shall attend as in other cases
20 under this Act and the same remedies shall be available for
21 failure or refusal to obey the subpoena as are provided for
22 in Section 8-104 of this Act.

23 (2) A person desiring to proceed without payment of
24 fees or charges shall file with the hearing officer an
25 affidavit stating that he is a poor person and unable to
26 pay costs, and that the action is meritorious.

1 (F) Discovery. The procedure for obtaining discovery of
2 information from parties and witnesses shall be specified by
3 the Commission in rules. If no rule has been promulgated by the
4 Commission on a particular type of discovery, the Code of Civil
5 Procedure may be considered persuasive authority. The types of
6 discovery shall be the same as in civil cases in the circuit
7 courts of this State, provided, however, that a party may take
8 discovery depositions only upon leave of the hearing officer
9 and for good cause shown.

10 (G) Hearing.

11 (1) Both the complainant and the respondent may appear
12 at the hearing and examine and cross-examine witnesses.

13 (2) The testimony taken at the hearing shall be under
14 oath or affirmation and a transcript shall be made and
15 filed in the office of the Commission.

16 (3) The testimony taken at the hearing is subject to
17 the same rules of evidence that apply in courts of this
18 State in civil cases.

19 (H) Compelling Appearance of Parties at Hearing. The
20 appearance at the hearing of a party or a person who at the
21 time of the hearing is an officer, director, or employee of a
22 party may be required by serving the party with a notice
23 designating the person who is required to appear. The notice
24 also may require the production at the hearing of documents or
25 tangible things. If the party or person is a nonresident of the
26 county, the hearing officer may order any terms and conditions

1 in connection with his appearance at the hearing that are just,
2 including payment of his reasonable expenses. Upon a failure to
3 comply with the notice, the hearing officer may enter any order
4 that is just.

5 (I) Decision.

6 (1) When all the testimony has been taken, the hearing
7 officer shall determine whether the respondent has engaged
8 in or is engaging in the civil rights violation with
9 respect to the person aggrieved as charged in the
10 complaint. A determination sustaining a complaint shall be
11 based upon a preponderance of the evidence.

12 (2) The hearing officer shall make findings of fact in
13 writing and, if the finding is against the respondent,
14 shall issue and cause to be served on the parties and the
15 Department a recommended order for appropriate relief as
16 provided by this Act.

17 (3) If, upon all the evidence, the hearing officer
18 finds that a respondent has not engaged in the
19 discriminatory practice charged in the complaint or that a
20 preponderance of the evidence does not sustain the
21 complaint, he shall state his findings of fact and shall
22 issue and cause to be served on the parties and the
23 Department a recommended order dismissing the complaint.

24 (4) The findings and recommended order of the hearing
25 officer shall be filed with the Commission. The findings
26 and recommended order may be authored by a hearing officer

1 other than the hearing officer who presides at the public
2 hearing if:

3 (a) the hearing officer who presides at the public
4 hearing is unable to author the findings and
5 recommended order by reason of death, disability, or
6 separation from employment; and

7 (b) all parties to a complaint file a joint motion
8 agreeing to have the findings and recommended order
9 written by a hearing officer who did not preside at the
10 public hearing.

11 (5) A recommended order dismissing a complaint may
12 include an award of reasonable attorneys fees in favor of
13 the respondent against the complainant or the
14 complainant's attorney, or both, if the hearing officer
15 concludes that the complaint was frivolous, unreasonable
16 or groundless or that the complainant continued to litigate
17 after it became clearly so.

18 (6) The hearing officer may issue a recommended order
19 of dismissal with prejudice or a recommended order of
20 default as a sanction for the failure of a party to
21 prosecute his or her case, file a required pleading, appear
22 at a hearing, or otherwise comply with this Act, the rules
23 of the Commission, or a previous order of the hearing
24 officer.

25 (Source: P.A. 92-472, eff. 1-1-02.)

1 (775 ILCS 5/10-101) (from Ch. 68, par. 10-101)

2 Sec. 10-101. Applicability. With the exception of Sections
3 ~~Section~~ 10-104 and 10-105, this Article shall apply solely to
4 civil actions arising under Article 3 of this Act.

5 (Source: P.A. 93-1017, eff. 8-24-04.)

6 (775 ILCS 5/10-105 new)

7 Sec. 10-105. Intervention by the Attorney General. The
8 Attorney General may intervene on behalf of the Department in a
9 civil action filed by a complainant in State or federal court
10 under Section 7A-102 if the Department certifies that the case
11 is of general public importance. Upon such intervention, the
12 court or jury may award any of the remedies under Section
13 8A-104.