

**101ST GENERAL ASSEMBLY****State of Illinois****2019 and 2020****SB1533**

Introduced 2/15/2019, by Sen. Heather A. Steans

SYNOPSIS AS INTRODUCED:

775 ILCS 40/20
775 ILCS 40/25
775 ILCS 40/45

Amends the Illinois Torture Inquiry and Relief Commission Act. Provides that a majority of the Illinois Torture Inquiry and Relief Commission members currently appointed shall constitute a quorum (rather than a majority of the voting members). Provides that a vacancy in the membership of the Commission shall not impair the right of a quorum to perform all of the duties of the Commission. Provides that vacancies occurring before the expiration of a term shall be filled by a gubernatorial appointment for the remainder of the unexpired term with the advice and consent of the Senate (rather than in the manner provided for the members first appointed). Deletes language providing that all 8 voting members of the Commission shall participate in a vote to establish further case disposition. Provides that if 5 or more voting members (rather than 5 or more of the 8 voting members) of the Commission conclude that there is sufficient evidence of torture to merit judicial review, the case shall be referred to the Chief Judge of the Circuit Court of Cook County. Provides that if 4 or more voting members (rather than less than 5 of the 8 voting members) of the Commission conclude that there is insufficient evidence of torture to merit judicial review, the Commission shall conclude there is insufficient evidence of torture to merit judicial review. Provides that if a vote results in neither a minimum of 5 votes finding sufficient evidence of torture to merit judicial review, nor a minimum of 4 votes finding insufficient evidence of torture to merit judicial review, the claim shall be postponed for future reconsideration.

LRB101 08393 LNS 53463 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 Torture Inquiry and Relief
5 Commission Act is amended by changing Sections 20, 25, and 45
6 as follows:

7 (775 ILCS 40/20)

8 Sec. 20. Membership; chair; meetings; quorum.

9 (a) The Commission shall consist of 8 voting members as
10 follows:

11 (1) One shall be a retired Circuit Court Judge.

12 (2) One shall be a former prosecuting attorney.

13 (3) One shall be a law school professor.

14 (4) One shall be engaged in the practice of criminal
15 defense law.

16 (5) Three shall be members of the public who are not
17 attorneys and who are not officers or employees of the
18 Judicial branch.

19 (6) One shall be a former public defender.

20 The members of the Commission shall be appointed by the
21 Governor, with the advice and consent of the Senate. Members
22 may be re-appointed for additional terms, as provided for under
23 Section 25.

1 (a-1) The Governor shall also appoint alternate Commission
2 members for the Commission members he or she has appointed to
3 serve in the event of scheduling conflicts, conflicts of
4 interest, disability, or other disqualification arising in a
5 particular case. Where an alternate member is called upon to
6 serve in a particular place, the alternate member shall vote in
7 the place of, and otherwise exercise the same powers as, the
8 member which he or she is replacing. The alternate member shall
9 have the same qualifications for appointment as the original
10 member. In making the appointments, the Governor shall make a
11 good faith effort to appoint members with different
12 perspectives of the justice system. The Governor shall also
13 consider geographical location, gender, and racial diversity
14 in making the appointments.

15 (b) The retired judge who is appointed as a member under
16 subsection (a) shall serve as Chair of the Commission. The
17 Commission shall have its initial meeting no later than one
18 month after the appointment of a quorum of members of the
19 Commission, at the call of the Chair. The Commission shall meet
20 a minimum of once every 6 months and may also meet more often
21 at the call of the Chair. The Commission shall meet at such
22 time and place as designated by the Chair, in accordance with
23 the provisions of the Open Meetings Act. Notice of the meetings
24 shall be given at such time and manner as provided by the rules
25 of the Commission, in accordance with the provisions of the
26 Open Meetings Act. A majority of the Commission ~~voting~~ members

1 currently appointed shall constitute a quorum. A vacancy in the
2 membership of the Commission shall not impair the right of a
3 quorum to perform all of the duties of the Commission. Except
4 votes under subsection (c) of Section 45, all ~~All~~ Commission
5 votes shall be by majority vote of the voting members
6 appointed.

7 (Source: P.A. 96-223, eff. 8-10-09.)

8 (775 ILCS 40/25)

9 Sec. 25. Terms of members; compensation; expenses.

10 (a) Of the initial members, the appointments under clauses
11 (a) (3) and (6) of Section 20 shall be for one-year terms, the
12 appointments under clauses (a) (1), (2), and (4) of Section 20
13 shall be for 2-year terms, and the appointments under clause
14 (a) (5) of Section 20 shall be for 3-year terms. Thereafter, to
15 achieve staggered terms, all terms shall be for 3 years.
16 Members of the Commission shall serve no more than 2
17 consecutive 3-year terms plus any initial term of less than 3
18 years. Unless provided otherwise by this Act, all terms of
19 members shall begin on January 1 and end on December 31.

20 Members serving by virtue of elective or appointive office,
21 may serve only so long as the office holders hold those
22 respective offices. The Chief Judge of the Cook County Circuit
23 Court may remove members for good cause shown. Vacancies
24 occurring before the expiration of a term shall be filled by
25 gubernatorial appointment for the remainder of the unexpired

1 term with the advice and consent of the Senate ~~in the manner~~
2 ~~provided for the members first appointed.~~

3 (b) The Commission members shall receive no salary for
4 serving, but may be reimbursed for reasonable expenses incurred
5 as a result of their duties as members of the Commission from
6 funds appropriated by the General Assembly for that purpose, or
7 from funds obtained from sources other than the General
8 Assembly.

9 (Source: P.A. 96-223, eff. 8-10-09.)

10 (775 ILCS 40/45)

11 Sec. 45. Commission proceedings.

12 (a) At the completion of a formal inquiry, all relevant
13 evidence shall be presented to the full Commission. As part of
14 its proceedings, the Commission may conduct hearings. The
15 determination as to whether to conduct hearings is solely in
16 the discretion of the Commission. Any hearing held in
17 accordance with this Section shall be a public hearing and
18 shall be held subject to the Commission's rules of operation,
19 and conducted pursuant to the Open Meetings Act.

20 (b) The Director shall use all due diligence to notify the
21 victim at least 30 days prior to any proceedings of the full
22 Commission held in regard to the victim's case. The Commission
23 shall notify the victim that the victim is permitted to attend
24 proceedings otherwise closed to the public, subject to any
25 limitations imposed by this Act, and subject to Section

1 2(c)(14) of the Open Meetings Act. If the victim plans to
2 attend proceedings otherwise closed to the public, the victim
3 shall notify the Commission at least 10 days in advance of the
4 proceedings of his or her intent to attend. The Commission may
5 close any portion of the proceedings to the victim, if the
6 victim is to testify and the Commission determines that the
7 victim's testimony would be materially affected if the victim
8 hears other testimony at the proceeding.

9 (c) After hearing the evidence, the full Commission shall
10 vote to establish further case disposition as provided by this
11 subsection. ~~All 8 voting members of the Commission shall~~
12 ~~participate in that vote.~~

13 If 5 or more ~~of the 8~~ voting members of the Commission
14 conclude by a preponderance of the evidence that there is
15 sufficient evidence of torture to merit judicial review, the
16 case shall be referred to the Chief Judge of the Circuit Court
17 of Cook County by filing with the clerk of court the opinion of
18 the Commission with supporting findings of fact, as well as the
19 record in support of such opinion, with service on the State's
20 Attorney in non-capital cases and service on both the State's
21 Attorney and Attorney General in capital cases.

22 If 4 or more ~~less than 5 of the 8~~ voting members of the
23 Commission conclude by a preponderance of the evidence that
24 there is insufficient ~~sufficient~~ evidence of torture to merit
25 judicial review, the Commission shall conclude there is
26 insufficient evidence of torture to merit judicial review. The

1 Commission shall document that opinion, along with supporting
2 findings of fact, and file those documents and supporting
3 materials with the court clerk in the circuit of original
4 jurisdiction, with a copy to the State's Attorney and the chief
5 judge.

6 If a vote results in neither a minimum of 5 votes finding
7 sufficient evidence of torture to merit judicial review, nor a
8 minimum of 4 votes finding insufficient evidence of torture to
9 merit judicial review, the claim shall be postponed for future
10 reconsideration.

11 The Director of the Commission shall use all due diligence
12 to notify immediately the victim of the Commission's conclusion
13 in a case.

14 (d) Evidence of criminal acts, professional misconduct, or
15 other wrongdoing disclosed through formal inquiry or
16 Commission proceedings shall be referred to the appropriate
17 authority. Evidence favorable to the convicted person
18 disclosed through formal inquiry or Commission proceedings
19 shall be disclosed to the convicted person and the convicted
20 person's counsel, if the convicted person has counsel. The
21 Commission shall have the discretion to refer its findings
22 together with the supporting record and evidence, to such other
23 parties or entities as the Commission in its discretion shall
24 deem appropriate.

25 (e) All proceedings of the Commission shall be recorded and
26 transcribed as part of the record. All Commission member votes

1 shall be recorded in the record. All records of the Commission
2 shall be confidential until the proceedings before the
3 Commission are concluded and a final decision has been made by
4 the Commission.

5 (Source: P.A. 96-223, eff. 8-10-09.)