



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB3891

Introduced 2/14/2020, by Sen. Ram Villivalam

#### SYNOPSIS AS INTRODUCED:

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

Amends the Illinois Human Rights Act. Provides that, in cases alleging a civil rights violation under the Article regarding employment, an employee who files a charge or complaint with the Department of Human Rights or the Human Rights Commission or commences a civil action in court for unlawful discrimination has the right to remain anonymous, by use of a fictitious name, in the charge or complaint issued to or served upon the respondent.

LRB101 19683 LNS 69175 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 7A-102, 8A-102, and 10-102 as follows:

6 (775 ILCS 5/7A-102) (from Ch. 68, par. 7A-102)  
7 Sec. 7A-102. Procedures.

8 (A) Charge.

9 (1) Within 300 calendar days after the date that a  
10 civil rights violation allegedly has been committed, a  
11 charge in writing under oath or affirmation may be filed  
12 with the Department by an aggrieved party or issued by the  
13 Department itself under the signature of the Director.

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

18 (3) Charges deemed filed with the Department pursuant  
19 to subsection (A-1) of this Section shall be deemed to be  
20 in compliance with this subsection.

21 (4) An employee who files a charge with the Department  
22 for unlawful discrimination under Article 2 against a  
23 current or former employer has the right to remain

1 anonymous, by use of a fictitious name, in the charge  
2 issued to the respondent.

3 (A-1) Equal Employment Opportunity Commission Charges.

4 (1) If a charge is filed with the Equal Employment  
5 Opportunity Commission (EEOC) within 300 calendar days  
6 after the date of the alleged civil rights violation, the  
7 charge shall be deemed filed with the Department on the  
8 date filed with the EEOC. If the EEOC is the governmental  
9 agency designated to investigate the charge first, the  
10 Department shall take no action until the EEOC makes a  
11 determination on the charge and after the complainant  
12 notifies the Department of the EEOC's determination. In  
13 such cases, after receiving notice from the EEOC that a  
14 charge was filed, the Department shall notify the parties  
15 that (i) a charge has been received by the EEOC and has  
16 been sent to the Department for dual filing purposes; (ii)  
17 the EEOC is the governmental agency responsible for  
18 investigating the charge and that the investigation shall  
19 be conducted pursuant to the rules and procedures adopted  
20 by the EEOC; (iii) it will take no action on the charge  
21 until the EEOC issues its determination; (iv) the  
22 complainant must submit a copy of the EEOC's determination  
23 within 30 days after service of the determination by the  
24 EEOC on the complainant; and (v) that the time period to  
25 investigate the charge contained in subsection (G) of this  
26 Section is tolled from the date on which the charge is

1 filed with the EEOC until the EEOC issues its  
2 determination.

3 (2) If the EEOC finds reasonable cause to believe that  
4 there has been a violation of federal law and if the  
5 Department is timely notified of the EEOC's findings by the  
6 complainant, the Department shall notify the complainant  
7 that the Department has adopted the EEOC's determination of  
8 reasonable cause and that the complainant has the right,  
9 within 90 days after receipt of the Department's notice, to  
10 either file his or her own complaint with the Illinois  
11 Human Rights Commission or commence a civil action in the  
12 appropriate circuit court or other appropriate court of  
13 competent jurisdiction. This notice shall be provided to  
14 the complainant within 10 business days after the  
15 Department's receipt of the EEOC's determination. The  
16 Department's notice to the complainant that the Department  
17 has adopted the EEOC's determination of reasonable cause  
18 shall constitute the Department's Report for purposes of  
19 subparagraph (D) of this Section.

20 (3) For those charges alleging violations within the  
21 jurisdiction of both the EEOC and the Department and for  
22 which the EEOC either (i) does not issue a determination,  
23 but does issue the complainant a notice of a right to sue,  
24 including when the right to sue is issued at the request of  
25 the complainant, or (ii) determines that it is unable to  
26 establish that illegal discrimination has occurred and

1 issues the complainant a right to sue notice, and if the  
2 Department is timely notified of the EEOC's determination  
3 by the complainant, the Department shall notify the  
4 parties, within 10 business days after receipt of the  
5 EEOC's determination, that the Department will adopt the  
6 EEOC's determination as a dismissal for lack of substantial  
7 evidence unless the complainant requests in writing within  
8 35 days after receipt of the Department's notice that the  
9 Department review the EEOC's determination.

10 (a) If the complainant does not file a written  
11 request with the Department to review the EEOC's  
12 determination within 35 days after receipt of the  
13 Department's notice, the Department shall notify the  
14 complainant, within 10 business days after the  
15 expiration of the 35-day period, that the decision of  
16 the EEOC has been adopted by the Department as a  
17 dismissal for lack of substantial evidence and that the  
18 complainant has the right, within 90 days after receipt  
19 of the Department's notice, to commence a civil action  
20 in the appropriate circuit court or other appropriate  
21 court of competent jurisdiction. The Department's  
22 notice to the complainant that the Department has  
23 adopted the EEOC's determination shall constitute the  
24 Department's report for purposes of subparagraph (D)  
25 of this Section.

26 (b) If the complainant does file a written request

1 with the Department to review the EEOC's  
2 determination, the Department shall review the EEOC's  
3 determination and any evidence obtained by the EEOC  
4 during its investigation. If, after reviewing the  
5 EEOC's determination and any evidence obtained by the  
6 EEOC, the Department determines there is no need for  
7 further investigation of the charge, the Department  
8 shall issue a report and the Director shall determine  
9 whether there is substantial evidence that the alleged  
10 civil rights violation has been committed pursuant to  
11 subsection (D) of this Section ~~7A-102~~. If, after  
12 reviewing the EEOC's determination and any evidence  
13 obtained by the EEOC, the Department determines there  
14 is a need for further investigation of the charge, the  
15 Department may conduct any further investigation it  
16 deems necessary. After reviewing the EEOC's  
17 determination, the evidence obtained by the EEOC, and  
18 any additional investigation conducted by the  
19 Department, the Department shall issue a report and the  
20 Director shall determine whether there is substantial  
21 evidence that the alleged civil rights violation has  
22 been committed pursuant to subsection (D) of this  
23 Section ~~7A-102 of this Act~~.

24 (4) Pursuant to this Section, if the EEOC dismisses the  
25 charge or a portion of the charge of discrimination  
26 because, under federal law, the EEOC lacks jurisdiction

1 over the charge, and if, under this Act, the Department has  
2 jurisdiction over the charge of discrimination, the  
3 Department shall investigate the charge or portion of the  
4 charge dismissed by the EEOC for lack of jurisdiction  
5 pursuant to subsections (A), (A-1), (B), (B-1), (C), (D),  
6 (E), (F), (G), (H), (I), (J), and (K) of this Section  
7 ~~7A-102 of this Act.~~

8 (5) The time limit set out in subsection (G) of this  
9 Section is tolled from the date on which the charge is  
10 filed with the EEOC to the date on which the EEOC issues  
11 its determination.

12 (6) The failure of the Department to meet the  
13 10-business-day notification deadlines set out in  
14 paragraph (2) of this subsection shall not impair the  
15 rights of any party.

16 (B) Notice and Response to Charge. The Department shall,  
17 within 10 days of the date on which the charge was filed, serve  
18 a copy of the charge on the respondent and provide all parties  
19 with a notice of the complainant's right to opt out of the  
20 investigation within 60 days as set forth in subsection (C-1).  
21 This period shall not be construed to be jurisdictional. The  
22 charging party and the respondent may each file a position  
23 statement and other materials with the Department regarding the  
24 charge of alleged discrimination within 60 days of receipt of  
25 the notice of the charge. The position statements and other  
26 materials filed shall remain confidential unless otherwise

1 agreed to by the party providing the information and shall not  
2 be served on or made available to the other party during the  
3 pendency of a charge with the Department. The Department may  
4 require the respondent to file a response to the allegations  
5 contained in the charge. Upon the Department's request, the  
6 respondent shall file a response to the charge within 60 days  
7 and shall serve a copy of its response on the complainant or  
8 his or her representative. Notwithstanding any request from the  
9 Department, the respondent may elect to file a response to the  
10 charge within 60 days of receipt of notice of the charge,  
11 provided the respondent serves a copy of its response on the  
12 complainant or his or her representative. All allegations  
13 contained in the charge not denied by the respondent within 60  
14 days of the Department's request for a response may be deemed  
15 admitted, unless the respondent states that it is without  
16 sufficient information to form a belief with respect to such  
17 allegation. The Department may issue a notice of default  
18 directed to any respondent who fails to file a response to a  
19 charge within 60 days of receipt of the Department's request,  
20 unless the respondent can demonstrate good cause as to why such  
21 notice should not issue. The term "good cause" shall be defined  
22 by rule promulgated by the Department. Within 30 days of  
23 receipt of the respondent's response, the complainant may file  
24 a reply to said response and shall serve a copy of said reply  
25 on the respondent or his or her representative. A party shall  
26 have the right to supplement his or her response or reply at



1 any time that the investigation of the charge is pending. The  
2 Department shall, within 10 days of the date on which the  
3 charge was filed, and again no later than 335 days thereafter,  
4 send by certified or registered mail, or electronic mail if  
5 elected by the party, written notice to the complainant and to  
6 the respondent informing the complainant of the complainant's  
7 rights to either file a complaint with the Human Rights  
8 Commission or commence a civil action in the appropriate  
9 circuit court under subparagraph (2) of paragraph (G),  
10 including in such notice the dates within which the complainant  
11 may exercise these rights. In the notice the Department shall  
12 notify the complainant that the charge of civil rights  
13 violation will be dismissed with prejudice and with no right to  
14 further proceed if a written complaint is not timely filed with  
15 the Commission or with the appropriate circuit court by the  
16 complainant pursuant to subparagraph (2) of paragraph (G) or by  
17 the Department pursuant to subparagraph (1) of paragraph (G).

18 (B-1) Mediation. The complainant and respondent may agree  
19 to voluntarily submit the charge to mediation without waiving  
20 any rights that are otherwise available to either party  
21 pursuant to this Act and without incurring any obligation to  
22 accept the result of the mediation process. Nothing occurring  
23 in mediation shall be disclosed by the Department or admissible  
24 in evidence in any subsequent proceeding unless the complainant  
25 and the respondent agree in writing that such disclosure be  
26 made.

1 (C) Investigation.

2 (1) The Department shall conduct an investigation  
3 sufficient to determine whether the allegations set forth  
4 in the charge are supported by substantial evidence unless  
5 the complainant elects to opt out of an investigation  
6 pursuant to subsection (C-1).

7 (2) The Director or his or her designated  
8 representatives shall have authority to request any member  
9 of the Commission to issue subpoenas to compel the  
10 attendance of a witness or the production for examination  
11 of any books, records or documents whatsoever.

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

20 (4) Upon reasonable notice to the complainant and the  
21 respondent, the Department shall conduct a fact finding  
22 conference, unless prior to 365 days after the date on  
23 which the charge was filed the Director has determined  
24 whether there is substantial evidence that the alleged  
25 civil rights violation has been committed, the charge has  
26 been dismissed for lack of jurisdiction, or the parties

1 voluntarily and in writing agree to waive the fact finding  
2 conference. Any party's failure to attend the conference  
3 without good cause shall result in dismissal or default.  
4 The term "good cause" shall be defined by rule promulgated  
5 by the Department. A notice of dismissal or default shall  
6 be issued by the Director. The notice of default issued by  
7 the Director shall notify the respondent that a request for  
8 review may be filed in writing with the Commission within  
9 30 days of receipt of notice of default. The notice of  
10 dismissal issued by the Director shall give the complainant  
11 notice of his or her right to seek review of the dismissal  
12 before the Human Rights Commission or commence a civil  
13 action in the appropriate circuit court. If the complainant  
14 chooses to have the Human Rights Commission review the  
15 dismissal order, he or she shall file a request for review  
16 with the Commission within 90 days after receipt of the  
17 Director's notice. If the complainant chooses to file a  
18 request for review with the Commission, he or she may not  
19 later commence a civil action in a circuit court. If the  
20 complainant chooses to commence a civil action in a circuit  
21 court, he or she must do so within 90 days after receipt of  
22 the Director's notice.

23 (C-1) Opt out of Department's investigation. At any time  
24 within 60 days after receipt of notice of the right to opt out,  
25 a complainant may submit a written request seeking notice from  
26 the Director indicating that the complainant has opted out of

1 the investigation and may commence a civil action in the  
2 appropriate circuit court or other appropriate court of  
3 competent jurisdiction. Within 10 business days of receipt of  
4 the complainant's request to opt out of the investigation, the  
5 Director shall issue a notice to the parties stating that: (i)  
6 the complainant has exercised the right to opt out of the  
7 investigation; (ii) the complainant has 90 days after receipt  
8 of the Director's notice to commence an action in the  
9 appropriate circuit court or other appropriate court of  
10 competent jurisdiction; and (iii) the Department has ceased its  
11 investigation and is administratively closing the charge. The  
12 complainant shall notify the Department and the respondent that  
13 a complaint has been filed with the appropriate circuit court  
14 or other appropriate court of competent jurisdiction and shall  
15 mail a copy of the complaint to the Department and the  
16 respondent on the same date that the complaint is filed with  
17 the appropriate court. Once a complainant has opted out of the  
18 investigation under this subsection, he or she may not file or  
19 refile a substantially similar charge with the Department  
20 arising from the same incident of unlawful discrimination or  
21 harassment.

22 (D) Report.

23 (1) Each charge investigated under subsection (C)  
24 shall be the subject of a report to the Director. The  
25 report shall be a confidential document subject to review  
26 by the Director, authorized Department employees, the

1 parties, and, where indicated by this Act, members of the  
2 Commission or their designated hearing officers.

3 (2) Upon review of the report, the Director shall  
4 determine whether there is substantial evidence that the  
5 alleged civil rights violation has been committed. The  
6 determination of substantial evidence is limited to  
7 determining the need for further consideration of the  
8 charge pursuant to this Act and includes, but is not  
9 limited to, findings of fact and conclusions, as well as  
10 the reasons for the determinations on all material issues.  
11 Substantial evidence is evidence which a reasonable mind  
12 accepts as sufficient to support a particular conclusion  
13 and which consists of more than a mere scintilla but may be  
14 somewhat less than a preponderance.

15 (3) If the Director determines that there is no  
16 substantial evidence, the charge shall be dismissed by  
17 order of the Director and the Director shall give the  
18 complainant notice of his or her right to seek review of  
19 the dismissal order before the Commission or commence a  
20 civil action in the appropriate circuit court. If the  
21 complainant chooses to have the Human Rights Commission  
22 review the dismissal order, he or she shall file a request  
23 for review with the Commission within 90 days after receipt  
24 of the Director's notice. If the complainant chooses to  
25 file a request for review with the Commission, he or she  
26 may not later commence a civil action in a circuit court.

1           If the complainant chooses to commence a civil action in a  
2 circuit court, he or she must do so within 90 days after  
3 receipt of the Director's notice.

4           (4) If the Director determines that there is  
5 substantial evidence, he or she shall notify the  
6 complainant and respondent of that determination. The  
7 Director shall also notify the parties that the complainant  
8 has the right to either commence a civil action in the  
9 appropriate circuit court or request that the Department of  
10 Human Rights file a complaint with the Human Rights  
11 Commission on his or her behalf. Any such complaint shall  
12 be filed within 90 days after receipt of the Director's  
13 notice. If the complainant chooses to have the Department  
14 file a complaint with the Human Rights Commission on his or  
15 her behalf, the complainant must, within 30 days after  
16 receipt of the Director's notice, request in writing that  
17 the Department file the complaint. If the complainant  
18 timely requests that the Department file the complaint, the  
19 Department shall file the complaint on his or her behalf.  
20 If the complainant fails to timely request that the  
21 Department file the complaint, the complainant may file his  
22 or her complaint with the Commission or commence a civil  
23 action in the appropriate circuit court. If the complainant  
24 files a complaint with the Human Rights Commission, the  
25 complainant shall give notice to the Department of the  
26 filing of the complaint with the Human Rights Commission.

1 (E) Conciliation.

2 (1) When there is a finding of substantial evidence,  
3 the Department may designate a Department employee who is  
4 an attorney licensed to practice in Illinois to endeavor to  
5 eliminate the effect of the alleged civil rights violation  
6 and to prevent its repetition by means of conference and  
7 conciliation.

8 (2) When the Department determines that a formal  
9 conciliation conference is necessary, the complainant and  
10 respondent shall be notified of the time and place of the  
11 conference by registered or certified mail at least 10 days  
12 prior thereto and either or both parties shall appear at  
13 the conference in person or by attorney.

14 (3) The place fixed for the conference shall be within  
15 35 miles of the place where the civil rights violation is  
16 alleged to have been committed.

17 (4) Nothing occurring at the conference shall be  
18 disclosed by the Department unless the complainant and  
19 respondent agree in writing that such disclosure be made.

20 (5) The Department's efforts to conciliate the matter  
21 shall not stay or extend the time for filing the complaint  
22 with the Commission or the circuit court.

23 (F) Complaint.

24 (1) When the complainant requests that the Department  
25 file a complaint with the Commission on his or her behalf,  
26 the Department shall prepare a written complaint, under

1 oath or affirmation, stating the nature of the civil rights  
2 violation substantially as alleged in the charge  
3 previously filed and the relief sought on behalf of the  
4 aggrieved party. The Department shall file the complaint  
5 with the Commission.

6 (2) If the complainant chooses to commence a civil  
7 action in a circuit court, he or she must do so in the  
8 circuit court in the county wherein the civil rights  
9 violation was allegedly committed. The form of the  
10 complaint in any such civil action shall be in accordance  
11 with the ~~Illinois~~ Code of Civil Procedure.

12 (G) Time Limit.

13 (1) When a charge of a civil rights violation has been  
14 properly filed, the Department, within 365 days thereof or  
15 within any extension of that period agreed to in writing by  
16 all parties, shall issue its report as required by  
17 subparagraph (D). Any such report shall be duly served upon  
18 both the complainant and the respondent.

19 (2) If the Department has not issued its report within  
20 365 days after the charge is filed, or any such longer  
21 period agreed to in writing by all the parties, the  
22 complainant shall have 90 days to either file his or her  
23 own complaint with the Human Rights Commission or commence  
24 a civil action in the appropriate circuit court. If the  
25 complainant files a complaint with the Commission, the form  
26 of the complaint shall be in accordance with the provisions



1 of paragraph (F)(1). If the complainant commences a civil  
2 action in a circuit court, the form of the complaint shall  
3 be in accordance with the ~~Illinois~~ Code of Civil Procedure.  
4 The aggrieved party shall notify the Department that a  
5 complaint has been filed and shall serve a copy of the  
6 complaint on the Department on the same date that the  
7 complaint is filed with the Commission or in circuit court.  
8 If the complainant files a complaint with the Commission,  
9 he or she may not later commence a civil action in circuit  
10 court.

11 (3) If an aggrieved party files a complaint with the  
12 Human Rights Commission or commences a civil action in  
13 circuit court pursuant to paragraph (2) of this subsection,  
14 or if the time period for filing a complaint has expired,  
15 the Department shall immediately cease its investigation  
16 and dismiss the charge of civil rights violation. Any final  
17 order entered by the Commission under this Section is  
18 appealable in accordance with paragraph (B)(1) of Section  
19 8-111. Failure to immediately cease an investigation and  
20 dismiss the charge of civil rights violation as provided in  
21 this paragraph (3) constitutes grounds for entry of an  
22 order by the circuit court permanently enjoining the  
23 investigation. The Department may also be liable for any  
24 costs and other damages incurred by the respondent as a  
25 result of the action of the Department.

26 (4) (Blank).

1 (H) Public Act 89-370 ~~This amendatory Act of 1995~~ applies  
2 to causes of action filed on or after January 1, 1996.

3 (I) Public Act 89-520 ~~This amendatory Act of 1996~~ applies  
4 to causes of action filed on or after January 1, 1996.

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

8 (K) The changes made to this Section by Public Act 96-876  
9 ~~this amendatory Act of the 96th General Assembly~~ apply to  
10 charges filed on or after the effective date of those changes.

11 (L) The changes made to this Section by Public Act 100-1066  
12 ~~this amendatory Act of the 100th General Assembly~~ apply to  
13 charges filed on or after August 24, 2018 (the effective date  
14 of Public Act 100-1066) ~~this amendatory Act of the 100th~~  
15 ~~General Assembly~~.

16 (Source: P.A. 100-492, eff. 9-8-17; 100-588, eff. 6-8-18;  
17 100-1066, eff. 8-24-18; 101-221, eff. 1-1-20; revised  
18 9-12-19.)

19 (775 ILCS 5/8A-102) (from Ch. 68, par. 8A-102)

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

21 (A) Services. Within 5 ~~five~~ days after a complaint is filed  
22 by the Department, or the aggrieved party, as the case may be,  
23 the Commission shall cause it to be served on the respondent  
24 together with a notice of hearing before a hearing officer of  
25 the Commission at a place therein fixed.

1       (A-5) Anonymity. An employee who filed a complaint for  
2 unlawful discrimination under Article 2 against a current or  
3 former employer has the right to remain anonymous, by use of a  
4 fictitious name, in the complaint issued to the respondent.

5       (B) Time and Location of Hearing. An initial hearing date  
6 shall be scheduled for not less than 30 ~~thirty~~ nor more than 90  
7 ~~ninety~~ days after service of the complaint at a place that is  
8 within 100 ~~one hundred~~ miles of the place at which the civil  
9 rights violation is alleged to have occurred. The hearing  
10 officer may, for good cause shown, extend the date of the  
11 hearing.

12       (C) Amendment.

13       (1) A complaint may be amended under oath by leave of  
14 the presiding hearing officer, for good cause shown, upon  
15 timely written motion and reasonable notice to all  
16 interested parties at any time prior to the issuance of a  
17 recommended order pursuant to Section 8A-102(I) or  
18 8B-102(J). The amended complaint shall be served upon all  
19 parties of record and the Department of Human Rights by the  
20 complainant, or by the Department if it prepared and filed  
21 the amended complaint, within 7 days of the date of the  
22 order permitting its filing or such additional time as the  
23 hearing officer may order. Amendments to the complaint may  
24 encompass any unlawful discrimination which is like or  
25 reasonably related to the charge and growing out of the  
26 allegations in such charge, including, but not limited to,

1           allegations of retaliation.

2           (2) A motion that the complaint be amended to conform  
3           to the evidence, made prior to the close of the public  
4           hearing, may be addressed orally on the record to the  
5           hearing officer, and shall be granted for good and  
6           sufficient cause.

7           (D) Answer.

8           (1) The respondent shall file an answer under oath or  
9           affirmation to the original or amended complaint within 30  
10          days of the date of service thereof, but the hearing  
11          officer may, for good cause shown, grant further time for  
12          the filing of an answer.

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

17          (3) Any allegation in the complaint which is not denied  
18          or admitted in the answer is deemed admitted unless the  
19          respondent states in the answer that he is without  
20          sufficient knowledge or information to form a belief with  
21          respect to such allegation.

22          (4) The failure to file an answer is deemed to  
23          constitute an admission of the allegations contained in the  
24          complaint.

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

1 (E) Proceedings In Forma Pauperis.

2 (1) If the hearing officer is satisfied that the  
3 complainant or respondent is a poor person, and unable to  
4 prosecute or defend the complaint and pay the costs and  
5 expenses thereof, the hearing officer may permit the party  
6 to commence and prosecute or defend the action as a poor  
7 person. Such party shall have all the necessary subpoenas,  
8 appearances, and proceedings without prepayment of witness  
9 fees or charges. Witnesses shall attend as in other cases  
10 under this Act and the same remedies shall be available for  
11 failure or refusal to obey the subpoena as are provided for  
12 in Section 8-104 of this Act.

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

17 (F) Discovery. The procedure for obtaining discovery of  
18 information from parties and witnesses shall be specified by  
19 the Commission in rules. If no rule has been promulgated by the  
20 Commission on a particular type of discovery, the Code of Civil  
21 Procedure may be considered persuasive authority. The types of  
22 discovery shall be the same as in civil cases in the circuit  
23 courts of this State, provided, however, that a party may take  
24 discovery depositions only upon leave of the hearing officer  
25 and for good cause shown.

26 (G) Hearing.

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

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

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

9           (H) Compelling Appearance of Parties at Hearing. The  
10          appearance at the hearing of a party or a person who at the  
11          time of the hearing is an officer, director, or employee of a  
12          party may be required by serving the party with a notice  
13          designating the person who is required to appear. The notice  
14          also may require the production at the hearing of documents or  
15          tangible things. If the party or person is a nonresident of the  
16          county, the hearing officer may order any terms and conditions  
17          in connection with his appearance at the hearing that are just,  
18          including payment of his reasonable expenses. Upon a failure to  
19          comply with the notice, the hearing officer may enter any order  
20          that is just.

21          (I) Decision.

22          (1) When all the testimony has been taken, the hearing  
23          officer shall determine whether the respondent has engaged  
24          in or is engaging in the civil rights violation with  
25          respect to the person aggrieved as charged in the  
26          complaint. A determination sustaining a complaint shall be

1 based upon a preponderance of the evidence.

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

7 (3) If, upon all the evidence, the hearing officer  
8 finds that a respondent has not engaged in the  
9 discriminatory practice charged in the complaint or that a  
10 preponderance of the evidence does not sustain the  
11 complaint, he shall state his findings of fact and shall  
12 issue and cause to be served on the parties and the  
13 Department a recommended order dismissing the complaint.

14 (4) The findings and recommended order of the hearing  
15 officer shall be filed with the Commission. The findings  
16 and recommended order may be authored by a hearing officer  
17 other than the hearing officer who presides at the public  
18 hearing if:

19 (a) the hearing officer who presides at the public  
20 hearing is unable to author the findings and  
21 recommended order by reason of death, disability, or  
22 separation from employment; and

23 (b) all parties to a complaint file a joint motion  
24 agreeing to have the findings and recommended order  
25 written by a hearing officer who did not preside at the  
26 public hearing.

1           (5) A recommended order dismissing a complaint may  
2 include an award of reasonable attorneys fees in favor of  
3 the respondent against the complainant or the  
4 complainant's attorney, or both, if the hearing officer  
5 concludes that the complaint was frivolous, unreasonable  
6 or groundless or that the complainant continued to litigate  
7 after it became clearly so.

8           (6) The hearing officer may issue a recommended order  
9 of dismissal with prejudice or a recommended order of  
10 default as a sanction for the failure of a party to  
11 prosecute his or her case, file a required pleading, appear  
12 at a hearing, or otherwise comply with this Act, the rules  
13 of the Commission, or a previous order of the hearing  
14 officer.

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

16 (775 ILCS 5/10-102) (from Ch. 68, par. 10-102)

17 Sec. 10-102. Court Actions. (A) Circuit Court Actions. (1)  
18 An aggrieved party may commence a civil action in an  
19 appropriate Circuit Court not later than 2 years after the  
20 occurrence or the termination of an alleged civil rights  
21 violation or the breach of a conciliation or settlement  
22 agreement entered into under this Act, whichever occurs last,  
23 to obtain appropriate relief with respect to the alleged civil  
24 rights violation or breach. Venue for such civil action shall  
25 be determined under Section 8-111(B) (6).



1       (1.5) An employee who commences a civil action for unlawful  
2       discrimination under Article 2 against a current or former  
3       employer has the right to remain anonymous, by use of a  
4       fictitious name, in the complaint served upon the respondent.

5       (2) The computation of such 2-year period shall not include  
6       any time during which an administrative proceeding under this  
7       Act was pending with respect to a complaint or charge under  
8       this Act based upon the alleged civil rights violation. This  
9       paragraph does not apply to actions arising from a breach of a  
10      conciliation or settlement agreement.

11      (3) An aggrieved party may commence a civil action under  
12      this subsection whether or not a charge has been filed under  
13      Section 7B-102 and without regard to the status of any such  
14      charge, however, if the Department or local agency has obtained  
15      a conciliation or settlement agreement with the consent of an  
16      aggrieved party, no action may be filed under this subsection  
17      by such aggrieved party with respect to the alleged civil  
18      rights violation practice which forms the basis for such  
19      complaint except for the purpose of enforcing the terms of such  
20      conciliation or settlement agreement.

21      (4) An aggrieved party shall not commence a civil action  
22      under this subsection with respect to an alleged civil rights  
23      violation which forms the basis of a complaint issued by the  
24      Department if a hearing officer has commenced a hearing on the  
25      record under Article 3 of this Act with respect to such  
26      complaint.

1 (B) Appointment of Attorney by Court. Upon application by a  
2 person alleging a civil rights violation or a person against  
3 whom the civil rights violation is alleged, if in the opinion  
4 of the court such person is financially unable to bear the  
5 costs of such action, the court may:

6 (1) appoint an attorney for such person, any attorney so  
7 appointed may petition for an award of attorneys fees pursuant  
8 to subsection (C) (2) of this Section; or

9 (2) authorize the commencement or continuation of a civil  
10 action under subsection (A) without the payment of fees, costs,  
11 or security.

12 (C) Relief which may be granted. (1) In a civil action  
13 under subsection (A) if the court finds that a civil rights  
14 violation has occurred or is about to occur, the court may  
15 award to the plaintiff actual and punitive damages, and may  
16 grant as relief, as the court deems appropriate, any permanent  
17 or preliminary injunction, temporary restraining order, or  
18 other order, including an order enjoining the defendant from  
19 engaging in such civil rights violation or ordering such  
20 affirmative action as may be appropriate.

21 (2) In a civil action under subsection (A), the court, in  
22 its discretion, may allow the prevailing party, other than the  
23 State of Illinois, reasonable attorneys fees and costs. The  
24 State of Illinois shall be liable for such fees and costs to  
25 the same extent as a private person.

26 (D) Intervention By The Department. The Attorney General of

1 Illinois may intervene on behalf of the Department if the  
2 Department certifies that the case is of general public  
3 importance. Upon such intervention the court may award such  
4 relief as is authorized to be granted to a plaintiff in a civil  
5 action under Section 10-102(C).

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