

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 1-102, 2-101, 2-102, 2-104, and 6-101 as
6 follows:

7 (775 ILCS 5/1-102) (from Ch. 68, par. 1-102)

8 Sec. 1-102. Declaration of Policy. It is the public
9 policy of this State:

10 (A) Freedom from Unlawful Discrimination. To secure for
11 all individuals within Illinois the freedom from
12 discrimination against any individual because of his or her
13 race, color, religion, sex, national origin, ancestry, age,
14 order of protection status, marital status, physical or mental
15 disability, military status, sexual orientation, pregnancy, or
16 unfavorable discharge from military service in connection with
17 employment, real estate transactions, access to financial
18 credit, and the availability of public accommodations.

19 (B) Freedom from Sexual Harassment-Employment and
20 Elementary, Secondary, and Higher Education. To prevent sexual
21 harassment in employment and sexual harassment in elementary,
22 secondary, and higher education.

23 (C) Freedom from Discrimination Based on Citizenship

1 Status-Employment. To prevent discrimination based on
2 citizenship status in employment.

3 (C-5) Freedom from Discrimination Based on Work
4 Authorization Status-Employment. To prevent discrimination
5 based on the specific status or term of status that
6 accompanies a legal work authorization.

7 (D) Freedom from Discrimination Based on Familial
8 Status-Real Estate Transactions. To prevent discrimination
9 based on familial status in real estate transactions.

10 (E) Public Health, Welfare and Safety. To promote the
11 public health, welfare and safety by protecting the interest
12 of all people in Illinois in maintaining personal dignity, in
13 realizing their full productive capacities, and in furthering
14 their interests, rights and privileges as citizens of this
15 State.

16 (F) Implementation of Constitutional Guarantees. To secure
17 and guarantee the rights established by Sections 17, 18 and 19
18 of Article I of the Illinois Constitution of 1970.

19 (G) Equal Opportunity, Affirmative Action. To establish
20 Equal Opportunity and Affirmative Action as the policies of
21 this State in all of its decisions, programs and activities,
22 and to assure that all State departments, boards, commissions
23 and instrumentalities rigorously take affirmative action to
24 provide equality of opportunity and eliminate the effects of
25 past discrimination in the internal affairs of State
26 government and in their relations with the public.

1 (H) Unfounded Charges. To protect citizens of this State
2 against unfounded charges of unlawful discrimination, sexual
3 harassment in employment and sexual harassment in elementary,
4 secondary, and higher education, and discrimination based on
5 citizenship status or work authorization status in employment.

6 (Source: P.A. 98-1050, eff. 1-1-15.)

7 (775 ILCS 5/2-101)

8 Sec. 2-101. Definitions. The following definitions are
9 applicable strictly in the context of this Article.

10 (A) Employee.

11 (1) "Employee" includes:

12 (a) Any individual performing services for
13 remuneration within this State for an employer;

14 (b) An apprentice;

15 (c) An applicant for any apprenticeship.

16 For purposes of subsection (D) of Section 2-102 of
17 this Act, "employee" also includes an unpaid intern. An
18 unpaid intern is a person who performs work for an
19 employer under the following circumstances:

20 (i) the employer is not committed to hiring the
21 person performing the work at the conclusion of the
22 intern's tenure;

23 (ii) the employer and the person performing the
24 work agree that the person is not entitled to wages for
25 the work performed; and

1 (iii) the work performed:

2 (I) supplements training given in an
3 educational environment that may enhance the
4 employability of the intern;

5 (II) provides experience for the benefit of
6 the person performing the work;

7 (III) does not displace regular employees;

8 (IV) is performed under the close supervision
9 of existing staff; and

10 (V) provides no immediate advantage to the
11 employer providing the training and may
12 occasionally impede the operations of the
13 employer.

14 (2) "Employee" does not include:

15 (a) (Blank);

16 (b) Individuals employed by persons who are not
17 "employers" as defined by this Act;

18 (c) Elected public officials or the members of
19 their immediate personal staffs;

20 (d) Principal administrative officers of the State
21 or of any political subdivision, municipal corporation
22 or other governmental unit or agency;

23 (e) A person in a vocational rehabilitation
24 facility certified under federal law who has been
25 designated an evaluatee, trainee, or work activity
26 client.

1 (B) Employer.

2 (1) "Employer" includes:

3 (a) Any person employing one or more employees
4 within Illinois during 20 or more calendar weeks
5 within the calendar year of or preceding the alleged
6 violation;

7 (b) Any person employing one or more employees
8 when a complainant alleges civil rights violation due
9 to unlawful discrimination based upon his or her
10 physical or mental disability unrelated to ability,
11 pregnancy, or sexual harassment;

12 (c) The State and any political subdivision,
13 municipal corporation or other governmental unit or
14 agency, without regard to the number of employees;

15 (d) Any party to a public contract without regard
16 to the number of employees;

17 (e) A joint apprenticeship or training committee
18 without regard to the number of employees.

19 (2) "Employer" does not include any place of worship,
20 religious corporation, association, educational
21 institution, society, or non-profit nursing institution
22 conducted by and for those who rely upon treatment by
23 prayer through spiritual means in accordance with the
24 tenets of a recognized church or religious denomination
25 with respect to the employment of individuals of a
26 particular religion to perform work connected with the

1 carrying on by such place of worship, corporation,
2 association, educational institution, society or
3 non-profit nursing institution of its activities.

4 (C) Employment Agency. "Employment Agency" includes both
5 public and private employment agencies and any person, labor
6 organization, or labor union having a hiring hall or hiring
7 office regularly undertaking, with or without compensation, to
8 procure opportunities to work, or to procure, recruit, refer
9 or place employees.

10 (D) Labor Organization. "Labor Organization" includes any
11 organization, labor union, craft union, or any voluntary
12 unincorporated association designed to further the cause of
13 the rights of union labor which is constituted for the
14 purpose, in whole or in part, of collective bargaining or of
15 dealing with employers concerning grievances, terms or
16 conditions of employment, or apprenticeships or applications
17 for apprenticeships, or of other mutual aid or protection in
18 connection with employment, including apprenticeships or
19 applications for apprenticeships.

20 (E) Sexual Harassment. "Sexual harassment" means any
21 unwelcome sexual advances or requests for sexual favors or any
22 conduct of a sexual nature when (1) submission to such conduct
23 is made either explicitly or implicitly a term or condition of
24 an individual's employment, (2) submission to or rejection of
25 such conduct by an individual is used as the basis for
26 employment decisions affecting such individual, or (3) such

1 conduct has the purpose or effect of substantially interfering
2 with an individual's work performance or creating an
3 intimidating, hostile or offensive working environment.

4 For purposes of this definition, the phrase "working
5 environment" is not limited to a physical location an employee
6 is assigned to perform his or her duties.

7 (E-1) Harassment. "Harassment" means any unwelcome conduct
8 on the basis of an individual's actual or perceived race,
9 color, religion, national origin, ancestry, age, sex, marital
10 status, order of protection status, disability, military
11 status, sexual orientation, pregnancy, unfavorable discharge
12 from military service, ~~or~~ citizenship status, or work
13 authorization status that has the purpose or effect of
14 substantially interfering with the individual's work
15 performance or creating an intimidating, hostile, or offensive
16 working environment. For purposes of this definition, the
17 phrase "working environment" is not limited to a physical
18 location an employee is assigned to perform his or her duties.

19 (F) Religion. "Religion" with respect to employers
20 includes all aspects of religious observance and practice, as
21 well as belief, unless an employer demonstrates that he is
22 unable to reasonably accommodate an employee's or prospective
23 employee's religious observance or practice without undue
24 hardship on the conduct of the employer's business.

25 (G) Public Employer. "Public employer" means the State, an
26 agency or department thereof, unit of local government, school

1 district, instrumentality or political subdivision.

2 (H) Public Employee. "Public employee" means an employee
3 of the State, agency or department thereof, unit of local
4 government, school district, instrumentality or political
5 subdivision. "Public employee" does not include public
6 officers or employees of the General Assembly or agencies
7 thereof.

8 (I) Public Officer. "Public officer" means a person who is
9 elected to office pursuant to the Constitution or a statute or
10 ordinance, or who is appointed to an office which is
11 established, and the qualifications and duties of which are
12 prescribed, by the Constitution or a statute or ordinance, to
13 discharge a public duty for the State, agency or department
14 thereof, unit of local government, school district,
15 instrumentality or political subdivision.

16 (J) Eligible Bidder. "Eligible bidder" means a person who,
17 prior to contract award or prior to bid opening for State
18 contracts for construction or construction-related services,
19 has filed with the Department a properly completed, sworn and
20 currently valid employer report form, pursuant to the
21 Department's regulations. The provisions of this Article
22 relating to eligible bidders apply only to bids on contracts
23 with the State and its departments, agencies, boards, and
24 commissions, and the provisions do not apply to bids on
25 contracts with units of local government or school districts.

26 (K) Citizenship Status. "Citizenship status" means the

1 status of being:

2 (1) a born U.S. citizen;

3 (2) a naturalized U.S. citizen;

4 (3) a U.S. national; or

5 (4) a person born outside the United States and not a
6 U.S. citizen who is not an unauthorized alien and who is
7 protected from discrimination under the provisions of
8 Section 1324b of Title 8 of the United States Code, as now
9 or hereafter amended.

10 (L) Work Authorization Status. "Work authorization status"
11 means the status of being a person born outside of the United
12 States, and not a U.S. citizen, who is authorized by the
13 federal government to work in the United States.

14 (Source: P.A. 100-43, eff. 8-9-17; 101-221, eff. 1-1-20;
15 101-430, eff. 7-1-20; revised 8-4-20.)

16 (775 ILCS 5/2-102) (from Ch. 68, par. 2-102)

17 Sec. 2-102. Civil rights violations - employment. It is a
18 civil rights violation:

19 (A) Employers. For any employer to refuse to hire, to
20 segregate, to engage in harassment as defined in
21 subsection (E-1) of Section 2-101, or to act with respect
22 to recruitment, hiring, promotion, renewal of employment,
23 selection for training or apprenticeship, discharge,
24 discipline, tenure or terms, privileges or conditions of
25 employment on the basis of unlawful discrimination, ~~or~~

1 citizenship status, or work authorization status. An
2 employer is responsible for harassment by the employer's
3 nonmanagerial and nonsupervisory employees only if the
4 employer becomes aware of the conduct and fails to take
5 reasonable corrective measures.

6 (A-5) Language. For an employer to impose a
7 restriction that has the effect of prohibiting a language
8 from being spoken by an employee in communications that
9 are unrelated to the employee's duties.

10 For the purposes of this subdivision (A-5), "language"
11 means a person's native tongue, such as Polish, Spanish,
12 or Chinese. "Language" does not include such things as
13 slang, jargon, profanity, or vulgarity.

14 (A-10) Harassment of nonemployees. For any employer,
15 employment agency, or labor organization to engage in
16 harassment of nonemployees in the workplace. An employer
17 is responsible for harassment of nonemployees by the
18 employer's nonmanagerial and nonsupervisory employees only
19 if the employer becomes aware of the conduct and fails to
20 take reasonable corrective measures. For the purposes of
21 this subdivision (A-10), "nonemployee" means a person who
22 is not otherwise an employee of the employer and is
23 directly performing services for the employer pursuant to
24 a contract with that employer. "Nonemployee" includes
25 contractors and consultants. This subdivision applies to
26 harassment occurring on or after the effective date of

1 this amendatory Act of the 101st General Assembly.

2 (B) Employment agency. For any employment agency to
3 fail or refuse to classify properly, accept applications
4 and register for employment referral or apprenticeship
5 referral, refer for employment, or refer for
6 apprenticeship on the basis of unlawful discrimination, ~~or~~
7 citizenship status, or work authorization status or to
8 accept from any person any job order, requisition or
9 request for referral of applicants for employment or
10 apprenticeship which makes or has the effect of making
11 unlawful discrimination or discrimination on the basis of
12 citizenship status or work authorization status a
13 condition of referral.

14 (C) Labor organization. For any labor organization to
15 limit, segregate or classify its membership, or to limit
16 employment opportunities, selection and training for
17 apprenticeship in any trade or craft, or otherwise to
18 take, or fail to take, any action which affects adversely
19 any person's status as an employee or as an applicant for
20 employment or as an apprentice, or as an applicant for
21 apprenticeships, or wages, tenure, hours of employment or
22 apprenticeship conditions on the basis of unlawful
23 discrimination, ~~or~~ citizenship status, or work
24 authorization status.

25 (D) Sexual harassment. For any employer, employee,
26 agent of any employer, employment agency or labor

1 organization to engage in sexual harassment; provided,
2 that an employer shall be responsible for sexual
3 harassment of the employer's employees by nonemployees or
4 nonmanagerial and nonsupervisory employees only if the
5 employer becomes aware of the conduct and fails to take
6 reasonable corrective measures.

7 (D-5) Sexual harassment of nonemployees. For any
8 employer, employee, agent of any employer, employment
9 agency, or labor organization to engage in sexual
10 harassment of nonemployees in the workplace. An employer
11 is responsible for sexual harassment of nonemployees by
12 the employer's nonmanagerial and nonsupervisory employees
13 only if the employer becomes aware of the conduct and
14 fails to take reasonable corrective measures. For the
15 purposes of this subdivision (D-5), "nonemployee" means a
16 person who is not otherwise an employee of the employer
17 and is directly performing services for the employer
18 pursuant to a contract with that employer. "Nonemployee"
19 includes contractors and consultants. This subdivision
20 applies to sexual harassment occurring on or after the
21 effective date of this amendatory Act of the 101st General
22 Assembly.

23 (E) Public employers. For any public employer to
24 refuse to permit a public employee under its jurisdiction
25 who takes time off from work in order to practice his or
26 her religious beliefs to engage in work, during hours

1 other than such employee's regular working hours,
2 consistent with the operational needs of the employer and
3 in order to compensate for work time lost for such
4 religious reasons. Any employee who elects such deferred
5 work shall be compensated at the wage rate which he or she
6 would have earned during the originally scheduled work
7 period. The employer may require that an employee who
8 plans to take time off from work in order to practice his
9 or her religious beliefs provide the employer with a
10 notice of his or her intention to be absent from work not
11 exceeding 5 days prior to the date of absence.

12 (E-5) Religious discrimination. For any employer to
13 impose upon a person as a condition of obtaining or
14 retaining employment, including opportunities for
15 promotion, advancement, or transfer, any terms or
16 conditions that would require such person to violate or
17 forgo a sincerely held practice of his or her religion
18 including, but not limited to, the wearing of any attire,
19 clothing, or facial hair in accordance with the
20 requirements of his or her religion, unless, after
21 engaging in a bona fide effort, the employer demonstrates
22 that it is unable to reasonably accommodate the employee's
23 or prospective employee's sincerely held religious belief,
24 practice, or observance without undue hardship on the
25 conduct of the employer's business.

26 Nothing in this Section prohibits an employer from

1 enacting a dress code or grooming policy that may include
2 restrictions on attire, clothing, or facial hair to
3 maintain workplace safety or food sanitation.

4 (F) Training and apprenticeship programs. For any
5 employer, employment agency or labor organization to
6 discriminate against a person on the basis of age in the
7 selection, referral for or conduct of apprenticeship or
8 training programs.

9 (G) Immigration-related practices.

10 (1) for an employer to request for purposes of
11 satisfying the requirements of Section 1324a(b) of
12 Title 8 of the United States Code, as now or hereafter
13 amended, more or different documents than are required
14 under such Section or to refuse to honor documents
15 tendered that on their face reasonably appear to be
16 genuine or to refuse to honor work authorization based
17 upon the specific status or term of status that
18 accompanies the authorization to work; or

19 (2) for an employer participating in the E-Verify
20 Program, as authorized by 8 U.S.C. 1324a, Notes, Pilot
21 Programs for Employment Eligibility Confirmation
22 (enacted by PL 104-208, div. C title IV, subtitle A) to
23 refuse to hire, to segregate, or to act with respect to
24 recruitment, hiring, promotion, renewal of employment,
25 selection for training or apprenticeship, discharge,
26 discipline, tenure or terms, privileges or conditions

1 of employment without following the procedures under
2 the E-Verify Program.

3 (H) (Blank).

4 (I) Pregnancy. For an employer to refuse to hire, to
5 segregate, or to act with respect to recruitment, hiring,
6 promotion, renewal of employment, selection for training
7 or apprenticeship, discharge, discipline, tenure or terms,
8 privileges or conditions of employment on the basis of
9 pregnancy, childbirth, or medical or common conditions
10 related to pregnancy or childbirth. Women affected by
11 pregnancy, childbirth, or medical or common conditions
12 related to pregnancy or childbirth shall be treated the
13 same for all employment-related purposes, including
14 receipt of benefits under fringe benefit programs, as
15 other persons not so affected but similar in their ability
16 or inability to work, regardless of the source of the
17 inability to work or employment classification or status.

18 (J) Pregnancy; reasonable accommodations.

19 (1) If after a job applicant or employee,
20 including a part-time, full-time, or probationary
21 employee, requests a reasonable accommodation, for an
22 employer to not make reasonable accommodations for any
23 medical or common condition of a job applicant or
24 employee related to pregnancy or childbirth, unless
25 the employer can demonstrate that the accommodation
26 would impose an undue hardship on the ordinary

1 operation of the business of the employer. The
2 employer may request documentation from the employee's
3 health care provider concerning the need for the
4 requested reasonable accommodation or accommodations
5 to the same extent documentation is requested for
6 conditions related to disability if the employer's
7 request for documentation is job-related and
8 consistent with business necessity. The employer may
9 require only the medical justification for the
10 requested accommodation or accommodations, a
11 description of the reasonable accommodation or
12 accommodations medically advisable, the date the
13 reasonable accommodation or accommodations became
14 medically advisable, and the probable duration of the
15 reasonable accommodation or accommodations. It is the
16 duty of the individual seeking a reasonable
17 accommodation or accommodations to submit to the
18 employer any documentation that is requested in
19 accordance with this paragraph. Notwithstanding the
20 provisions of this paragraph, the employer may require
21 documentation by the employee's health care provider
22 to determine compliance with other laws. The employee
23 and employer shall engage in a timely, good faith, and
24 meaningful exchange to determine effective reasonable
25 accommodations.

26 (2) For an employer to deny employment

1 opportunities or benefits to or take adverse action
2 against an otherwise qualified job applicant or
3 employee, including a part-time, full-time, or
4 probationary employee, if the denial or adverse action
5 is based on the need of the employer to make reasonable
6 accommodations to the known medical or common
7 conditions related to the pregnancy or childbirth of
8 the applicant or employee.

9 (3) For an employer to require a job applicant or
10 employee, including a part-time, full-time, or
11 probationary employee, affected by pregnancy,
12 childbirth, or medical or common conditions related to
13 pregnancy or childbirth to accept an accommodation
14 when the applicant or employee did not request an
15 accommodation and the applicant or employee chooses
16 not to accept the employer's accommodation.

17 (4) For an employer to require an employee,
18 including a part-time, full-time, or probationary
19 employee, to take leave under any leave law or policy
20 of the employer if another reasonable accommodation
21 can be provided to the known medical or common
22 conditions related to the pregnancy or childbirth of
23 an employee. No employer shall fail or refuse to
24 reinstate the employee affected by pregnancy,
25 childbirth, or medical or common conditions related to
26 pregnancy or childbirth to her original job or to an

1 equivalent position with equivalent pay and
2 accumulated seniority, retirement, fringe benefits,
3 and other applicable service credits upon her
4 signifying her intent to return or when her need for
5 reasonable accommodation ceases, unless the employer
6 can demonstrate that the accommodation would impose an
7 undue hardship on the ordinary operation of the
8 business of the employer.

9 For the purposes of this subdivision (J), "reasonable
10 accommodations" means reasonable modifications or
11 adjustments to the job application process or work
12 environment, or to the manner or circumstances under which
13 the position desired or held is customarily performed,
14 that enable an applicant or employee affected by
15 pregnancy, childbirth, or medical or common conditions
16 related to pregnancy or childbirth to be considered for
17 the position the applicant desires or to perform the
18 essential functions of that position, and may include, but
19 is not limited to: more frequent or longer bathroom
20 breaks, breaks for increased water intake, and breaks for
21 periodic rest; private non-bathroom space for expressing
22 breast milk and breastfeeding; seating; assistance with
23 manual labor; light duty; temporary transfer to a less
24 strenuous or hazardous position; the provision of an
25 accessible worksite; acquisition or modification of
26 equipment; job restructuring; a part-time or modified work

1 schedule; appropriate adjustment or modifications of
2 examinations, training materials, or policies;
3 reassignment to a vacant position; time off to recover
4 from conditions related to childbirth; and leave
5 necessitated by pregnancy, childbirth, or medical or
6 common conditions resulting from pregnancy or childbirth.

7 For the purposes of this subdivision (J), "undue
8 hardship" means an action that is prohibitively expensive
9 or disruptive when considered in light of the following
10 factors: (i) the nature and cost of the accommodation
11 needed; (ii) the overall financial resources of the
12 facility or facilities involved in the provision of the
13 reasonable accommodation, the number of persons employed
14 at the facility, the effect on expenses and resources, or
15 the impact otherwise of the accommodation upon the
16 operation of the facility; (iii) the overall financial
17 resources of the employer, the overall size of the
18 business of the employer with respect to the number of its
19 employees, and the number, type, and location of its
20 facilities; and (iv) the type of operation or operations
21 of the employer, including the composition, structure, and
22 functions of the workforce of the employer, the geographic
23 separateness, administrative, or fiscal relationship of
24 the facility or facilities in question to the employer.
25 The employer has the burden of proving undue hardship. The
26 fact that the employer provides or would be required to

1 provide a similar accommodation to similarly situated
2 employees creates a rebuttable presumption that the
3 accommodation does not impose an undue hardship on the
4 employer.

5 No employer is required by this subdivision (J) to
6 create additional employment that the employer would not
7 otherwise have created, unless the employer does so or
8 would do so for other classes of employees who need
9 accommodation. The employer is not required to discharge
10 any employee, transfer any employee with more seniority,
11 or promote any employee who is not qualified to perform
12 the job, unless the employer does so or would do so to
13 accommodate other classes of employees who need it.

14 (K) Notice.

15 (1) For an employer to fail to post or keep posted
16 in a conspicuous location on the premises of the
17 employer where notices to employees are customarily
18 posted, or fail to include in any employee handbook
19 information concerning an employee's rights under this
20 Article, a notice, to be prepared or approved by the
21 Department, summarizing the requirements of this
22 Article and information pertaining to the filing of a
23 charge, including the right to be free from unlawful
24 discrimination, the right to be free from sexual
25 harassment, and the right to certain reasonable
26 accommodations. The Department shall make the

1 documents required under this paragraph available for
2 retrieval from the Department's website.

3 (2) Upon notification of a violation of paragraph
4 (1) of this subdivision (K), the Department may launch
5 a preliminary investigation. If the Department finds a
6 violation, the Department may issue a notice to show
7 cause giving the employer 30 days to correct the
8 violation. If the violation is not corrected, the
9 Department may initiate a charge of a civil rights
10 violation.

11 (Source: P.A. 100-100, eff. 8-11-17; 100-588, eff. 6-8-18;
12 101-221, eff. 1-1-20.)

13 (775 ILCS 5/2-104) (from Ch. 68, par. 2-104)
14 Sec. 2-104. Exemptions.

15 (A) Nothing contained in this Act shall prohibit an
16 employer, employment agency, or labor organization from:

17 (1) Bona Fide Qualification. Hiring or selecting
18 between persons for bona fide occupational qualifications
19 or any reason except those civil-rights violations
20 specifically identified in this Article.

21 (2) Veterans. Giving preferential treatment to
22 veterans and their relatives as required by the laws or
23 regulations of the United States or this State or a unit of
24 local government, or pursuant to a private employer's
25 voluntary veterans' preference employment policy

1 authorized by the Veterans Preference in Private
2 Employment Act.

3 (3) Unfavorable Discharge From Military Service.

4 (a) Using unfavorable discharge from military
5 service as a valid employment criterion when
6 authorized by federal law or regulation or when a
7 position of employment involves the exercise of
8 fiduciary responsibilities as defined by rules and
9 regulations which the Department shall adopt; or

10 (b) Participating in a bona fide recruiting
11 incentive program, sponsored by a branch of the United
12 States Armed Forces, a reserve component of the United
13 States Armed Forces, or any National Guard or Naval
14 Militia, where participation in the program is limited
15 by the sponsoring branch based upon the service
16 member's discharge status.

17 (4) Ability Tests. Giving or acting upon the results
18 of any professionally developed ability test provided that
19 such test, its administration, or action upon the results,
20 is not used as a subterfuge for or does not have the effect
21 of unlawful discrimination.

22 (5) Merit and Retirement Systems.

23 (a) Applying different standards of compensation,
24 or different terms, conditions or privileges of
25 employment pursuant to a merit or retirement system
26 provided that such system or its administration is not

1 used as a subterfuge for or does not have the effect of
2 unlawful discrimination.

3 (b) Effecting compulsory retirement of any
4 employee who has attained 65 years of age and who, for
5 the 2-year period immediately preceding retirement, is
6 employed in a bona fide executive or a high
7 policymaking position, if such employee is entitled to
8 an immediate nonforfeitable annual retirement benefit
9 from a pension, profit-sharing, savings, or deferred
10 compensation plan, or any combination of such plans of
11 the employer of such employee, which equals, in the
12 aggregate, at least \$44,000. If any such retirement
13 benefit is in a form other than a straight life annuity
14 (with no ancillary benefits) or if the employees
15 contribute to any such plan or make rollover
16 contributions, the retirement benefit shall be
17 adjusted in accordance with regulations prescribed by
18 the Department, so that the benefit is the equivalent
19 of a straight life annuity (with no ancillary
20 benefits) under a plan to which employees do not
21 contribute and under which no rollover contributions
22 are made.

23 (c) Until January 1, 1994, effecting compulsory
24 retirement of any employee who has attained 70 years
25 of age, and who is serving under a contract of
26 unlimited tenure (or similar arrangement providing for

1 unlimited tenure) at an institution of higher
2 education as defined by Section 1201(a) of the Higher
3 Education Act of 1965.

4 (6) Training and Apprenticeship programs. Establishing
5 an educational requirement as a prerequisite to selection
6 for a training or apprenticeship program, provided such
7 requirement does not operate to discriminate on the basis
8 of any prohibited classification except age.

9 (7) Police and Firefighter/Paramedic Retirement.
10 Imposing a mandatory retirement age for
11 firefighters/paramedics or law enforcement officers and
12 discharging or retiring such individuals pursuant to the
13 mandatory retirement age if such action is taken pursuant
14 to a bona fide retirement plan provided that the law
15 enforcement officer or firefighter/paramedic has attained:

16 (a) the age of retirement in effect under
17 applicable State or local law on March 3, 1983; or

18 (b) if the applicable State or local law was
19 enacted after the date of enactment of the federal Age
20 Discrimination in Employment Act Amendments of 1996
21 (P.L. 104-208), the age of retirement in effect on the
22 date of such discharge under such law.

23 This paragraph (7) shall not apply with respect to any
24 cause of action arising under the Illinois Human Rights
25 Act as in effect prior to the effective date of this
26 amendatory Act of 1997.

1 (8) Police and Firefighter/Paramedic Appointment.
2 Failing or refusing to hire any individual because of such
3 individual's age if such action is taken with respect to
4 the employment of an individual as a firefighter/paramedic
5 or as a law enforcement officer and the individual has
6 attained:

7 (a) the age of hiring or appointment in effect
8 under applicable State or local law on March 3, 1983;
9 or

10 (b) the age of hiring in effect on the date of such
11 failure or refusal to hire under applicable State or
12 local law enacted after the date of enactment of the
13 federal Age Discrimination in Employment Act
14 Amendments of 1996 (P.L. 104-208).

15 As used in paragraph (7) or (8):

16 "Firefighter/paramedic" means an employee, the duties
17 of whose position are primarily to perform work directly
18 connected with the control and extinguishment of fires or
19 the maintenance and use of firefighting apparatus and
20 equipment, or to provide emergency medical services,
21 including an employee engaged in this activity who is
22 transferred to a supervisory or administrative position.

23 "Law enforcement officer" means an employee, the
24 duties of whose position are primarily the investigation,
25 apprehension, or detention of individuals suspected or
26 convicted of criminal offenses, including an employee

1 engaged in this activity who is transferred to a
2 supervisory or administrative position.

3 (9) Citizenship Status. Making legitimate distinctions
4 based on citizenship status if specifically authorized or
5 required by State or federal law.

6 (B) With respect to any employee who is subject to a
7 collective bargaining agreement:

8 (a) which is in effect on June 30, 1986,

9 (b) which terminates after January 1, 1987,

10 (c) any provision of which was entered into by a labor
11 organization as defined by Section 6(d)(4) of the Fair
12 Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and

13 (d) which contains any provision that would be
14 superseded by Public Act 85-748,

15 Public Act 85-748 shall not apply until the termination of
16 such collective bargaining agreement or January 1, 1990,
17 whichever occurs first.

18 (C)(1) For purposes of this Act, the term "disability"
19 shall not include any employee or applicant who is currently
20 engaging in the illegal use of drugs, when an employer acts on
21 the basis of such use.

22 (2) Paragraph (1) shall not apply where an employee or
23 applicant for employment:

24 (a) has successfully completed a supervised drug
25 rehabilitation program and is no longer engaging in the
26 illegal use of drugs, or has otherwise been rehabilitated

1 successfully and is no longer engaging in such use;

2 (b) is participating in a supervised rehabilitation
3 program and is no longer engaging in such use; or

4 (c) is erroneously regarded as engaging in such use,
5 but is not engaging in such use.

6 It shall not be a violation of this Act for an employer to
7 adopt or administer reasonable policies or procedures,
8 including but not limited to drug testing, designed to ensure
9 that an individual described in subparagraph (a) or (b) is no
10 longer engaging in the illegal use of drugs.

11 (3) An employer:

12 (a) may prohibit the illegal use of drugs and the use
13 of alcohol at the workplace by all employees;

14 (b) may require that employees shall not be under the
15 influence of alcohol or be engaging in the illegal use of
16 drugs at the workplace;

17 (c) may require that employees behave in conformance
18 with the requirements established under the federal
19 Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.)
20 and the Drug Free Workplace Act;

21 (d) may hold an employee who engages in the illegal
22 use of drugs or who is an alcoholic to the same
23 qualification standards for employment or job performance
24 and behavior that such employer holds other employees,
25 even if any unsatisfactory performance or behavior is
26 related to the drug use or alcoholism of such employee;

1 and

2 (e) may, with respect to federal regulations regarding
3 alcohol and the illegal use of drugs, require that:

4 (i) employees comply with the standards
5 established in such regulations of the United States
6 Department of Defense, if the employees of the
7 employer are employed in an industry subject to such
8 regulations, including complying with regulations (if
9 any) that apply to employment in sensitive positions
10 in such an industry, in the case of employees of the
11 employer who are employed in such positions (as
12 defined in the regulations of the Department of
13 Defense);

14 (ii) employees comply with the standards
15 established in such regulations of the Nuclear
16 Regulatory Commission, if the employees of the
17 employer are employed in an industry subject to such
18 regulations, including complying with regulations (if
19 any) that apply to employment in sensitive positions
20 in such an industry, in the case of employees of the
21 employer who are employed in such positions (as
22 defined in the regulations of the Nuclear Regulatory
23 Commission); and

24 (iii) employees comply with the standards
25 established in such regulations of the United States
26 Department of Transportation, if the employees of the

1 employer are employed in a transportation industry
2 subject to such regulations, including complying with
3 such regulations (if any) that apply to employment in
4 sensitive positions in such an industry, in the case
5 of employees of the employer who are employed in such
6 positions (as defined in the regulations of the United
7 States Department of Transportation).

8 (4) For purposes of this Act, a test to determine the
9 illegal use of drugs shall not be considered a medical
10 examination. Nothing in this Act shall be construed to
11 encourage, prohibit, or authorize the conducting of drug
12 testing for the illegal use of drugs by job applicants or
13 employees or making employment decisions based on such test
14 results.

15 (5) Nothing in this Act shall be construed to encourage,
16 prohibit, restrict, or authorize the otherwise lawful exercise
17 by an employer subject to the jurisdiction of the United
18 States Department of Transportation of authority to:

19 (a) test employees of such employer in, and applicants
20 for, positions involving safety-sensitive duties for the
21 illegal use of drugs and for on-duty impairment by
22 alcohol; and

23 (b) remove such persons who test positive for illegal
24 use of drugs and on-duty impairment by alcohol pursuant to
25 subparagraph (a) from safety-sensitive duties in
26 implementing paragraph (3).

1 (D) Nothing contained in this Act shall require an
2 employer to sponsor, either monetarily or otherwise, any
3 applicant or employee to obtain or modify work authorization
4 status, unless otherwise required by federal law.

5 (Source: P.A. 99-152, eff. 1-1-16, 99-165, eff. 7-28-15;
6 99-642, eff. 7-28-16.)

7 (775 ILCS 5/6-101) (from Ch. 68, par. 6-101)

8 Sec. 6-101. Additional Civil Rights Violations. It is a
9 civil rights violation for a person, or for 2 ~~two~~ or more
10 persons to conspire, to:

11 (A) Retaliation. Retaliate against a person because he
12 or she has opposed that which he or she reasonably and in
13 good faith believes to be unlawful discrimination, sexual
14 harassment in employment or sexual harassment in
15 elementary, secondary, and higher education, or
16 discrimination based on citizenship status or work
17 authorization status in employment, because he or she has
18 made a charge, filed a complaint, testified, assisted, or
19 participated in an investigation, proceeding, or hearing
20 under this Act, or because he or she has requested,
21 attempted to request, used, or attempted to use a
22 reasonable accommodation as allowed by this Act;

23 (B) Aiding and Abetting; Coercion. Aid, abet, compel
24 or coerce a person to commit any violation of this Act;

25 (C) Interference. Wilfully interfere with the

1 performance of a duty or the exercise of a power by the
2 Commission or one of its members or representatives or the
3 Department or one of its officers or employees.

4 Definitions. For the purposes of this Section, "sexual
5 harassment", ~~and~~ "citizenship status", and "work authorization
6 status" shall have the same meaning as defined in Section
7 2-101 of this Act.

8 (Source: P.A. 97-333, eff. 8-12-11; 98-1050, eff. 1-1-15.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.