



Rep. Jennifer Gong-Gershowitz

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10200HB4179ham002

LRB102 20996 LNS 36674 a

1 AMENDMENT TO HOUSE BILL 4179

2 AMENDMENT NO. _____. Amend House Bill 4179, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Human Rights Act is amended by
6 changing Sections 2-101 and 2-102 as follows:

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

1 this Act, "employee" also includes an unpaid intern. An
2 unpaid intern is a person who performs work for an
3 employer under the following circumstances:

4 (i) the employer is not committed to hiring the
5 person performing the work at the conclusion of the
6 intern's tenure;

7 (ii) the employer and the person performing the
8 work agree that the person is not entitled to wages for
9 the work performed; and

10 (iii) the work performed:

11 (I) supplements training given in an
12 educational environment that may enhance the
13 employability of the intern;

14 (II) provides experience for the benefit of
15 the person performing the work;

16 (III) does not displace regular employees;

17 (IV) is performed under the close supervision
18 of existing staff; and

19 (V) provides no immediate advantage to the
20 employer providing the training and may
21 occasionally impede the operations of the
22 employer.

23 (2) "Employee" does not include:

24 (a) (Blank);

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

1 (c) Elected public officials or the members of
2 their immediate personal staffs;

3 (d) Principal administrative officers of the State
4 or of any political subdivision, municipal corporation
5 or other governmental unit or agency;

6 (e) A person in a vocational rehabilitation
7 facility certified under federal law who has been
8 designated an evaluatee, trainee, or work activity
9 client.

10 (B) Employer.

11 (1) "Employer" includes:

12 (a) Any person employing one or more employees
13 within Illinois during 20 or more calendar weeks
14 within the calendar year of or preceding the alleged
15 violation;

16 (b) Any person employing one or more employees
17 when a complainant alleges civil rights violation due
18 to unlawful discrimination based upon his or her
19 physical or mental disability unrelated to ability,
20 pregnancy, or sexual harassment;

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

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

26 (e) A joint apprenticeship or training committee

1 without regard to the number of employees.

2 (2) "Employer" does not include any place of worship,
3 religious corporation, association, educational
4 institution, society, or non-profit nursing institution
5 conducted by and for those who rely upon treatment by
6 prayer through spiritual means in accordance with the
7 tenets of a recognized church or religious denomination
8 with respect to the employment of individuals of a
9 particular religion to perform work connected with the
10 carrying on by such place of worship, corporation,
11 association, educational institution, society or
12 non-profit nursing institution of its activities.

13 (C) Employment Agency. "Employment Agency" includes both
14 public and private employment agencies and any person, labor
15 organization, or labor union having a hiring hall or hiring
16 office regularly undertaking, with or without compensation, to
17 procure opportunities to work, or to procure, recruit, refer
18 or place employees.

19 (D) Labor Organization. "Labor Organization" includes any
20 organization, labor union, craft union, or any voluntary
21 unincorporated association designed to further the cause of
22 the rights of union labor which is constituted for the
23 purpose, in whole or in part, of collective bargaining or of
24 dealing with employers concerning grievances, terms or
25 conditions of employment, or apprenticeships or applications
26 for apprenticeships, or of other mutual aid or protection in

1 connection with employment, including apprenticeships or
2 applications for apprenticeships.

3 (E) Sexual Harassment. "Sexual harassment" means any
4 unwelcome sexual advances or requests for sexual favors or any
5 conduct of a sexual nature when (1) submission to such conduct
6 is made either explicitly or implicitly a term or condition of
7 an individual's employment, (2) submission to or rejection of
8 such conduct by an individual is used as the basis for
9 employment decisions affecting such individual, or (3) such
10 conduct has the purpose or effect of substantially interfering
11 with an individual's work performance or creating an
12 intimidating, hostile or offensive working environment.

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

16 (E-1) Harassment. "Harassment" means any unwelcome conduct
17 on the basis of an individual's actual or perceived race,
18 color, religion, national origin, ancestry, age, sex, marital
19 status, order of protection status, disability, military
20 status, sexual orientation, pregnancy, unfavorable discharge
21 from military service, citizenship status, or work
22 authorization status that has the purpose or effect of
23 substantially interfering with the individual's work
24 performance or creating an intimidating, hostile, or offensive
25 working environment. For purposes of this definition, the
26 phrase "working environment" is not limited to a physical

1 location an employee is assigned to perform his or her duties.

2 (F) Religion. "Religion" with respect to employers
3 includes all aspects of religious observance and practice, as
4 well as belief, unless an employer demonstrates that he is
5 unable to reasonably accommodate an employee's or prospective
6 employee's religious observance or practice without undue
7 hardship on the conduct of the employer's business.

8 (G) Public Employer. "Public employer" means the State, an
9 agency or department thereof, unit of local government, school
10 district, instrumentality or political subdivision.

11 (H) Public Employee. "Public employee" means an employee
12 of the State, agency or department thereof, unit of local
13 government, school district, instrumentality or political
14 subdivision. "Public employee" does not include public
15 officers or employees of the General Assembly or agencies
16 thereof.

17 (I) Public Officer. "Public officer" means a person who is
18 elected to office pursuant to the Constitution or a statute or
19 ordinance, or who is appointed to an office which is
20 established, and the qualifications and duties of which are
21 prescribed, by the Constitution or a statute or ordinance, to
22 discharge a public duty for the State, agency or department
23 thereof, unit of local government, school district,
24 instrumentality or political subdivision.

25 (J) Eligible Bidder. "Eligible bidder" means a person who,
26 prior to contract award or prior to bid opening for State

1 contracts for construction or construction-related services,
2 has filed with the Department a properly completed, sworn and
3 currently valid employer report form, pursuant to the
4 Department's regulations. The provisions of this Article
5 relating to eligible bidders apply only to bids on contracts
6 with the State and its departments, agencies, boards, and
7 commissions, and the provisions do not apply to bids on
8 contracts with units of local government or school districts.

9 (K) Citizenship Status. "Citizenship status" means the
10 status of being:

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

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

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

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

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

23 (M) Family Responsibilities. "Family responsibilities"
24 means an employee's actual or perceived provision of personal
25 care to a family member. As used in this definition:

26 (1) "Personal care" has the same meaning as used in

1 the Employee Sick Leave Act.

2 (2) "Family member" has the same meaning as "covered
3 family member" is used in the Employee Sick Leave Act.

4 (Source: P.A. 101-221, eff. 1-1-20; 101-430, eff. 7-1-20;
5 102-233, eff. 8-2-21; 102-558, eff. 8-20-21.)

6 (775 ILCS 5/2-102) (from Ch. 68, par. 2-102)
7 Sec. 2-102. Civil rights violations - employment. It is a
8 civil rights violation:

9 (A) Employers. For any employer to refuse to hire, to
10 segregate, to engage in harassment as defined in
11 subsection (E-1) of Section 2-101, or to act with respect
12 to recruitment, hiring, promotion, renewal of employment,
13 selection for training or apprenticeship, discharge,
14 discipline, tenure or terms, privileges or conditions of
15 employment on the basis of unlawful discrimination,
16 citizenship status, ~~or~~ work authorization status, or
17 family responsibilities. An employer is responsible for
18 harassment by the employer's nonmanagerial and
19 nonsupervisory employees only if the employer becomes
20 aware of the conduct and fails to take reasonable
21 corrective measures.

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

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

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

19 (B) Employment agency. For any employment agency to
20 fail or refuse to classify properly, accept applications
21 and register for employment referral or apprenticeship
22 referral, refer for employment, or refer for
23 apprenticeship on the basis of unlawful discrimination,
24 citizenship status, ~~or~~ work authorization status, or
25 family responsibilities or to accept from any person any
26 job order, requisition or request for referral of

1 applicants for employment or apprenticeship which makes or
2 has the effect of making unlawful discrimination or
3 discrimination on the basis of citizenship status or work
4 authorization status a condition of referral.

5 (C) Labor organization. For any labor organization to
6 limit, segregate or classify its membership, or to limit
7 employment opportunities, selection and training for
8 apprenticeship in any trade or craft, or otherwise to
9 take, or fail to take, any action which affects adversely
10 any person's status as an employee or as an applicant for
11 employment or as an apprentice, or as an applicant for
12 apprenticeships, or wages, tenure, hours of employment or
13 apprenticeship conditions on the basis of unlawful
14 discrimination, citizenship status, ~~or~~ work authorization
15 status, or family responsibilities.

16 (D) Sexual harassment. For any employer, employee,
17 agent of any employer, employment agency or labor
18 organization to engage in sexual harassment; provided,
19 that an employer shall be responsible for sexual
20 harassment of the employer's employees by nonemployees or
21 nonmanagerial and nonsupervisory employees only if the
22 employer becomes aware of the conduct and fails to take
23 reasonable corrective measures.

24 (D-5) Sexual harassment of nonemployees. For any
25 employer, employee, agent of any employer, employment
26 agency, or labor organization to engage in sexual

1 harassment of nonemployees in the workplace. An employer
2 is responsible for sexual harassment of nonemployees by
3 the employer's nonmanagerial and nonsupervisory employees
4 only if the employer becomes aware of the conduct and
5 fails to take reasonable corrective measures. For the
6 purposes of this subdivision (D-5), "nonemployee" means a
7 person who is not otherwise an employee of the employer
8 and is directly performing services for the employer
9 pursuant to a contract with that employer. "Nonemployee"
10 includes contractors and consultants. This subdivision
11 applies to sexual harassment occurring on or after the
12 effective date of this amendatory Act of the 101st General
13 Assembly.

14 (E) Public employers. For any public employer to
15 refuse to permit a public employee under its jurisdiction
16 who takes time off from work in order to practice his or
17 her religious beliefs to engage in work, during hours
18 other than such employee's regular working hours,
19 consistent with the operational needs of the employer and
20 in order to compensate for work time lost for such
21 religious reasons. Any employee who elects such deferred
22 work shall be compensated at the wage rate which he or she
23 would have earned during the originally scheduled work
24 period. The employer may require that an employee who
25 plans to take time off from work in order to practice his
26 or her religious beliefs provide the employer with a

1 notice of his or her intention to be absent from work not
2 exceeding 5 days prior to the date of absence.

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

17 Nothing in this Section prohibits an employer from
18 enacting a dress code or grooming policy that may include
19 restrictions on attire, clothing, or facial hair to
20 maintain workplace safety or food sanitation.

21 (F) Training and apprenticeship programs. For any
22 employer, employment agency or labor organization to
23 discriminate against a person on the basis of age in the
24 selection, referral for or conduct of apprenticeship or
25 training programs.

26 (G) Immigration-related practices.

1 (1) for an employer to request for purposes of
2 satisfying the requirements of Section 1324a(b) of
3 Title 8 of the United States Code, as now or hereafter
4 amended, more or different documents than are required
5 under such Section or to refuse to honor documents
6 tendered that on their face reasonably appear to be
7 genuine or to refuse to honor work authorization based
8 upon the specific status or term of status that
9 accompanies the authorization to work; or

10 (2) for an employer participating in the E-Verify
11 Program, as authorized by 8 U.S.C. 1324a, Notes, Pilot
12 Programs for Employment Eligibility Confirmation
13 (enacted by PL 104-208, div. C title IV, subtitle A) to
14 refuse to hire, to segregate, or to act with respect to
15 recruitment, hiring, promotion, renewal of employment,
16 selection for training or apprenticeship, discharge,
17 discipline, tenure or terms, privileges or conditions
18 of employment without following the procedures under
19 the E-Verify Program.

20 (H) (Blank).

21 (I) Pregnancy. For an employer to refuse to hire, to
22 segregate, or to act with respect to recruitment, hiring,
23 promotion, renewal of employment, selection for training
24 or apprenticeship, discharge, discipline, tenure or terms,
25 privileges or conditions of employment on the basis of
26 pregnancy, childbirth, or medical or common conditions

1 related to pregnancy or childbirth. Women affected by
2 pregnancy, childbirth, or medical or common conditions
3 related to pregnancy or childbirth shall be treated the
4 same for all employment-related purposes, including
5 receipt of benefits under fringe benefit programs, as
6 other persons not so affected but similar in their ability
7 or inability to work, regardless of the source of the
8 inability to work or employment classification or status.

9 (J) Pregnancy; reasonable accommodations.

10 (1) If after a job applicant or employee,
11 including a part-time, full-time, or probationary
12 employee, requests a reasonable accommodation, for an
13 employer to not make reasonable accommodations for any
14 medical or common condition of a job applicant or
15 employee related to pregnancy or childbirth, unless
16 the employer can demonstrate that the accommodation
17 would impose an undue hardship on the ordinary
18 operation of the business of the employer. The
19 employer may request documentation from the employee's
20 health care provider concerning the need for the
21 requested reasonable accommodation or accommodations
22 to the same extent documentation is requested for
23 conditions related to disability if the employer's
24 request for documentation is job-related and
25 consistent with business necessity. The employer may
26 require only the medical justification for the

1 requested accommodation or accommodations, a
2 description of the reasonable accommodation or
3 accommodations medically advisable, the date the
4 reasonable accommodation or accommodations became
5 medically advisable, and the probable duration of the
6 reasonable accommodation or accommodations. It is the
7 duty of the individual seeking a reasonable
8 accommodation or accommodations to submit to the
9 employer any documentation that is requested in
10 accordance with this paragraph. Notwithstanding the
11 provisions of this paragraph, the employer may require
12 documentation by the employee's health care provider
13 to determine compliance with other laws. The employee
14 and employer shall engage in a timely, good faith, and
15 meaningful exchange to determine effective reasonable
16 accommodations.

17 (2) For an employer to deny employment
18 opportunities or benefits to or take adverse action
19 against an otherwise qualified job applicant or
20 employee, including a part-time, full-time, or
21 probationary employee, if the denial or adverse action
22 is based on the need of the employer to make reasonable
23 accommodations to the known medical or common
24 conditions related to the pregnancy or childbirth of
25 the applicant or employee.

26 (3) For an employer to require a job applicant or

1 employee, including a part-time, full-time, or
2 probationary employee, affected by pregnancy,
3 childbirth, or medical or common conditions related to
4 pregnancy or childbirth to accept an accommodation
5 when the applicant or employee did not request an
6 accommodation and the applicant or employee chooses
7 not to accept the employer's accommodation.

8 (4) For an employer to require an employee,
9 including a part-time, full-time, or probationary
10 employee, to take leave under any leave law or policy
11 of the employer if another reasonable accommodation
12 can be provided to the known medical or common
13 conditions related to the pregnancy or childbirth of
14 an employee. No employer shall fail or refuse to
15 reinstate the employee affected by pregnancy,
16 childbirth, or medical or common conditions related to
17 pregnancy or childbirth to her original job or to an
18 equivalent position with equivalent pay and
19 accumulated seniority, retirement, fringe benefits,
20 and other applicable service credits upon her
21 signifying her intent to return or when her need for
22 reasonable accommodation ceases, unless the employer
23 can demonstrate that the accommodation would impose an
24 undue hardship on the ordinary operation of the
25 business of the employer.

26 For the purposes of this subdivision (J), "reasonable

1 accommodations" means reasonable modifications or
2 adjustments to the job application process or work
3 environment, or to the manner or circumstances under which
4 the position desired or held is customarily performed,
5 that enable an applicant or employee affected by
6 pregnancy, childbirth, or medical or common conditions
7 related to pregnancy or childbirth to be considered for
8 the position the applicant desires or to perform the
9 essential functions of that position, and may include, but
10 is not limited to: more frequent or longer bathroom
11 breaks, breaks for increased water intake, and breaks for
12 periodic rest; private non-bathroom space for expressing
13 breast milk and breastfeeding; seating; assistance with
14 manual labor; light duty; temporary transfer to a less
15 strenuous or hazardous position; the provision of an
16 accessible worksite; acquisition or modification of
17 equipment; job restructuring; a part-time or modified work
18 schedule; appropriate adjustment or modifications of
19 examinations, training materials, or policies;
20 reassignment to a vacant position; time off to recover
21 from conditions related to childbirth; and leave
22 necessitated by pregnancy, childbirth, or medical or
23 common conditions resulting from pregnancy or childbirth.

24 For the purposes of this subdivision (J), "undue
25 hardship" means an action that is prohibitively expensive
26 or disruptive when considered in light of the following

1 factors: (i) the nature and cost of the accommodation
2 needed; (ii) the overall financial resources of the
3 facility or facilities involved in the provision of the
4 reasonable accommodation, the number of persons employed
5 at the facility, the effect on expenses and resources, or
6 the impact otherwise of the accommodation upon the
7 operation of the facility; (iii) the overall financial
8 resources of the employer, the overall size of the
9 business of the employer with respect to the number of its
10 employees, and the number, type, and location of its
11 facilities; and (iv) the type of operation or operations
12 of the employer, including the composition, structure, and
13 functions of the workforce of the employer, the geographic
14 separateness, administrative, or fiscal relationship of
15 the facility or facilities in question to the employer.
16 The employer has the burden of proving undue hardship. The
17 fact that the employer provides or would be required to
18 provide a similar accommodation to similarly situated
19 employees creates a rebuttable presumption that the
20 accommodation does not impose an undue hardship on the
21 employer.

22 No employer is required by this subdivision (J) to
23 create additional employment that the employer would not
24 otherwise have created, unless the employer does so or
25 would do so for other classes of employees who need
26 accommodation. The employer is not required to discharge

1 any employee, transfer any employee with more seniority,
2 or promote any employee who is not qualified to perform
3 the job, unless the employer does so or would do so to
4 accommodate other classes of employees who need it.

5 (K) Notice.

6 (1) For an employer to fail to post or keep posted
7 in a conspicuous location on the premises of the
8 employer where notices to employees are customarily
9 posted, or fail to include in any employee handbook
10 information concerning an employee's rights under this
11 Article, a notice, to be prepared or approved by the
12 Department, summarizing the requirements of this
13 Article and information pertaining to the filing of a
14 charge, including the right to be free from unlawful
15 discrimination, the right to be free from sexual
16 harassment, and the right to certain reasonable
17 accommodations. The Department shall make the
18 documents required under this paragraph available for
19 retrieval from the Department's website.

20 (2) Upon notification of a violation of paragraph
21 (1) of this subdivision (K), the Department may launch
22 a preliminary investigation. If the Department finds a
23 violation, the Department may issue a notice to show
24 cause giving the employer 30 days to correct the
25 violation. If the violation is not corrected, the
26 Department may initiate a charge of a civil rights

1 violation.

2 (Source: P.A. 101-221, eff. 1-1-20; 102-233, eff. 8-2-21.)".