



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5558

Introduced 1/31/2022, by Rep. Ann M. Williams

SYNOPSIS AS INTRODUCED:

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

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

LRB102 25991 LNS 35394 b

1 AN ACT concerning human rights.

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

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

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

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

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

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

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

19 (D) Complaints. To file complaints with the Commission in
20 conformity with this Act and to intervene in complaints
21 pending before the Commission filed under Article 2, 4, 5, 5A,
22 or 6.

23 (E) Judicial Enforcement. To seek temporary relief and to

1 enforce orders of the Commission in conformity with this Act.

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

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

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

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

14 (J) Education and Training. To implement a formal and
15 unbiased program of education and training for all employees
16 assigned to investigate and conciliate charges under Articles
17 7A and 7B. The training program shall include the following:

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

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

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

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

25 (5) observation of experienced Department
26 investigators and attorneys conducting conciliation

1 conferences, combined with the opportunity to discuss
2 evidence presented and rulings made;

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

7 (7) writing skills;

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

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

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

17 (775 ILCS 5/8A-102) (from Ch. 68, par. 8A-102)

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

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

24 (B) Time and Location of Hearing. An initial hearing date
25 shall be scheduled for not less than thirty nor more than

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

5 (B-5) Intervention by the Department.

6 (1) After the filing of a complaint under Article 2,
7 4, 5, 5A, or 6, the Department may petition and shall be
8 permitted as a matter of right to intervene as a party in
9 the proceeding if the Commission determines that:

10 (i) the case involves matters of public interest
11 or importance beyond the issues in the case;

12 (ii) the Department has an interest different from
13 one or more of the parties;

14 (iii) the expertise of the Department makes it
15 better suited to articulate a particular point of
16 view; or

17 (iv) the representation of the Department's
18 interest by existing parties is or may be inadequate
19 and the Department will or may be bound by an order or
20 judgment in the action.

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

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

1 (C) Amendment.

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

17 (2) A motion that the complaint be amended to conform
18 to the evidence, made prior to the close of the public
19 hearing, may be addressed orally on the record to the
20 hearing officer, and shall be granted for good and
21 sufficient cause.

22 (D) Answer.

23 (1) The respondent shall file an answer under oath or
24 affirmation to the original or amended complaint within 30
25 days of the date of service thereof, but the hearing
26 officer may, for good cause shown, grant further time for

1 the filing of an answer.

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

6 (3) Any allegation in the complaint which is not
7 denied or admitted in the answer is deemed admitted unless
8 the respondent states in the answer that he is without
9 sufficient knowledge or information to form a belief with
10 respect to such allegation.

11 (4) The failure to file an answer is deemed to
12 constitute an admission of the allegations contained in
13 the complaint.

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

16 (E) Proceedings In Forma Pauperis.

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

1 provided for in Section 8-104 of this Act.

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

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

15 (G) Hearing.

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

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

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

24 (H) Compelling Appearance of Parties at Hearing. The
25 appearance at the hearing of a party or a person who at the
26 time of the hearing is an officer, director, or employee of a

1 party may be required by serving the party with a notice
2 designating the person who is required to appear. The notice
3 also may require the production at the hearing of documents or
4 tangible things. If the party or person is a nonresident of the
5 county, the hearing officer may order any terms and conditions
6 in connection with his appearance at the hearing that are
7 just, including payment of his reasonable expenses. Upon a
8 failure to comply with the notice, the hearing officer may
9 enter any order that is just.

10 (I) Decision.

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

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

22 (3) If, upon all the evidence, the hearing officer
23 finds that a respondent has not engaged in the
24 discriminatory practice charged in the complaint or that a
25 preponderance of the evidence does not sustain the
26 complaint, he shall state his findings of fact and shall

1 issue and cause to be served on the parties and the
2 Department a recommended order dismissing the complaint.

3 (4) The findings and recommended order of the hearing
4 officer shall be filed with the Commission. The findings
5 and recommended order may be authored by a hearing officer
6 other than the hearing officer who presides at the public
7 hearing if:

8 (a) the hearing officer who presides at the public
9 hearing is unable to author the findings and
10 recommended order by reason of death, disability, or
11 separation from employment; and

12 (b) all parties to a complaint file a joint motion
13 agreeing to have the findings and recommended order
14 written by a hearing officer who did not preside at the
15 public hearing.

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

23 (6) The hearing officer may issue a recommended order
24 of dismissal with prejudice or a recommended order of
25 default as a sanction for the failure of a party to
26 prosecute his or her case, file a required pleading,

1 appear at a hearing, or otherwise comply with this Act,
2 the rules of the Commission, or a previous order of the
3 hearing officer.

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

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

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

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

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

11 Sec. 10-102. Court Actions.

12 (A) Circuit Court Actions.

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

22 (2) The computation of such 2-year period shall not
23 include any time during which an administrative proceeding
24 under this Act was pending with respect to a complaint or

1 charge under this Act based upon the alleged civil rights
2 violation. This paragraph does not apply to actions
3 arising from a breach of a conciliation or settlement
4 agreement.

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

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

22 (B) Appointment of Attorney by Court. Upon application by
23 a person alleging a civil rights violation or a person against
24 whom the civil rights violation is alleged, if in the opinion
25 of the court such person is financially unable to bear the
26 costs of such action, the court may:

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

4 (2) authorize the commencement or continuation of a
5 civil action under subsection (A) without the payment of
6 fees, costs, or security.

7 (C) Relief which may be granted.

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

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

22 (D) Intervention by the Attorney General. If the
23 Department certifies that the case is of general public
24 importance, the ~~By The Department. The~~ Attorney General ~~of~~
25 ~~Illinois~~ may seek to intervene on behalf of the Department in a
26 civil action filed by a complainant in State or federal court

1 ~~under this Section if the Department certifies that the case~~
2 ~~is of general public importance.~~ Upon such intervention, the
3 court may award any of the remedies set forth in Section 8B-104
4 and subsection (B) of Section 10-104 ~~such relief as is~~
5 ~~authorized to be granted to a plaintiff in a civil action under~~
6 ~~Section 10-102(C).~~

7 (Source: P.A. 101-661, eff. 4-2-21.)

8 (775 ILCS 5/10-105 new)

9 Sec. 10-105. Intervention by the Attorney General. If the
10 Department certifies that the case is of general public
11 importance, the Attorney General may seek to intervene on
12 behalf of the Department in a civil action filed by a
13 complainant in State or federal court. Upon such intervention,
14 the court or jury may award any of the remedies set forth in
15 Section 8A-104 and subsection (B) of Section 10-104.