



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1561

Introduced 2/26/2021, by Sen. Celina Villanueva

SYNOPSIS AS INTRODUCED:

775 ILCS 5/1-103	from Ch. 68, par. 1-103
775 ILCS 5/2-105	from Ch. 68, par. 2-105
775 ILCS 5/3-102.10 new	
775 ILCS 5/5A-101.1	
775 ILCS 5/6-101	from Ch. 68, par. 6-101
775 ILCS 5/6-101.5 new	
775 ILCS 5/7A-101	from Ch. 68, par. 7A-101
775 ILCS 5/7B-101	from Ch. 68, par. 7B-101
775 ILCS 5/7B-102	from Ch. 68, par. 7B-102
775 ILCS 5/8A-101	from Ch. 68, par. 8A-101
775 ILCS 5/8B-101	from Ch. 68, par. 8B-101

Amends the Illinois Human Rights Act. Provides that it is a civil rights violation for a third-party loan modification service provider, because of unlawful discrimination, familial status, or an arrest record, to (1) refuse to engage in loan modification services or to discriminate in making such services available, or (2) alter the terms, conditions, or privileges of such services. Makes changes concerning what constitutes retaliation under various Articles of the Act. Provides that, in proceedings relating to real estate transactions, the failure of the Department to notify the complainant or respondent in writing of the reasons for not completing an investigation on the allegations set forth in a charge within 100 days shall not deprive the Department of jurisdiction over the charge. Makes corresponding and other changes.

LRB102 17210 LNS 22668 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 1-103, 2-105, 5A-101.1, 6-101, 7A-101,
6 7B-101, 7B-102, 8A-101, and 8B-101 and by adding Sections
7 3-102.10 and 6-101.5 as follows:

8 (775 ILCS 5/1-103) (from Ch. 68, par. 1-103)

9 Sec. 1-103. General definitions. When used in this Act,
10 unless the context requires otherwise, the term:

11 (A) Age. "Age" means the chronological age of a person who
12 is at least 40 years old, except with regard to any practice
13 described in Section 2-102, insofar as that practice concerns
14 training or apprenticeship programs. In the case of training
15 or apprenticeship programs, for the purposes of Section 2-102,
16 "age" means the chronological age of a person who is 18 but not
17 yet 40 years old.

18 (B) Aggrieved party. "Aggrieved party" means a person who
19 is alleged or proved to have been injured by a civil rights
20 violation or believes he or she will be injured by a civil
21 rights violation under Article 3 that is about to occur.

22 (B-5) Arrest record. "Arrest record" means:

23 (1) an arrest not leading to a conviction;

1 (2) a juvenile record; or

2 (3) criminal history record information ordered
3 expunged, sealed, or impounded under Section 5.2 of the
4 Criminal Identification Act.

5 (C) Charge. "Charge" means an allegation filed with the
6 Department by an aggrieved party or initiated by the
7 Department under its authority.

8 (D) Civil rights violation. "Civil rights violation"
9 includes and shall be limited to only those specific acts set
10 forth in Sections 2-102, 2-103, 2-105, 3-102, 3-102.1, 3-103,
11 3-102.10 ~~3-104~~, 3-104.1, 3-105, 3-105.1, 4-102, 4-103, 5-102,
12 5A-102, 6-101, 6-101.5, and 6-102 of this Act.

13 (E) Commission. "Commission" means the Human Rights
14 Commission created by this Act.

15 (F) Complaint. "Complaint" means the formal pleading filed
16 by the Department with the Commission following an
17 investigation and finding of substantial evidence of a civil
18 rights violation.

19 (G) Complainant. "Complainant" means a person including
20 the Department who files a charge of civil rights violation
21 with the Department or the Commission.

22 (H) Department. "Department" means the Department of Human
23 Rights created by this Act.

24 (I) Disability. "Disability" means a determinable physical
25 or mental characteristic of a person, including, but not
26 limited to, a determinable physical characteristic which

1 necessitates the person's use of a guide, hearing or support
2 dog, the history of such characteristic, or the perception of
3 such characteristic by the person complained against, which
4 may result from disease, injury, congenital condition of birth
5 or functional disorder and which characteristic:

6 (1) For purposes of Article 2, is unrelated to the
7 person's ability to perform the duties of a particular job
8 or position and, pursuant to Section 2-104 of this Act, a
9 person's illegal use of drugs or alcohol is not a
10 disability;

11 (2) For purposes of Article 3, is unrelated to the
12 person's ability to acquire, rent, or maintain a housing
13 accommodation;

14 (3) For purposes of Article 4, is unrelated to a
15 person's ability to repay;

16 (4) For purposes of Article 5, is unrelated to a
17 person's ability to utilize and benefit from a place of
18 public accommodation;

19 (5) For purposes of Article 5, also includes any
20 mental, psychological, or developmental disability,
21 including autism spectrum disorders.

22 (J) Marital status. "Marital status" means the legal
23 status of being married, single, separated, divorced, or
24 widowed.

25 (J-1) Military status. "Military status" means a person's
26 status on active duty in or status as a veteran of the armed

1 forces of the United States, status as a current member or
2 veteran of any reserve component of the armed forces of the
3 United States, including the United States Army Reserve,
4 United States Marine Corps Reserve, United States Navy
5 Reserve, United States Air Force Reserve, and United States
6 Coast Guard Reserve, or status as a current member or veteran
7 of the Illinois Army National Guard or Illinois Air National
8 Guard.

9 (K) National origin. "National origin" means the place in
10 which a person or one of his or her ancestors was born.

11 (K-5) "Order of protection status" means a person's status
12 as being a person protected under an order of protection
13 issued pursuant to the Illinois Domestic Violence Act of 1986,
14 Article 112A of the Code of Criminal Procedure of 1963, the
15 Stalking No Contact Order Act, or the Civil No Contact Order
16 Act, or an order of protection issued by a court of another
17 state.

18 (L) Person. "Person" includes one or more individuals,
19 partnerships, associations or organizations, labor
20 organizations, labor unions, joint apprenticeship committees,
21 or union labor associations, corporations, the State of
22 Illinois and its instrumentalities, political subdivisions,
23 units of local government, legal representatives, trustees in
24 bankruptcy or receivers.

25 (L-5) Pregnancy. "Pregnancy" means pregnancy, childbirth,
26 or medical or common conditions related to pregnancy or

1 childbirth.

2 (M) Public contract. "Public contract" includes every
3 contract to which the State, any of its political
4 subdivisions, or any municipal corporation is a party.

5 (N) Religion. "Religion" includes all aspects of religious
6 observance and practice, as well as belief, except that with
7 respect to employers, for the purposes of Article 2,
8 "religion" has the meaning ascribed to it in paragraph (F) of
9 Section 2-101.

10 (O) Sex. "Sex" means the status of being male or female.

11 (O-1) Sexual orientation. "Sexual orientation" means
12 actual or perceived heterosexuality, homosexuality,
13 bisexuality, or gender-related identity, whether or not
14 traditionally associated with the person's designated sex at
15 birth. "Sexual orientation" does not include a physical or
16 sexual attraction to a minor by an adult.

17 (P) Unfavorable military discharge. "Unfavorable military
18 discharge" includes discharges from the Armed Forces of the
19 United States, their Reserve components, or any National Guard
20 or Naval Militia which are classified as RE-3 or the
21 equivalent thereof, but does not include those characterized
22 as RE-4 or "Dishonorable".

23 (Q) Unlawful discrimination. "Unlawful discrimination"
24 means discrimination against a person because of his or her
25 actual or perceived: race, color, religion, national origin,
26 ancestry, age, sex, marital status, order of protection

1 status, disability, military status, sexual orientation,
2 pregnancy, or unfavorable discharge from military service as
3 those terms are defined in this Section.

4 (Source: P.A. 100-714, eff. 1-1-19; 101-81, eff. 7-12-19;
5 101-221, eff. 1-1-20; 101-565, eff. 1-1-20; revised 9-18-19.)

6 (775 ILCS 5/2-105) (from Ch. 68, par. 2-105)

7 Sec. 2-105. Equal Employment Opportunities; Affirmative
8 Action.

9 (A) Public Contracts. Every party to a public contract and
10 every eligible bidder shall:

11 (1) Refrain from unlawful discrimination and
12 discrimination based on citizenship status in employment
13 and undertake affirmative action to assure equality of
14 employment opportunity and eliminate the effects of past
15 discrimination;

16 (2) Comply with the procedures and requirements of the
17 Department's regulations concerning equal employment
18 opportunities and affirmative action;

19 (3) Provide such information, with respect to its
20 employees and applicants for employment, and assistance as
21 the Department may reasonably request;

22 (4) Have written sexual harassment policies that shall
23 include, at a minimum, the following information: (i) the
24 illegality of sexual harassment; (ii) the definition of
25 sexual harassment under State law; (iii) a description of

1 sexual harassment, utilizing examples; (iv) the vendor's
2 internal complaint process including penalties; (v) the
3 legal recourse, investigative and complaint process
4 available through the Department and the Commission; (vi)
5 directions on how to contact the Department and
6 Commission; and (vii) protection against retaliation as
7 provided by Sections ~~Section~~ 6-101 and 6-101.5 of this
8 Act. A copy of the policies shall be provided to the
9 Department upon request. Additionally, each bidder who
10 submits a bid or offer for a State contract under the
11 Illinois Procurement Code shall have a written copy of the
12 bidder's sexual harassment policy as required under this
13 paragraph (4). A copy of the policy shall be provided to
14 the State agency entering into the contract upon request.

15 (B) State Agencies. Every State executive department,
16 State agency, board, commission, and instrumentality shall:

17 (1) Comply with the procedures and requirements of the
18 Department's regulations concerning equal employment
19 opportunities and affirmative action;

20 (2) Provide such information and assistance as the
21 Department may request.

22 (3) Establish, maintain, and carry out a continuing
23 affirmative action plan consistent with this Act and the
24 regulations of the Department designed to promote equal
25 opportunity for all State residents in every aspect of
26 agency personnel policy and practice. For purposes of

1 these affirmative action plans, the race and national
2 origin categories to be included in the plans are:
3 American Indian or Alaska Native, Asian, Black or African
4 American, Hispanic or Latino, Native Hawaiian or Other
5 Pacific Islander.

6 This plan shall include a current detailed status
7 report:

8 (a) indicating, by each position in State service,
9 the number, percentage, and average salary of
10 individuals employed by race, national origin, sex and
11 disability, and any other category that the Department
12 may require by rule;

13 (b) identifying all positions in which the
14 percentage of the people employed by race, national
15 origin, sex and disability, and any other category
16 that the Department may require by rule, is less than
17 four-fifths of the percentage of each of those
18 components in the State work force;

19 (c) specifying the goals and methods for
20 increasing the percentage by race, national origin,
21 sex and disability, and any other category that the
22 Department may require by rule, in State positions;

23 (d) indicating progress and problems toward
24 meeting equal employment opportunity goals, including,
25 if applicable, but not limited to, Department of
26 Central Management Services recruitment efforts,

1 publicity, promotions, and use of options designating
2 positions by linguistic abilities;

3 (e) establishing a numerical hiring goal for the
4 employment of qualified persons with disabilities in
5 the agency as a whole, to be based on the proportion of
6 people with work disabilities in the Illinois labor
7 force as reflected in the most recent employment data
8 made available by the United States Census Bureau.

9 (4) If the agency has 1000 or more employees, appoint
10 a full-time Equal Employment Opportunity officer, subject
11 to the Department's approval, whose duties shall include:

12 (a) Advising the head of the particular State
13 agency with respect to the preparation of equal
14 employment opportunity programs, procedures,
15 regulations, reports, and the agency's affirmative
16 action plan.

17 (b) Evaluating in writing each fiscal year the
18 sufficiency of the total agency program for equal
19 employment opportunity and reporting thereon to the
20 head of the agency with recommendations as to any
21 improvement or correction in recruiting, hiring or
22 promotion needed, including remedial or disciplinary
23 action with respect to managerial or supervisory
24 employees who have failed to cooperate fully or who
25 are in violation of the program.

26 (c) Making changes in recruitment, training and

1 promotion programs and in hiring and promotion
2 procedures designed to eliminate discriminatory
3 practices when authorized.

4 (d) Evaluating tests, employment policies,
5 practices and qualifications and reporting to the head
6 of the agency and to the Department any policies,
7 practices and qualifications that have unequal impact
8 by race, national origin as required by Department
9 rule, sex or disability or any other category that the
10 Department may require by rule, and to assist in the
11 recruitment of people in underrepresented
12 classifications. This function shall be performed in
13 cooperation with the State Department of Central
14 Management Services.

15 (e) Making any aggrieved employee or applicant for
16 employment aware of his or her remedies under this
17 Act.

18 In any meeting, investigation, negotiation,
19 conference, or other proceeding between a State
20 employee and an Equal Employment Opportunity officer,
21 a State employee (1) who is not covered by a collective
22 bargaining agreement and (2) who is the complaining
23 party or the subject of such proceeding may be
24 accompanied, advised and represented by (1) an
25 attorney licensed to practice law in the State of
26 Illinois or (2) a representative of an employee

1 organization whose membership is composed of employees
2 of the State and of which the employee is a member. A
3 representative of an employee, other than an attorney,
4 may observe but may not actively participate, or
5 advise the State employee during the course of such
6 meeting, investigation, negotiation, conference or
7 other proceeding. Nothing in this Section shall be
8 construed to permit any person who is not licensed to
9 practice law in Illinois to deliver any legal services
10 or otherwise engage in any activities that would
11 constitute the unauthorized practice of law. Any
12 representative of an employee who is present with the
13 consent of the employee, shall not, during or after
14 termination of the relationship permitted by this
15 Section with the State employee, use or reveal any
16 information obtained during the course of the meeting,
17 investigation, negotiation, conference or other
18 proceeding without the consent of the complaining
19 party and any State employee who is the subject of the
20 proceeding and pursuant to rules and regulations
21 governing confidentiality of such information as
22 promulgated by the appropriate State agency.
23 Intentional or reckless disclosure of information in
24 violation of these confidentiality requirements shall
25 constitute a Class B misdemeanor.

26 (5) Establish, maintain and carry out a continuing

1 sexual harassment program that shall include the
2 following:

3 (a) Develop a written sexual harassment policy
4 that includes at a minimum the following information:
5 (i) the illegality of sexual harassment; (ii) the
6 definition of sexual harassment under State law; (iii)
7 a description of sexual harassment, utilizing
8 examples; (iv) the agency's internal complaint process
9 including penalties; (v) the legal recourse,
10 investigative and complaint process available through
11 the Department and the Commission; (vi) directions on
12 how to contact the Department and Commission; and
13 (vii) protection against retaliation as provided by
14 Section 6-101 of this Act. The policy shall be
15 reviewed annually.

16 (b) Post in a prominent and accessible location
17 and distribute in a manner to assure notice to all
18 agency employees without exception the agency's sexual
19 harassment policy. Such documents may meet, but shall
20 not exceed, the 6th grade literacy level. Distribution
21 shall be effectuated within 90 days of the effective
22 date of this amendatory Act of 1992 and shall occur
23 annually thereafter.

24 (c) Provide training on sexual harassment
25 prevention and the agency's sexual harassment policy
26 as a component of all ongoing or new employee training

1 programs.

2 (6) Notify the Department 30 days before effecting any
3 layoff. Once notice is given, the following shall occur:

4 (a) No layoff may be effective earlier than 10
5 working days after notice to the Department, unless an
6 emergency layoff situation exists.

7 (b) The State executive department, State agency,
8 board, commission, or instrumentality in which the
9 layoffs are to occur must notify each employee
10 targeted for layoff, the employee's union
11 representative (if applicable), and the State
12 Dislocated Worker Unit at the Department of Commerce
13 and Economic Opportunity.

14 (c) The State executive department, State agency,
15 board, commission, or instrumentality in which the
16 layoffs are to occur must conform to applicable
17 collective bargaining agreements.

18 (d) The State executive department, State agency,
19 board, commission, or instrumentality in which the
20 layoffs are to occur should notify each employee
21 targeted for layoff that transitional assistance may
22 be available to him or her under the Economic
23 Dislocation and Worker Adjustment Assistance Act
24 administered by the Department of Commerce and
25 Economic Opportunity. Failure to give such notice
26 shall not invalidate the layoff or postpone its

1 effective date.

2 As used in this subsection (B), "disability" shall be
3 defined in rules promulgated under the Illinois Administrative
4 Procedure Act.

5 (C) Civil Rights Violations. It is a civil rights
6 violation for any public contractor or eligible bidder to:

7 (1) fail to comply with the public contractor's or
8 eligible bidder's duty to refrain from unlawful
9 discrimination and discrimination based on citizenship
10 status in employment under subsection (A)(1) of this
11 Section; or

12 (2) fail to comply with the public contractor's or
13 eligible bidder's duties of affirmative action under
14 subsection (A) of this Section, provided however, that the
15 Department has notified the public contractor or eligible
16 bidder in writing by certified mail that the public
17 contractor or eligible bidder may not be in compliance
18 with affirmative action requirements of subsection (A). A
19 minimum of 60 days to comply with the requirements shall
20 be afforded to the public contractor or eligible bidder
21 before the Department may issue formal notice of
22 non-compliance.

23 (D) As used in this Section:

24 (1) "American Indian or Alaska Native" means a person
25 having origins in any of the original peoples of North and
26 South America, including Central America, and who

1 maintains tribal affiliation or community attachment.

2 (2) "Asian" means a person having origins in any of
3 the original peoples of the Far East, Southeast Asia, or
4 the Indian subcontinent, including, but not limited to,
5 Cambodia, China, India, Japan, Korea, Malaysia, Pakistan,
6 the Philippine Islands, Thailand, and Vietnam.

7 (3) "Black or African American" means a person having
8 origins in any of the black racial groups of Africa. Terms
9 such as "Haitian" or "Negro" can be used in addition to
10 "Black or African American".

11 (4) "Hispanic or Latino" means a person of Cuban,
12 Mexican, Puerto Rican, South or Central American, or other
13 Spanish culture or origin, regardless of race.

14 (5) "Native Hawaiian or Other Pacific Islander" means
15 a person having origins in any of the original peoples of
16 Hawaii, Guam, Samoa, or other Pacific Islands.

17 (Source: P.A. 99-933, eff. 1-27-17; 100-698, eff. 1-1-19.)

18 (775 ILCS 5/3-102.10 new)

19 Sec. 3-102.10. Third-Party loan modification service
20 provider.

21 (A) It is a civil rights violation for a third-party loan
22 modification service provider, because of unlawful
23 discrimination, familial status, or an arrest record, to:

24 (1) refuse to engage in loan modification services or
25 to discriminate in making such services available; or

1 (2) alter the terms, conditions, or privileges of such
2 services.

3 (B) For purposes of this Section, "third-party loan
4 modification service provider" means a person or entity,
5 whether licensed or not, who, for or with the expectation of
6 receiving consideration, provides assistance or services to a
7 loan borrower to obtain a modification to a term of an existing
8 real estate loan or to obtain foreclosure relief. "Third party
9 loan modification service provider" does not include lenders,
10 brokers or appraisers of mortgage loans, or the servicers,
11 subsidiaries, affiliates, or agents of the lender.

12 (775 ILCS 5/5A-101.1)

13 Sec. 5A-101.1. Notice.

14 (A) Every institution of higher education covered by this
15 Act shall post in a prominent and accessible location a poster
16 stating sexual harassment laws and policies. The poster shall
17 be (i) posted and kept posted at each campus in common area
18 positions easily accessible to all students including, but not
19 limited to residence halls, administration buildings, student
20 unions, cafeterias, and libraries or (ii) posted annually at
21 each campus in common area positions easily accessible to all
22 students including, but not limited to, residence halls,
23 administration buildings, student unions, cafeterias, and
24 libraries, with an electronic copy of the sexual harassment
25 laws and policies also sent to each student at the time that

1 registration materials are emailed or (iii) on campuses that
2 provide for online registration of student classes, such
3 information pertaining to sexual harassment laws and policies
4 may be incorporated into the registration process so that
5 students must review the policies and laws and acknowledge
6 such review, prior to being allowed to register. Documents to
7 be posted shall be retrieved from the Illinois Department of
8 Human Rights website to satisfy posting requirements. Posting
9 of the posters shall be effectuated within 90 days of the
10 effective date of this amendatory Act of the 96th General
11 Assembly and shall occur annually thereafter.

12 (B) The posted sexual harassment poster shall include, at
13 a minimum, the following information: (i) the illegality of
14 sexual harassment in higher education; (ii) the definition of
15 sexual harassment under State law; (iii) a description of
16 sexual harassment, utilizing examples; (iv) the institution's
17 internal complaint process including penalties; (v) the legal
18 recourse, investigative and complaint process available
19 through the Department of Human Rights; (vi) directions on how
20 to contact the Department; and (vii) protection against
21 retaliation as provided by Sections ~~Section~~ 6-101 and 6-101.5
22 of this Act.

23 (C) Upon notification of a failure to post, the Department
24 of Human Rights may launch a preliminary investigation. If the
25 Department finds a failure to post, the Department may issue a
26 notice to show cause giving the institution 30 days to correct

1 the failure to post. If the failure to post is not corrected,
2 the Department may initiate a charge of a civil rights
3 violation.

4 (Source: P.A. 96-574, eff. 8-18-09.)

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

6 Sec. 6-101. Additional civil rights violations under
7 Articles 2, 4, 5, and 5A ~~Additional Civil Rights Violations.~~

8 It is a civil rights violation for a person, or for 2 ~~two~~ or
9 more persons, to conspire, to:

10 (A) Retaliation. Retaliate against a person because he
11 or she has opposed that which he or she reasonably and in
12 good faith believes to be unlawful discrimination, sexual
13 harassment in employment, ~~or~~ sexual harassment in
14 elementary, secondary, and higher education, or
15 discrimination based on arrest record or citizenship
16 status in employment under Articles 2, 4, 5, and 5A,
17 because he or she has made a charge, filed a complaint,
18 testified, assisted, or participated in an investigation,
19 proceeding, or hearing under this Act, or because he or
20 she has requested, attempted to request, used, or
21 attempted to use a reasonable accommodation as allowed by
22 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" shall have the same
6 meaning as defined in Section 2-101 of this Act.

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

8 (775 ILCS 5/6-101.5 new)

9 Sec. 6-101.5. Additional civil rights violations under
10 Article 3. It is a civil rights violation for a person, or for
11 2 or more persons, to conspire, to:

12 (A) retaliate against a person because the person has
13 opposed that which he or she reasonably and in good faith
14 believes to be unlawful discrimination or discrimination based
15 on familial status or arrest record in a real estate
16 transaction under Article 3, because the person has made a
17 charge, filed a complaint, testified, assisted, or
18 participated in an investigation, proceeding, or hearing under
19 this Act, or because the person has requested, attempted to
20 request, used, or attempted to use a reasonable accommodation
21 as allowed by this Act;

22 (B) aid, abet, compel, or coerce a person to commit any
23 violation of this Act; or

24 (C) willfully interfere with the performance of a duty or
25 the exercise of a power by the Commission or one of its members

1 or representatives or the Department or one of its officers or
2 employees.

3 For the purposes of this Section, "familial status" has
4 the same meaning as defined in Section 3-101.

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

6 Sec. 7A-101. The procedures specified in this Article
7 shall apply solely to Articles 2, 4, 5, and 5A and Sections
8 6-101 and 6-102 of Article 6.

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

10 (775 ILCS 5/7B-101) (from Ch. 68, par. 7B-101)

11 Sec. 7B-101. The procedures specified in this Article
12 shall apply solely to Article 3 and Section 6-101.5 of Article
13 6.

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

15 (775 ILCS 5/7B-102) (from Ch. 68, par. 7B-102)

16 Sec. 7B-102. Procedures.

17 (A) Charge.

18 (1) Within one year after the date that a civil rights
19 violation allegedly has been committed or terminated, a
20 charge in writing under oath or affirmation may be filed
21 with the Department by an aggrieved party or issued by the
22 Department itself under the signature of the Director.

23 (2) The charge shall be in such detail as to

1 substantially apprise any party properly concerned as to
2 the time, place, and facts surrounding the alleged civil
3 rights violation.

4 (B) Notice and Response to Charge.

5 (1) The Department shall serve notice upon the
6 aggrieved party acknowledging such charge and advising the
7 aggrieved party of the time limits and choice of forums
8 provided under this Act. The Department shall, within 10
9 days of the date on which the charge was filed or the
10 identification of an additional respondent under paragraph
11 (2) of this subsection, serve on the respondent a copy of
12 the charge along with a notice identifying the alleged
13 civil rights violation and advising the respondent of the
14 procedural rights and obligations of respondents under
15 this Act and may require the respondent to file a response
16 to the allegations contained in the charge. Upon the
17 Department's request, the respondent shall file a response
18 to the charge within 30 days and shall serve a copy of its
19 response on the complainant or his or her representative.
20 Notwithstanding any request from the Department, the
21 respondent may elect to file a response to the charge
22 within 30 days of receipt of notice of the charge,
23 provided the respondent serves a copy of its response on
24 the complainant or his or her representative. All
25 allegations contained in the charge not denied by the
26 respondent within 30 days after the Department's request

1 for a response may be deemed admitted, unless the
2 respondent states that it is without sufficient
3 information to form a belief with respect to such
4 allegation. The Department may issue a notice of default
5 directed to any respondent who fails to file a response to
6 a charge within 30 days of the Department's request,
7 unless the respondent can demonstrate good cause as to why
8 such notice should not issue. The term "good cause" shall
9 be defined by rule promulgated by the Department. Within
10 10 days of the date he or she receives the respondent's
11 response, the complainant may file his or her reply to
12 said response. If he or she chooses to file a reply, the
13 complainant shall serve a copy of said reply on the
14 respondent or his or her representative. A party may
15 supplement his or her response or reply at any time that
16 the investigation of the charge is pending.

17 (2) A person who is not named as a respondent in a
18 charge, but who is identified as a respondent in the
19 course of investigation, may be joined as an additional or
20 substitute respondent upon written notice, under
21 subsection (B), to such person, from the Department. Such
22 notice, in addition to meeting the requirements of
23 subsections (A) and (B), shall explain the basis for the
24 Department's belief that a person to whom the notice is
25 addressed is properly joined as a respondent.

26 (C) Investigation.

1 (1) The Department shall conduct a full investigation
2 of the allegations set forth in the charge and complete
3 such investigation within 100 days after the filing of the
4 charge, unless it is impracticable to do so. The
5 Department's failure to complete the investigation within
6 100 days after the proper filing of the charge does not
7 deprive the Department of jurisdiction over the charge.

8 (2) If the Department is unable to complete the
9 investigation within 100 days after the charge is filed,
10 the Department shall notify the complainant and respondent
11 in writing of the reasons for not doing so. The failure of
12 the Department to notify the complainant or respondent in
13 writing of the reasons for not doing so shall not deprive
14 the Department of jurisdiction over the charge.

15 (3) The Director or his or her designated
16 representative shall have authority to request any member
17 of the Commission to issue subpoenas to compel the
18 attendance of a witness or the production for examination
19 of any books, records or documents whatsoever.

20 (4) If any witness whose testimony is required for any
21 investigation resides outside the State, or through
22 illness or any other good cause as determined by the
23 Director is unable to be interviewed by the investigator
24 or appear at a fact finding conference, his or her
25 testimony or deposition may be taken, within or without
26 the State, in the same manner as provided for in the taking

1 of depositions in civil cases in circuit courts.

2 (5) Upon reasonable notice to the complainant and the
3 respondent, the Department may conduct a fact finding
4 conference. When requested by the Department, a party's
5 failure to attend the conference without good cause may
6 result in dismissal or default. A notice of dismissal or
7 default shall be issued by the Director and shall notify
8 the relevant party that a request for review may be filed
9 in writing with the Commission within 30 days of receipt
10 of notice of dismissal or default.

11 (D) Report.

12 (1) Each charge investigated under subsection (C)
13 shall be the subject of a report to the Director. The
14 report shall be a confidential document subject to review
15 by the Director, authorized Department employees, the
16 parties, and, where indicated by this Act, members of the
17 Commission or their designated hearing officers.

18 The report shall contain:

19 (a) the names and dates of contacts with
20 witnesses;

21 (b) a summary and the date of correspondence and
22 other contacts with the aggrieved party and the
23 respondent;

24 (c) a summary description of other pertinent
25 records;

26 (d) a summary of witness statements; and

1 (e) answers to questionnaires.

2 A final report under this paragraph may be amended if
3 additional evidence is later discovered.

4 (2) Upon review of the report and within 100 days of
5 the filing of the charge, unless it is impracticable to do
6 so, the Director shall determine whether there is
7 substantial evidence that the alleged civil rights
8 violation has been committed or is about to be committed.
9 If the Director is unable to make the determination within
10 100 days after the filing of the charge, the Director
11 shall notify the complainant and respondent in writing of
12 the reasons for not doing so. The Director's failure to
13 make the determination within 100 days after the proper
14 filing of the charge does not deprive the Department of
15 jurisdiction over the charge.

16 (a) If the Director determines that there is no
17 substantial evidence, the charge shall be dismissed
18 and the aggrieved party notified that he or she may
19 seek review of the dismissal order before the
20 Commission. The aggrieved party shall have 90 days
21 from receipt of notice to file a request for review by
22 the Commission. The Director shall make public
23 disclosure of each such dismissal.

24 (b) If the Director determines that there is
25 substantial evidence, he or she shall immediately
26 issue a complaint on behalf of the aggrieved party

1 pursuant to subsection (F).

2 (E) Conciliation.

3 (1) During the period beginning with the filing of
4 charge and ending with the filing of a complaint or a
5 dismissal by the Department, the Department shall, to the
6 extent feasible, engage in conciliation with respect to
7 such charge.

8 When the Department determines that a formal
9 conciliation conference is feasible, the aggrieved party
10 and respondent shall be notified of the time and place of
11 the conference by registered or certified mail at least 7
12 days prior thereto and either or both parties shall appear
13 at the conference in person or by attorney.

14 (2) 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 (3) Nothing occurring at the conference shall be made
18 public or used as evidence in a subsequent proceeding for
19 the purpose of proving a violation under this Act unless
20 the complainant and respondent agree in writing that such
21 disclosure be made.

22 (4) A conciliation agreement arising out of such
23 conciliation shall be an agreement between the respondent
24 and the complainant, and shall be subject to approval by
25 the Department and Commission.

26 (5) A conciliation agreement may provide for binding

1 arbitration of the dispute arising from the charge. Any
2 such arbitration that results from a conciliation
3 agreement may award appropriate relief, including monetary
4 relief.

5 (6) Each conciliation agreement shall be made public
6 unless the complainant and respondent otherwise agree and
7 the Department determines that disclosure is not required
8 to further the purpose of this Act.

9 (F) Complaint.

10 (1) When there is a failure to settle or adjust any
11 charge through a conciliation conference and the charge is
12 not dismissed, the Department shall prepare a written
13 complaint, under oath or affirmation, stating the nature
14 of the civil rights violation and the relief sought on
15 behalf of the aggrieved party. Such complaint shall be
16 based on the final investigation report and need not be
17 limited to the facts or grounds alleged in the charge
18 filed under subsection (A).

19 (2) The complaint shall be filed with the Commission.

20 (3) The Department may not issue a complaint under
21 this Section regarding an alleged civil rights violation
22 after the beginning of the trial of a civil action
23 commenced by the aggrieved party under any State or
24 federal law, seeking relief with respect to that alleged
25 civil rights violation.

26 (G) Time Limit.

1 (1) When a charge of a civil rights violation has been
2 properly filed, the Department, within 100 days thereof,
3 unless it is impracticable to do so, shall either issue
4 and file a complaint in the manner and form set forth in
5 this Section or shall order that no complaint be issued.
6 Any such order shall be duly served upon both the
7 aggrieved party and the respondent. The Department's
8 failure to either issue and file a complaint or order that
9 no complaint be issued within 100 days after the proper
10 filing of the charge does not deprive the Department of
11 jurisdiction over the charge.

12 (2) The Director shall make available to the aggrieved
13 party and the respondent, at any time, upon request
14 following completion of the Department's investigation,
15 information derived from an investigation and any final
16 investigative report relating to that investigation.

17 (H) This amendatory Act of 1995 applies to causes of
18 action filed on or after January 1, 1996.

19 (I) The changes made to this Section by Public Act 95-243
20 apply to charges filed on or after the effective date of those
21 changes.

22 (J) The changes made to this Section by this amendatory
23 Act of the 96th General Assembly apply to charges filed on or
24 after the effective date of those changes.

25 (Source: P.A. 100-492, eff. 9-8-17; 100-1066, eff. 8-24-18;
26 101-530, eff. 1-1-20.)

1 (775 ILCS 5/8A-101) (from Ch. 68, par. 8A-101)
2 Sec. 8A-101. This Article shall apply solely to Articles
3 2, 4, 5, and 5A and Sections 6-101 and 6-102 of Article 6.
4 (Source: P.A. 86-910.)

5 (775 ILCS 5/8B-101) (from Ch. 68, par. 8B-101)
6 Sec. 8B-101. Applicability. The procedures and relief
7 specified in this Article shall apply solely to complaints
8 filed with the Human Rights Commission under Article 3 and
9 Section 6-101.5 of Article 6.
10 (Source: P.A. 86-910.)