

HB4821



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4821

Introduced 2/6/2024, by Rep. Curtis J. Tarver, II

SYNOPSIS AS INTRODUCED:

775 ILCS 5/7A-102

from Ch. 68, par. 7A-102

Amends the Illinois Human Rights Act. Authorizes an aggrieved party to commence a civil action in the appropriate circuit court within 300 calendar days after the date that a civil rights violation allegedly has been committed.

LRB103 37939 JRC 68071 b

A BILL FOR

1 AN ACT concerning civil law.

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 Section 7A-102 as follows:

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

7 Sec. 7A-102. Procedures.

8 (A) Charge.

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

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

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

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

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

26 (2) If the EEOC finds reasonable cause to believe that

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

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

1 parties, within 10 business days after receipt of the
2 EEOC's determination, that the Department will adopt the
3 EEOC's determination as a dismissal for lack of
4 substantial evidence unless the complainant requests in
5 writing within 35 days after receipt of the Department's
6 notice that the Department review the EEOC's
7 determination.

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

24 (b) If the complainant does file a written request
25 with the Department to review the EEOC's
26 determination, the Department shall review the EEOC's

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

22 (4) Pursuant to this Section, if the EEOC dismisses
23 the charge or a portion of the charge of discrimination
24 because, under federal law, the EEOC lacks jurisdiction
25 over the charge, and if, under this Act, the Department
26 has jurisdiction over the charge of discrimination, the

1 Department shall investigate the charge or portion of the
2 charge dismissed by the EEOC for lack of jurisdiction
3 pursuant to subsections (A), (A-1), (B), (B-1), (C), (D),
4 (E), (F), (G), (H), (I), (J), and (K) of this Section.

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

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

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

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

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

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

25 (C) Investigation.

26 (1) The Department shall conduct an investigation

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

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

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

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

1 without good cause shall result in dismissal or default.

2 The term "good cause" shall be defined by rule promulgated

3 by the Department. A notice of dismissal or default shall

4 be issued by the Director. The notice of default issued by

5 the Director shall notify the respondent that a request

6 for review may be filed in writing with the Commission

7 within 30 days of receipt of notice of default. The notice

8 of dismissal issued by the Director shall give the

9 complainant notice of the complainant's right to seek

10 review of the dismissal before the Human Rights Commission

11 or commence a civil action in the appropriate circuit

12 court. If the complainant chooses to have the Human Rights

13 Commission review the dismissal order, the complainant

14 shall file a request for review with the Commission within

15 90 days after receipt of the Director's notice. If the

16 complainant chooses to file a request for review with the

17 Commission, the complainant may not later commence a civil

18 action in a circuit court. If the complainant chooses to

19 commence a civil action in a circuit court, the

20 complainant must do so within 90 days after receipt of the

21 Director's notice.

22 (C-1) Opt out of Department's investigation. At any time

23 within 60 days after receipt of notice of the right to opt out,

24 a complainant may submit a written request seeking notice from

25 the Director indicating that the complainant has opted out of

26 the investigation and may commence a civil action in the

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

22 (D) Report.

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

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

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

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

1 circuit court. If the complainant chooses to commence a
2 civil action in a circuit court, the complainant must do
3 so within 90 days after receipt of the Director's notice.
4 The complainant shall notify the Department that a
5 complaint has been filed by serving a copy of the
6 complaint on the chief legal counsel of the Department
7 within 21 days from the date that the complaint is filed in
8 circuit court. This 21-day period for service on the chief
9 legal counsel shall not be construed to be jurisdictional.

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

1 complainant fails to timely request that the Department
2 file the complaint, the complainant may file the
3 complainant's complaint with the Commission or commence a
4 civil action in the appropriate circuit court. If the
5 complainant files a complaint with the Human Rights
6 Commission, the complainant shall notify the Department
7 that a complaint has been filed by serving a copy of the
8 complaint on the chief legal counsel of the Department
9 within 21 days from the date that the complaint is filed
10 with the Human Rights Commission. This 21-day period for
11 service on the chief legal counsel shall not be construed
12 to be jurisdictional.

13 (E) Conciliation.

14 (1) When there is a finding of substantial evidence,
15 the Department may designate a Department employee who is
16 an attorney licensed to practice in Illinois to endeavor
17 to eliminate the effect of the alleged civil rights
18 violation and to prevent its repetition by means of
19 conference and conciliation.

20 (2) When the Department determines that a formal
21 conciliation conference is necessary, the complainant and
22 respondent shall be notified of the time and place of the
23 conference by registered or certified mail at least 10
24 days prior thereto and either or both parties shall appear
25 at the conference in person or by attorney.

26 (3) The place fixed for the conference shall be within

1 35 miles of the place where the civil rights violation is
2 alleged to have been committed.

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

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

9 (F) Complaint.

10 (1) When the complainant requests that the Department
11 file a complaint with the Commission on the complainant's
12 behalf, the Department shall prepare a written complaint,
13 under oath or affirmation, stating the nature of the civil
14 rights violation substantially as alleged in the charge
15 previously filed and the relief sought on behalf of the
16 aggrieved party. The Department shall file the complaint
17 with the Commission.

18 (1.5) If the complainant chooses to file a complaint
19 with the Commission without the Department's assistance,
20 the complainant shall notify the Department that a
21 complaint has been filed by serving a copy of the
22 complaint on the chief legal counsel of the Department
23 within 21 days from the date that the complaint is filed
24 with the Human Rights Commission. This 21-day period for
25 service on the chief legal counsel shall not be construed
26 to be jurisdictional.

1 (2) If the complainant chooses to commence a civil
2 action in a circuit court:

3 (i) The complainant shall file the civil action in
4 the circuit court in the county wherein the civil
5 rights violation was allegedly committed.

6 (ii) The form of the complaint in any such civil
7 action shall be in accordance with the Code of Civil
8 Procedure.

9 (iii) The complainant shall notify the Department
10 that a complaint has been filed by serving a copy of
11 the complaint on the chief legal counsel of the
12 Department within 21 days from date that the complaint
13 is filed in circuit court. This 21-day period for
14 service on the chief legal counsel shall not be
15 construed to be jurisdictional.

16 (G) Time Limit.

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

23 (2) If the Department has not issued its report within
24 365 days after the charge is filed, or any such longer
25 period agreed to in writing by all the parties, the
26 complainant shall have 90 days to either file the

1 complainant's own complaint with the Human Rights
2 Commission or commence a civil action in the appropriate
3 circuit court. If the complainant files a complaint with
4 the Commission, the form of the complaint shall be in
5 accordance with the provisions of paragraph (F)(1). If the
6 complainant commences a civil action in a circuit court,
7 the form of the complaint shall be in accordance with the
8 Code of Civil Procedure. The aggrieved party shall notify
9 the Department that a complaint has been filed by serving
10 a copy of the complaint on the chief legal counsel of the
11 Department with 21 days from the date that the complaint
12 is filed with the Commission or in circuit court. This
13 21-day period for service on the chief legal counsel shall
14 not be construed to be jurisdictional. If the complainant
15 files a complaint with the Commission, the complainant may
16 not later commence a civil action in circuit court.

17 (3) If an aggrieved party files a complaint with the
18 Human Rights Commission or commences a civil action in
19 circuit court pursuant to paragraph (2) of this
20 subsection, or if the time period for filing a complaint
21 has expired, the Department shall immediately cease its
22 investigation and dismiss the charge of civil rights
23 violation. Any final order entered by the Commission under
24 this Section is appealable in accordance with paragraph
25 (B)(1) of Section 8-111. Failure to immediately cease an
26 investigation and dismiss the charge of civil rights

1 violation as provided in this paragraph (3) constitutes
2 grounds for entry of an order by the circuit court
3 permanently enjoining the investigation. The Department
4 may also be liable for any costs and other damages
5 incurred by the respondent as a result of the action of the
6 Department.

7 (4) (Blank).

8 (H) Public Act 89-370 applies to causes of action filed on
9 or after January 1, 1996.

10 (I) Public Act 89-520 applies to causes of action filed on
11 or after January 1, 1996.

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

15 (K) The changes made to this Section by Public Act 96-876
16 apply to charges filed on or after the effective date of those
17 changes.

18 (L) The changes made to this Section by Public Act
19 100-1066 apply to charges filed on or after August 24, 2018
20 (the effective date of Public Act 100-1066).

21 (Source: P.A. 102-558, eff. 8-20-21; 103-335, eff. 1-1-24.)