

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 7A-102 and 7B-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 180 days after the date that a civil rights  
10 violation allegedly has been committed, a charge in writing  
11 under oath or affirmation may be filed with the Department  
12 by an aggrieved party or issued by the Department itself  
13 under the signature of the Director.

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

18 (B) Notice, and Response, and Review of Charge. The  
19 Department shall, within 10 days of the date on which the  
20 charge was filed, serve a copy of the charge on the respondent.  
21 This period shall not be construed to be jurisdictional. The  
22 charging party and the respondent may each file a position  
23 statement and other materials with the Department regarding the  
24 charge of alleged discrimination within 60 days of receipt of  
25 the notice of the charge. The position statements and other  
26 materials filed shall remain confidential unless otherwise  
27 agreed to by the party providing the information and shall not  
28 be served on or made available to the other party during  
29 pendency of a charge with the Department. The Department shall  
30 require the respondent to file a verified response to the  
31 allegations contained in the charge within 60 days of receipt  
32 of the notice of the charge. The respondent shall serve a copy

1 of its response on the complainant or his representative. All  
2 allegations contained in the charge not timely denied by the  
3 respondent shall be deemed admitted, unless the respondent  
4 states that it is without sufficient information to form a  
5 belief with respect to such allegation. The Department may  
6 ~~shall~~ issue a notice of default directed to any respondent who  
7 fails to file a verified response to a charge within 60 days of  
8 receipt of the notice of the charge, unless the respondent can  
9 demonstrate good cause as to why such notice should not issue.  
10 The term "good cause" shall be defined by rule promulgated by  
11 the Department. Within 30 days of receipt of the respondent's  
12 response, the complainant may file a reply to said response and  
13 shall serve a copy of said reply on the respondent or his  
14 representative. A party shall have the right to supplement his  
15 response or reply at any time that the investigation of the  
16 charge is pending. The Department shall, within 10 days of the  
17 date on which the charge was filed, and again no later than 335  
18 days thereafter, send by certified or registered mail written  
19 notice to the complainant and to the respondent informing the  
20 complainant of the right to file a complaint with the Human  
21 Rights Commission under subparagraph (2) of paragraph (G),  
22 including in such notice the dates within which the complainant  
23 may exercise this right. In the notice the Department shall  
24 notify the complainant that the charge of civil rights  
25 violation will be dismissed with prejudice and with no right to  
26 further proceed if a written complaint is not timely filed with  
27 the Commission by the complainant pursuant to subparagraph (2)  
28 of paragraph (G) or by the Department pursuant to subparagraph  
29 (1) of paragraph (G).

30 (B-1) Mediation. The complainant and respondent may agree  
31 to voluntarily submit the charge to mediation without waiving  
32 any rights that are otherwise available to either party  
33 pursuant to this Act and without incurring any obligation to  
34 accept the result of the mediation process. Nothing occurring  
35 in mediation shall be disclosed by the Department or admissible  
36 in evidence in any subsequent proceeding unless the complainant

1 and the respondent agree in writing that such disclosure be  
2 made.

3 (C) Investigation.

4 (1) After the respondent has been notified, the  
5 Department shall conduct a full investigation of the  
6 allegations set forth in the charge.

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

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

20 (4) Upon reasonable notice to the complainant and the  
21 respondent, the Department shall conduct a fact finding  
22 conference prior to 365 days after the date on which the  
23 charge was filed, unless the Director has determined  
24 whether there is substantial evidence that the alleged  
25 civil rights violation has been committed or the charge has  
26 been dismissed for lack of jurisdiction. If the parties  
27 agree in writing, the fact finding conference may be held  
28 at a time after the 365 day limit. Any party's failure to  
29 attend the conference without good cause shall result in  
30 dismissal or default. The term "good cause" shall be  
31 defined by rule promulgated by the Department. A notice of  
32 dismissal or default shall be issued by the Director and  
33 shall notify the relevant party that a request for review  
34 may be filed in writing with the Chief Legal Counsel of the  
35 Department within 30 days of receipt of notice of dismissal  
36 or default.

1 (D) Report.

2 (1) Each charge shall be the subject of a report to the  
3 Director. The report shall be a confidential document  
4 subject to review by the Director, authorized Department  
5 employees, the parties, and, where indicated by this Act,  
6 members of the Commission or their designated hearing  
7 officers.

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

21 (a) If the Director determines that there is no  
22 substantial evidence, the charge shall be dismissed by  
23 order of the Director and the complainant notified that  
24 he or she may seek review of the dismissal order before  
25 the Chief Legal Counsel of the Department. The  
26 complainant shall have 30 days from receipt of notice  
27 to file a request for review by the Chief Legal Counsel  
28 of the Department.

29 (b) If the Director determines that there is  
30 substantial evidence, he or she shall designate a  
31 Department employee who is an attorney licensed to  
32 practice in Illinois to endeavor to eliminate the  
33 effect of the alleged civil rights violation and to  
34 prevent its repetition by means of conference and  
35 conciliation.

36 (E) Conciliation.

1           (1) When the Department determines that a formal  
2 conciliation conference is necessary, the complainant and  
3 respondent shall be notified of the time and place of the  
4 conference by registered or certified mail at least 10 days  
5 prior thereto and either or both parties shall appear at  
6 the conference in person or by attorney.

7           (2) The place fixed for the conference shall be within  
8 35 miles of the place where the civil rights violation is  
9 alleged to have been committed.

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

13 (F) Complaint.

14          (1) When there is a failure to settle or adjust any  
15 charge through conciliation, the Department shall prepare  
16 a written complaint, under oath or affirmation, stating the  
17 nature of the civil rights violation substantially as  
18 alleged in the charge previously filed and the relief  
19 sought on behalf of the aggrieved party.

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

21 (G) Time Limit.

22          (1) When a charge of a civil rights violation has been  
23 properly filed, the Department, within 365 days thereof or  
24 within any extension of that period agreed to in writing by  
25 all parties, shall either issue and file a complaint in the  
26 manner and form set forth in this Section or shall order  
27 that no complaint be issued and dismiss the charge with  
28 prejudice without any further right to proceed except in  
29 cases in which the order was procured by fraud or duress.  
30 Any such order shall be duly served upon both the  
31 complainant and the respondent.

32          (2) Between 365 and 395 days after the charge is filed,  
33 or such longer period agreed to in writing by all parties,  
34 the aggrieved party may file a complaint with the  
35 Commission, if the Director has not sooner issued a report  
36 and determination pursuant to paragraphs (D) (1) and (D) (2)

1 of this Section. The form of the complaint shall be in  
2 accordance with the provisions of paragraph (F). The  
3 aggrieved party shall notify the Department that a  
4 complaint has been filed and shall serve a copy of the  
5 complaint on the Department on the same date that the  
6 complaint is filed with the Commission.

7 (3) If an aggrieved party files a complaint with the  
8 Human Rights Commission pursuant to paragraph (2) of this  
9 subsection, or if the time period for filing a complaint  
10 has expired, the Department shall immediately cease its  
11 investigation and dismiss the charge of civil rights  
12 violation. Any final order entered by the Chief Legal  
13 Counsel under this Section is appealable in accordance with  
14 paragraph (A)(1) of Section 8-111. Failure to immediately  
15 cease an investigation and dismiss the charge of civil  
16 rights violation as provided in this paragraph (3)  
17 constitutes grounds for entry of an order by the circuit  
18 court permanently enjoining the investigation. The  
19 Department may also be liable for any costs and other  
20 damages incurred by the respondent as a result of the  
21 action of the Department.

22 (4) The Department shall stay any administrative  
23 proceedings under this Section after the filing of a civil  
24 action by or on behalf of the aggrieved party under any  
25 federal or State law seeking relief with respect to the  
26 alleged civil rights violation.

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

29 (I) This amendatory Act of 1996 applies to causes of action  
30 filed on or after January 1, 1996.

31 (Source: P.A. 89-370, eff. 8-18-95; 89-520, eff. 7-18-96.)

32 (775 ILCS 5/7B-102) (from Ch. 68, par. 7B-102)

33 Sec. 7B-102. Procedures.

34 (A) Charge.

35 (1) Within one year after the date that a civil rights

1 violation allegedly has been committed or terminated, a  
2 charge in writing under oath or affirmation may be filed  
3 with the Department by an aggrieved party or issued by the  
4 Department itself under the signature of the Director.

5 (2) The charge shall be in such detail as to  
6 substantially apprise any party properly concerned as to  
7 the time, place, and facts surrounding the alleged civil  
8 rights violation.

9 (B) Notice and Response to Charge.

10 (1) The Department shall serve notice upon the  
11 aggrieved party acknowledging such charge and advising the  
12 aggrieved party of the time limits and choice of forums  
13 provided under this Act. The Department shall, within 10  
14 days of the date on which the charge was filed or the  
15 identification of an additional respondent under paragraph  
16 (2) of this subsection, serve on the respondent a copy of  
17 the charge along with a notice identifying the alleged  
18 civil rights violation and advising the respondent of the  
19 procedural rights and obligations of respondents under  
20 this Act and shall require the respondent to file a  
21 verified response to the allegations contained in the  
22 charge within 30 days. The respondent shall serve a copy of  
23 its response on the complainant or his representative. All  
24 allegations contained in the charge not timely denied by  
25 the respondent shall be deemed admitted, unless the  
26 respondent states that it is without sufficient  
27 information to form a belief with respect to such  
28 allegation. The Department may ~~shall~~ issue a notice of  
29 default directed to any respondent who fails to file a  
30 verified response to a charge within 30 days of the date on  
31 which the charge was filed, unless the respondent can  
32 demonstrate good cause as to why such notice should not  
33 issue. The term "good cause" shall be defined by rule  
34 promulgated by the Department. Within 10 days of the date  
35 he receives the respondent's response, the complainant may  
36 file his reply to said response. If he chooses to file a

1 reply, the complainant shall serve a copy of said reply on  
2 the respondent or his representative. A party shall have  
3 the right to supplement his response or reply at any time  
4 that the investigation of the charge is pending.

5 (2) A person who is not named as a respondent in a  
6 charge, but who is identified as a respondent in the course  
7 of investigation, may be joined as an additional or  
8 substitute respondent upon written notice, under  
9 subsection (B), to such person, from the Department. Such  
10 notice, in addition to meeting the requirements of  
11 subsections (A) and (B), shall explain the basis for the  
12 Department's belief that a person to whom the notice is  
13 addressed is properly joined as a respondent.

14 (C) Investigation.

15 (1) The Department shall conduct a full investigation  
16 of the allegations set forth in the charge and complete  
17 such investigation within 100 days after the filing of the  
18 charge, unless it is impracticable to do so.

19 (2) If the Department is unable to complete the  
20 investigation within 100 days after the charge is filed,  
21 the Department shall notify the complainant and respondent  
22 in writing of the reasons for not doing so.

23 (3) The Director or his or her designated  
24 representative shall have authority to request any member  
25 of the Commission to issue subpoenas to compel the  
26 attendance of a witness or the production for examination  
27 of any books, records or documents whatsoever.

28 (4) If any witness whose testimony is required for any  
29 investigation resides outside the State, or through  
30 illness or any other good cause as determined by the  
31 Director is unable to be interviewed by the investigator or  
32 appear at a fact finding conference, his or her testimony  
33 or deposition may be taken, within or without the State, in  
34 the same manner as provided for in the taking of  
35 depositions in civil cases in circuit courts.

36 (5) Upon reasonable notice to the complainant and the



1       respondent, the Department shall conduct a fact finding  
2       conference, unless prior to 100 days from the date on which  
3       the charge was filed, the Director has determined whether  
4       there is substantial evidence that the alleged civil rights  
5       violation has been committed. A party's failure to attend  
6       the conference without good cause may result in dismissal  
7       or default. A notice of dismissal or default shall be  
8       issued by the Director and shall notify the relevant party  
9       that a request for review may be filed in writing with the  
10      Chief Legal Counsel of the Department within 30 days of  
11      receipt of notice of dismissal or default.

12      (D) Report.

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

19           The report shall contain:

20           (a) the names and dates of contacts with 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

27           (e) answers to questionnaires.

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

30           (2) Upon review of the report and within 100 days of  
31      the filing of the charge, unless it is impracticable to do  
32      so, the Director shall determine whether there is  
33      substantial evidence that the alleged civil rights  
34      violation has been committed or is about to be committed.  
35      If the Director is unable to make the determination within  
36      100 days after the filing of the charge, the Director shall

1 notify the complainant and respondent in writing of the  
2 reasons for not doing so.

3 (a) If the Director determines that there is no  
4 substantial evidence, the charge shall be dismissed  
5 and the aggrieved party notified that he or she may  
6 seek review of the dismissal order before the  
7 Commission. The aggrieved party shall have 30 days from  
8 receipt of notice to file a request for review by the  
9 Chief Legal Counsel of the Department. The Director  
10 shall make public disclosure of each such dismissal.

11 (b) If the Director determines that there is  
12 substantial evidence, he or she shall immediately  
13 issue a complaint on behalf of the aggrieved party  
14 pursuant to subsection (F).

15 (E) Conciliation.

16 (1) During the period beginning with the filing of  
17 charge and ending with the filing of a complaint or a  
18 dismissal by the Department, the Department shall, to the  
19 extent feasible, engage in conciliation with respect to  
20 such charge.

21 When the Department determines that a formal  
22 conciliation conference is feasible, the aggrieved party  
23 and respondent shall be notified of the time and place of  
24 the conference by registered or certified mail at least 7  
25 days prior thereto and either or both parties shall appear  
26 at the conference in person or by attorney.

27 (2) The place fixed for the conference shall be within  
28 35 miles of the place where the civil rights violation is  
29 alleged to have been committed.

30 (3) Nothing occurring at the conference shall be made  
31 public or used as evidence in a subsequent proceeding for  
32 the purpose of proving a violation under this Act unless  
33 the complainant and respondent agree in writing that such  
34 disclosure be made.

35 (4) A conciliation agreement arising out of such  
36 conciliation shall be an agreement between the respondent

1 and the complainant, and shall be subject to approval by  
2 the Department and Commission.

3 (5) A conciliation agreement may provide for binding  
4 arbitration of the dispute arising from the charge. Any  
5 such arbitration that results from a conciliation  
6 agreement may award appropriate relief, including monetary  
7 relief.

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

12 (F) Complaint.

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

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

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

28 (G) Time Limit.

29 (1) When a charge of a civil rights violation has been  
30 properly filed, the Department, within 100 days thereof,  
31 unless it is impracticable to do so, shall either issue and  
32 file a complaint in the manner and form set forth in this  
33 Section or shall order that no complaint be issued. Any  
34 such order shall be duly served upon both the aggrieved  
35 party and the respondent.

36 (2) The Director shall make available to the aggrieved

1 party and the respondent, at any time, upon request  
2 following completion of the Department's investigation,  
3 information derived from an investigation and any final  
4 investigative report relating to that investigation.

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

7 (Source: P.A. 89-370, eff. 8-18-95.)

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