



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4828

Introduced 1/18/2006, by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

775 ILCS 5/7A-102

from Ch. 68, par. 7A-102

Amends the Illinois Human Rights Act. Provides that: a charge filed with the Equal Employment Opportunity Commission within 180 days after the date of the alleged civil rights violation shall be deemed filed with the Department of Human Rights; upon receipt of a charge filed with the EEOC, the Department shall notify the complainant that the complainant may proceed with the Department and the complainant must notify the Department of his or her decision in writing within 35 days of receipt of the Department's notice and the Department shall close the case if the complainant does not do so; if the complainant proceeds with the Department, the Department shall take no action until the EEOC makes a determination on the charge; the Department shall cause the charge to be filed upon receipt of the EEOC's determination; at the Department's discretion, the Department shall either adopt the EEOC's determination or process the charge under the Act; and adoption of the EEOC's determination shall be deemed a determination by the Department. Effective immediately.

LRB094 16491 WGH 51751 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 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 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 (A-1) Equal Employment Opportunity Commission Charges. A
19 charge filed with the Equal Employment Opportunity Commission
20 within 180 days after the date of the alleged civil rights
21 violation shall be deemed filed with the Department on the date
22 filed with the Equal Employment Opportunity Commission. Upon
23 receipt of a charge filed with the Equal Employment Opportunity
24 Commission, the Department shall notify the complainant that he
25 or she may proceed with the Department. The complainant must
26 notify the Department of his or her decision in writing within
27 35 days of receipt of the Department's notice to the
28 complainant and the Department shall close the case if the
29 complainant does not do so. If the complainant proceeds with
30 the Department, the Department shall take no action until the
31 Equal Employment Opportunity Commission makes a determination
32 on the charge. Upon receipt of the Equal Employment Opportunity

1 Commission's determination, the Department shall cause the
2 charge to be filed under oath or affirmation and to be in such
3 detail as provided for under subparagraph (2) of paragraph (A).
4 At the Department's discretion, the Department shall either
5 adopt the Equal Employment Opportunity Commission's
6 determination or process the charge pursuant to this Act.
7 Adoption of the Equal Employment Opportunity Commission's
8 determination shall be deemed a determination by the Department
9 for all purposes under this Act.

10 (B) Notice, and Response, and Review of Charge. The
11 Department shall, within 10 days of the date on which the
12 charge was filed, serve a copy of the charge on the respondent.
13 This period shall not be construed to be jurisdictional. The
14 charging party and the respondent may each file a position
15 statement and other materials with the Department regarding the
16 charge of alleged discrimination within 60 days of receipt of
17 the notice of the charge. The position statements and other
18 materials filed shall remain confidential unless otherwise
19 agreed to by the party providing the information and shall not
20 be served on or made available to the other party during
21 pendency of a charge with the Department. The Department shall
22 require the respondent to file a verified response to the
23 allegations contained in the charge within 60 days of receipt
24 of the notice of the charge. The respondent shall serve a copy
25 of its response on the complainant or his representative. All
26 allegations contained in the charge not timely denied by the
27 respondent shall be deemed admitted, unless the respondent
28 states that it is without sufficient information to form a
29 belief with respect to such allegation. The Department may
30 issue a notice of default directed to any respondent who fails
31 to file a verified response to a charge within 60 days of
32 receipt of the notice of the charge, unless the respondent can
33 demonstrate good cause as to why such notice should not issue.
34 The term "good cause" shall be defined by rule promulgated by
35 the Department. Within 30 days of receipt of the respondent's
36 response, the complainant may file a reply to said response and

1 shall serve a copy of said reply on the respondent or his
2 representative. A party shall have the right to supplement his
3 response or reply at any time that the investigation of the
4 charge is pending. The Department shall, within 10 days of the
5 date on which the charge was filed, and again no later than 335
6 days thereafter, send by certified or registered mail written
7 notice to the complainant and to the respondent informing the
8 complainant of the right to file a complaint with the Human
9 Rights Commission under subparagraph (2) of paragraph (G),
10 including in such notice the dates within which the complainant
11 may exercise this right. In the notice the Department shall
12 notify the complainant that the charge of civil rights
13 violation will be dismissed with prejudice and with no right to
14 further proceed if a written complaint is not timely filed with
15 the Commission by the complainant pursuant to subparagraph (2)
16 of paragraph (G) or by the Department pursuant to subparagraph
17 (1) of paragraph (G).

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

27 (C) Investigation.

28 (1) After the respondent has been notified, the
29 Department shall conduct a full investigation of the
30 allegations set forth in the charge.

31 (2) The Director or his or her designated
32 representatives shall have authority to request any member
33 of the Commission to issue subpoenas to compel the
34 attendance of a witness or the production for examination
35 of any books, records or documents whatsoever.

36 (3) If any witness whose testimony is required for any

1 investigation resides outside the State, or through
2 illness or any other good cause as determined by the
3 Director is unable to be interviewed by the investigator or
4 appear at a fact finding conference, his or her testimony
5 or deposition may be taken, within or without the State, in
6 the same manner as is provided for in the taking of
7 depositions in civil cases in circuit courts.

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

25 (D) Report.

26 (1) Each charge shall be the subject of a report to the
27 Director. The report shall be a confidential document
28 subject to review by the Director, authorized Department
29 employees, the parties, and, where indicated by this Act,
30 members of the Commission or their designated hearing
31 officers.

32 (2) Upon review of the report, the Director shall
33 determine whether there is substantial evidence that the
34 alleged civil rights violation has been committed. The
35 determination of substantial evidence is limited to
36 determining the need for further consideration of the

1 charge pursuant to this Act and includes, but is not
2 limited to, findings of fact and conclusions, as well as
3 the reasons for the determinations on all material issues.
4 Substantial evidence is evidence which a reasonable mind
5 accepts as sufficient to support a particular conclusion
6 and which consists of more than a mere scintilla but may be
7 somewhat less than a preponderance.

8 (a) If the Director determines that there is no
9 substantial evidence, the charge shall be dismissed by
10 order of the Director and the complainant notified that
11 he or she may seek review of the dismissal order before
12 the Chief Legal Counsel of the Department. The
13 complainant shall have 30 days from receipt of notice
14 to file a request for review by the Chief Legal Counsel
15 of the Department.

16 (b) If the Director determines that there is
17 substantial evidence, he or she shall designate a
18 Department employee who is an attorney licensed to
19 practice in Illinois to endeavor to eliminate the
20 effect of the alleged civil rights violation and to
21 prevent its repetition by means of conference and
22 conciliation.

23 (E) Conciliation.

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

30 (2) The place fixed for the conference shall be within
31 35 miles of the place where the civil rights violation is
32 alleged to have been committed.

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

36 (F) Complaint.

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

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

8 (G) Time Limit.

9 (1) When a charge of a civil rights violation has been
10 properly filed, the Department, within 365 days thereof or
11 within any extension of that period agreed to in writing by
12 all parties, shall either issue and file a complaint in the
13 manner and form set forth in this Section or shall order
14 that no complaint be issued and dismiss the charge with
15 prejudice without any further right to proceed except in
16 cases in which the order was procured by fraud or duress.
17 Any such order shall be duly served upon both the
18 complainant and the respondent.

19 (2) Between 365 and 395 days after the charge is filed,
20 or such longer period agreed to in writing by all parties,
21 the aggrieved party may file a complaint with the
22 Commission, if the Director has not sooner issued a report
23 and determination pursuant to paragraphs (D) (1) and (D) (2)
24 of this Section. The form of the complaint shall be in
25 accordance with the provisions of paragraph (F). The
26 aggrieved party shall notify the Department that a
27 complaint has been filed and shall serve a copy of the
28 complaint on the Department on the same date that the
29 complaint is filed with the Commission.

30 (3) If an aggrieved party files a complaint with the
31 Human Rights Commission pursuant to paragraph (2) of this
32 subsection, or if the time period for filing a complaint
33 has expired, the Department shall immediately cease its
34 investigation and dismiss the charge of civil rights
35 violation. Any final order entered by the Chief Legal
36 Counsel under this Section is appealable in accordance with

1 paragraph (A) (1) of Section 8-111. Failure to immediately
2 cease an investigation and dismiss the charge of civil
3 rights violation as provided in this paragraph (3)
4 constitutes grounds for entry of an order by the circuit
5 court permanently enjoining the investigation. The
6 Department may also be liable for any costs and other
7 damages incurred by the respondent as a result of the
8 action of the Department.

9 (4) The Department shall stay any administrative
10 proceedings under this Section after the filing of a civil
11 action by or on behalf of the aggrieved party under any
12 federal or State law seeking relief with respect to the
13 alleged civil rights violation.

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

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

18 (Source: P.A. 94-146, eff. 7-8-05; 94-326, eff. 7-26-05;
19 revised 8-19-05.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.