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09400HB4829ham001

LRB094 16490 WGH 55823 a

1 AMENDMENT TO HOUSE BILL 4829

2 AMENDMENT NO. _____. Amend House Bill 4829 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Human Rights Act is amended by
5 changing Section 7B-102 as follows:

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

7 Sec. 7B-102. Procedures.

8 (A) Charge.

9 (1) Within one year after the date that a civil rights
10 violation allegedly has been committed or terminated, 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.

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 to Charge.

19 (1) The Department shall serve notice upon the
20 aggrieved party acknowledging such charge and advising the
21 aggrieved party of the time limits and choice of forums
22 provided under this Act. The Department shall, within 10
23 days of the date on which the charge was filed or the
24 identification of an additional respondent under paragraph

1 (2) of this subsection, serve on the respondent a copy of
2 the charge along with a notice identifying the alleged
3 civil rights violation and advising the respondent of the
4 procedural rights and obligations of respondents under
5 this Act and shall require the respondent to file a
6 verified response to the allegations contained in the
7 charge within 30 days. The respondent shall serve a copy of
8 its response on the complainant or his representative. All
9 allegations contained in the charge not timely denied by
10 the respondent shall be deemed admitted, unless the
11 respondent states that it is without sufficient
12 information to form a belief with respect to such
13 allegation. The Department may issue a notice of default
14 directed to any respondent who fails to file a verified
15 response to a charge within 30 days of the date on which
16 the charge was filed, unless the respondent can demonstrate
17 good cause as to why such notice should not issue. The term
18 "good cause" shall be defined by rule promulgated by the
19 Department. Within 10 days of the date he receives the
20 respondent's response, the complainant may file his reply
21 to said response. If he chooses to file a reply, the
22 complainant shall serve a copy of said reply on the
23 respondent or his representative. A party shall have the
24 right to supplement his response or reply at any time that
25 the investigation of the charge is pending.

26 (2) A person who is not named as a respondent in a
27 charge, but who is identified as a respondent in the course
28 of investigation, may be joined as an additional or
29 substitute respondent upon written notice, under
30 subsection (B), to such person, from the Department. Such
31 notice, in addition to meeting the requirements of
32 subsections (A) and (B), shall explain the basis for the
33 Department's belief that a person to whom the notice is
34 addressed is properly joined as a respondent.

1 (C) Investigation.

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

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

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

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

26 (5) Upon reasonable notice to the complainant and the
27 respondent, the Department shall conduct a fact finding
28 conference, unless prior to 100 days from the date on which
29 the charge was filed, the Director has determined whether
30 there is substantial evidence that the alleged civil rights
31 violation has been committed. A party's failure to attend
32 the conference without good cause may result in dismissal
33 or default. A notice of dismissal or default shall be
34 issued by the Director and shall notify the relevant party

1 that a request for review may be filed in writing with the
2 Chief Legal Counsel of the Department within 30 days of
3 receipt of notice of dismissal or default.

4 (D) Report.

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

11 The report shall contain:

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

13 (b) a summary and the date of correspondence and
14 other contacts with the aggrieved party and the
15 respondent;

16 (c) a summary description of other pertinent
17 records;

18 (d) a summary of witness statements; and

19 (e) answers to questionnaires.

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

22 (2) Upon review of the report and within 100 days of
23 the filing of the charge, unless it is impracticable to do
24 so, the Director shall determine whether there is
25 substantial evidence that the alleged civil rights
26 violation has been committed or is about to be committed.
27 If the Director is unable to make the determination within
28 100 days after the filing of the charge, the Director shall
29 notify the complainant and respondent in writing of the
30 reasons for not doing so. The Director's failure to make
31 the determination within 100 days after the proper filing
32 of the charge does not deprive the Department of
33 jurisdiction over the charge.

34 (a) If the Director determines that there is no

1 substantial evidence, the charge shall be dismissed
2 and the aggrieved party notified that he or she may
3 seek review of the dismissal order before the
4 Commission. The aggrieved party shall have 30 days from
5 receipt of notice to file a request for review by the
6 Chief Legal Counsel of the Department. The Director
7 shall make public disclosure of each such dismissal.

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

12 (E) Conciliation.

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

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

24 (2) The place fixed for the conference shall be within
25 35 miles of the place where the civil rights violation is
26 alleged to have been committed.

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

32 (4) A conciliation agreement arising out of such
33 conciliation shall be an agreement between the respondent
34 and the complainant, and shall be subject to approval by

1 the Department and Commission.

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

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

11 (F) Complaint.

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

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

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

27 (G) Time Limit.

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

1 either issue and file a complaint or order that no
2 complaint be issued within 100 days after the proper filing
3 of the charge does not deprive the Department of
4 jurisdiction over the charge.

5 (2) The Director shall make available to the aggrieved
6 party and the respondent, at any time, upon request
7 following completion of the Department's investigation,
8 information derived from an investigation and any final
9 investigative report relating to that investigation.

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

12 (Source: P.A. 94-326, eff. 7-26-05.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law."