



Sen. Iris Y. Martinez

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LRB094 16490 WGH 57308 a

1 AMENDMENT TO HOUSE BILL 4829

2 AMENDMENT NO. _____. Amend House Bill 4829 on page 1, by
3 replacing line 5 with the following:

4 "changing Sections 7A-102 and 7B-102 as follows:

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

6 Sec. 7A-102. Procedures.

7 (A) Charge.

8 (1) Within 180 days after the date that a civil rights
9 violation allegedly has been committed, a charge in writing
10 under oath or affirmation may be filed with the Department
11 by an aggrieved party or issued by the Department itself
12 under the signature of the Director.

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

17 (A-1) Equal Employment Opportunity Commission Charges. A
18 charge filed with the Equal Employment Opportunity Commission
19 within 180 days after the date of the alleged civil rights
20 violation shall be deemed filed with the Department on the date
21 filed with the Equal Employment Opportunity Commission. Upon
22 receipt of a charge filed with the Equal Employment Opportunity
23 Commission, the Department shall notify the complainant that he
24 or she may proceed with the Department. The complainant must
25 notify the Department of his or her decision in writing within

1 35 days of receipt of the Department's notice to the
2 complainant and the Department shall close the case if the
3 complainant does not do so. If the complainant proceeds with
4 the Department, the Department shall take no action until the
5 Equal Employment Opportunity Commission makes a determination
6 on the charge. Upon receipt of the Equal Employment Opportunity
7 Commission's determination, the Department shall cause the
8 charge to be filed under oath or affirmation and to be in such
9 detail as provided for under subparagraph (2) of paragraph (A).
10 At the Department's discretion, the Department shall either
11 adopt the Equal Employment Opportunity Commission's
12 determination or process the charge pursuant to this Act.
13 Adoption of the Equal Employment Opportunity Commission's
14 determination shall be deemed a determination by the Department
15 for all purposes under this Act.

16 (B) Notice, and Response, and Review of Charge. The
17 Department shall, within 10 days of the date on which the
18 charge was filed, serve a copy of the charge on the respondent.
19 This period shall not be construed to be jurisdictional. The
20 charging party and the respondent may each file a position
21 statement and other materials with the Department regarding the
22 charge of alleged discrimination within 60 days of receipt of
23 the notice of the charge. The position statements and other
24 materials filed shall remain confidential unless otherwise
25 agreed to by the party providing the information and shall not
26 be served on or made available to the other party during
27 pendency of a charge with the Department. The Department shall
28 require the respondent to file a verified response to the
29 allegations contained in the charge within 60 days of receipt
30 of the notice of the charge. The respondent shall serve a copy
31 of its response on the complainant or his representative. All
32 allegations contained in the charge not timely denied by the
33 respondent shall be deemed admitted, unless the respondent
34 states that it is without sufficient information to form a

1 belief with respect to such allegation. The Department may
2 issue a notice of default directed to any respondent who fails
3 to file a verified response to a charge within 60 days of
4 receipt of the notice of the charge, unless the respondent can
5 demonstrate good cause as to why such notice should not issue.
6 The term "good cause" shall be defined by rule promulgated by
7 the Department. Within 30 days of receipt of the respondent's
8 response, the complainant may file a reply to said response and
9 shall serve a copy of said reply on the respondent or his
10 representative. A party shall have the right to supplement his
11 response or reply at any time that the investigation of the
12 charge is pending. The Department shall, within 10 days of the
13 date on which the charge was filed, and again no later than 335
14 days thereafter, send by certified or registered mail written
15 notice to the complainant and to the respondent informing the
16 complainant of the right to file a complaint with the Human
17 Rights Commission under subparagraph (2) of paragraph (G),
18 including in such notice the dates within which the complainant
19 may exercise this right. In the notice the Department shall
20 notify the complainant that the charge of civil rights
21 violation will be dismissed with prejudice and with no right to
22 further proceed if a written complaint is not timely filed with
23 the Commission by the complainant pursuant to subparagraph (2)
24 of paragraph (G) or by the Department pursuant to subparagraph
25 (1) of paragraph (G).

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

1 (C) Investigation.

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

5 (2) The Director or his or her 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 or
14 appear at a fact finding conference, his or her testimony
15 or deposition may be taken, within or without the State, in
16 the same manner as is provided for in the taking of
17 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 prior to 365 days after the date on which the
21 charge was filed, unless the Director has determined
22 whether there is substantial evidence that the alleged
23 civil rights violation has been committed or the charge has
24 been dismissed for lack of jurisdiction. If the parties
25 agree in writing, the fact finding conference may be held
26 at a time after the 365 day limit. Any party's failure to
27 attend the conference without good cause shall result in
28 dismissal or default. The term "good cause" shall be
29 defined by rule promulgated by the Department. A notice of
30 dismissal or default shall be issued by the Director and
31 shall notify the relevant party that a request for review
32 may be filed in writing with the Chief Legal Counsel of the
33 Department within 30 days of receipt of notice of dismissal
34 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 Substantial evidence is evidence which a reasonable mind
17 accepts as sufficient to support a particular conclusion
18 and which consists of more than a mere scintilla but may be
19 somewhat less than a preponderance.

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

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

1 (E) Conciliation.

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

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

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

14 (F) Complaint.

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

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

22 (G) Time Limit.

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

33 (2) Between 365 and 395 days after the charge is filed,
34 or such longer period agreed to in writing by all parties,

1 the aggrieved party may file a complaint with the
2 Commission, if the Director has not sooner issued a report
3 and determination pursuant to paragraphs (D) (1) and (D) (2)
4 of this Section. The form of the complaint shall be in
5 accordance with the provisions of paragraph (F). The
6 aggrieved party shall notify the Department that a
7 complaint has been filed and shall serve a copy of the
8 complaint on the Department on the same date that the
9 complaint is filed with the Commission.

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

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

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

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

34 (Source: P.A. 94-146, eff. 7-8-05; 94-326, eff. 7-26-05;

1 revised 8-19-05.)".