

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, 7B-102, and 8-103 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

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

19 (B) Notice and Response to Charge. The Department shall,
20 within 10 days of the date on which the charge was filed, serve
21 a copy of the charge on the respondent. This period shall not
22 be construed to be jurisdictional. The charging party and the
23 respondent may each file a position statement and other
24 materials with the Department regarding the charge of alleged
25 discrimination within 60 days of receipt of the notice of the
26 charge. The position statements and other materials filed shall

1 remain confidential unless otherwise agreed to by the party
2 providing the information and shall not be served on or made
3 available to the other party during pendency of a charge with
4 the Department. The Department shall require the respondent to
5 file a verified response to the allegations contained in the
6 charge within 60 days of receipt of the notice of the charge.
7 The respondent shall serve a copy of its response on the
8 complainant or his representative. All allegations contained
9 in the charge not timely denied by the respondent shall be
10 deemed admitted, unless the respondent states that it is
11 without sufficient information to form a belief with respect to
12 such allegation. The Department may issue a notice of default
13 directed to any respondent who fails to file a verified
14 response to a charge within 60 days of receipt of the notice of
15 the charge, unless the respondent can demonstrate good cause as
16 to why such notice should not issue. The term "good cause"
17 shall be defined by rule promulgated by the Department. Within
18 30 days of receipt of the respondent's response, the
19 complainant may file a reply to said response and shall serve a
20 copy of said reply on the respondent or his representative. A
21 party shall have the right to supplement his response or reply
22 at any time that the investigation of the charge is pending.
23 The Department shall, within 10 days of the date on which the
24 charge was filed, and again no later than 335 days thereafter,
25 send by certified or registered mail written notice to the
26 complainant and to the respondent informing the complainant of

1 the complainant's right to either file a complaint with the
2 Human Rights Commission or commence a civil action in the
3 appropriate circuit court under subparagraph (2) of paragraph
4 (G), including in such notice the dates within which the
5 complainant may exercise this right. In the notice the
6 Department shall notify the complainant that the charge of
7 civil rights violation will be dismissed with prejudice and
8 with no right to further proceed if a written complaint is not
9 timely filed with the Commission or with the appropriate
10 circuit court by the complainant pursuant to subparagraph (2)
11 of paragraph (G) or by the Department pursuant to subparagraph
12 (1) of paragraph (G).

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

22 (C) Investigation.

23 (1) After the respondent has been notified, the
24 Department shall conduct a full investigation of the
25 allegations set forth in the charge.

26 (2) The Director or his or her designated

1 representatives shall have authority to request any member
2 of the Commission to issue subpoenas to compel the
3 attendance of a witness or the production for examination
4 of any books, records or documents whatsoever.

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

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

1 respondent and shall notify the relevant party that a
2 request for review may be filed in writing with the
3 Commission within 30 days of receipt of notice of ~~dismissal~~
4 ~~or~~ default. The notice of dismissal issued by the Director
5 shall give the complainant notice of his or her right to
6 seek review of the dismissal before the Human Rights
7 Commission or commence a civil action in the appropriate
8 circuit court. If the complainant chooses to have the Human
9 Rights Commission review the dismissal order, he or she
10 shall file a request for review with the Commission within
11 90 days after receipt of the Director's notice. If the
12 complainant chooses to file a request for review with the
13 Commission, he or she may not later commence a civil action
14 in a circuit court. If the complainant chooses to commence
15 a civil action in a circuit court, he or she must do so
16 within 90 days after receipt of the Director's notice.

17 (D) Report.

18 (1) Each charge shall be the subject of a report to the
19 Director. The report shall be a confidential document
20 subject to review by the Director, authorized Department
21 employees, the parties, and, where indicated by this Act,
22 members of the Commission or their designated hearing
23 officers.

24 (2) Upon review of the report, the Director shall
25 determine whether there is substantial evidence that the
26 alleged civil rights violation has been committed. The

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

10 (3) If the Director determines that there is no
11 substantial evidence, the charge shall be dismissed by
12 order of the Director and the Director shall give the
13 complainant notice of his or her right to seek review of
14 the dismissal order before the Commission or commence a
15 civil action in the appropriate circuit court. If the
16 complainant chooses to have the Human Rights Commission
17 review the dismissal order, he or she shall file a request
18 for review with the Commission within 90 ~~30~~ days after
19 receipt of the Director's notice. If the complainant
20 chooses to file a request for review with the Commission,
21 he or she may not later commence a civil action in a
22 circuit court. If the complainant chooses to commence a
23 civil action in a circuit court, he or she must do so
24 within 90 days after receipt of the Director's notice.

25 (4) If the Director determines that there is
26 substantial evidence, he or she shall notify the

1 complainant and respondent of that determination. The
2 Director shall also notify the parties that the complainant
3 has the right to either commence a civil action in the
4 appropriate circuit court or request that the Department of
5 Human Rights file a complaint with the Human Rights
6 Commission on his or her behalf. Any such complaint shall
7 be filed within 90 days after receipt of the Director's
8 notice. If the complainant chooses to have the Department
9 file a complaint with the Human Rights Commission on his or
10 her behalf, the complainant must, within 30 ~~14~~ days after
11 receipt of the Director's notice, request in writing that
12 the Department file the complaint. If the complainant
13 timely requests that the Department file the complaint, the
14 Department shall file the complaint on his or her behalf.
15 If the complainant fails to timely request that the
16 Department file the complaint, the complainant may file his
17 or her complaint with the Commission or ~~only~~ commence a
18 civil action in the appropriate circuit court. If the
19 complainant files a complaint with the Human Rights
20 Commission, complainant shall give notice to the
21 Department of the filing of the complaint with the Human
22 Rights Commission.

23 (E) Conciliation.

24 (1) When there is a finding of substantial evidence,
25 the Department may designate a Department employee who is
26 an attorney licensed to practice in Illinois to endeavor to

1 eliminate the effect of the alleged civil rights violation
2 and to prevent its repetition by means of conference and
3 conciliation.

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

10 (3) The place fixed for the conference shall be within
11 35 miles of the place where the civil rights violation is
12 alleged to have been committed.

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

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

19 (F) Complaint.

20 (1) When the complainant requests that the Department
21 file a complaint with the Commission on his or her behalf,
22 the Department shall prepare a written complaint, under
23 oath or affirmation, stating the nature of the civil rights
24 violation substantially as alleged in the charge
25 previously filed and the relief sought on behalf of the
26 aggrieved party. The Department shall file the complaint

1 with the Commission.

2 (2) If the complainant chooses to commence a civil
3 action in a circuit court, he or she must do so in the
4 circuit court in the county wherein the civil rights
5 violation was allegedly committed. The form of the
6 complaint in any such civil action shall be in accordance
7 with the Illinois Code of Civil Procedure.

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 issue its report as required by
13 subparagraph (D). Any such report shall be duly served upon
14 both the complainant and the respondent.

15 (2) If the Department has not issued its report within
16 365 days after the charge is filed, or any such longer
17 period agreed to in writing by all the parties, the
18 complainant shall have 90 days to either file his or her
19 own complaint with the Human Rights Commission or commence
20 a civil action in the appropriate circuit court. If the
21 complainant files a complaint with the Commission, the form
22 of the complaint shall be in accordance with the provisions
23 of paragraph (F)(1). If the complainant commences a civil
24 action in a circuit court, the form of the complaint shall
25 be in accordance with the Illinois Code of Civil Procedure.
26 The aggrieved party shall notify the Department that a

1 complaint has been filed and shall serve a copy of the
2 complaint on the Department on the same date that the
3 complaint is filed with the Commission or in circuit court.
4 If the complainant files a complaint with the Commission,
5 he or she may not later commence a civil action in circuit
6 court.

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

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

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

5 (J) The changes made to this Section by Public Act 95-243
6 ~~this amendatory Act of the 95th General Assembly~~ apply to
7 charges filed on or after the effective date of those changes.

8 (K) The changes made to this Section by this amendatory Act
9 of the 95th General Assembly apply to charges filed on or after
10 the effective date of those changes.

11 (Source: P.A. 94-146, eff. 7-8-05; 94-326, eff. 7-26-05;
12 94-857, eff. 6-15-06; 95-243, eff. 1-1-08.)

13 (775 ILCS 5/7B-102) (from Ch. 68, par. 7B-102)
14 Sec. 7B-102. Procedures.

15 (A) Charge.

16 (1) Within one year after the date that a civil rights
17 violation allegedly has been committed or terminated, a
18 charge in writing under oath or affirmation may be filed
19 with the Department by an aggrieved party or issued by the
20 Department itself under the signature of the Director.

21 (2) The charge shall be in such detail as to
22 substantially apprise any party properly concerned as to
23 the time, place, and facts surrounding the alleged civil
24 rights violation.

25 (B) Notice and Response to Charge.

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

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

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

15 (C) Investigation.

16 (1) The Department shall conduct a full investigation
17 of the allegations set forth in the charge and complete
18 such investigation within 100 days after the filing of the
19 charge, unless it is impracticable to do so. The
20 Department's failure to complete the investigation within
21 100 days after the proper filing of the charge does not
22 deprive the Department of jurisdiction over the charge.

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

1 (3) The Director or his or her designated
2 representative shall have authority to request any member
3 of the Commission to issue subpoenas to compel the
4 attendance of a witness or the production for examination
5 of any books, records or documents whatsoever.

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

14 (5) Upon reasonable notice to the complainant and the
15 respondent, the Department shall conduct a fact finding
16 conference, unless prior to 100 days from the date on which
17 the charge was filed, the Director has determined whether
18 there is substantial evidence that the alleged civil rights
19 violation has been committed. A party's failure to attend
20 the conference without good cause may result in dismissal
21 or default. A notice of dismissal or default shall be
22 issued by the Director and shall notify the relevant party
23 that a request for review may be filed in writing with the
24 Commission within 30 days of receipt of notice of dismissal
25 or default.

26 (D) Report.

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

7 The report shall contain:

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

9 (b) a summary and the date of correspondence and
10 other contacts with the aggrieved party and the
11 respondent;

12 (c) a summary description of other pertinent
13 records;

14 (d) a summary of witness statements; and

15 (e) answers to questionnaires.

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

18 (2) Upon review of the report and within 100 days of
19 the filing of the charge, unless it is impracticable to do
20 so, the Director shall determine whether there is
21 substantial evidence that the alleged civil rights
22 violation has been committed or is about to be committed.
23 If the Director is unable to make the determination within
24 100 days after the filing of the charge, the Director shall
25 notify the complainant and respondent in writing of the
26 reasons for not doing so. The Director's failure to make

1 the determination within 100 days after the proper filing
2 of the charge does not deprive the Department of
3 jurisdiction over the charge.

4 (a) If the Director determines that there is no
5 substantial evidence, the charge shall be dismissed
6 and the aggrieved party notified that he or she may
7 seek review of the dismissal order before the
8 Commission. The aggrieved party shall have 90 ~~30~~ days
9 from receipt of notice to file a request for review by
10 the Commission. The Director shall make public
11 disclosure of each such dismissal.

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

16 (E) Conciliation.

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

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

1 at the conference in person or by attorney.

2 (2) The place fixed for the conference shall be within
3 35 miles of the place where the civil rights violation is
4 alleged to have been committed.

5 (3) Nothing occurring at the conference shall be made
6 public or used as evidence in a subsequent proceeding for
7 the purpose of proving a violation under this Act unless
8 the complainant and respondent agree in writing that such
9 disclosure be made.

10 (4) A conciliation agreement arising out of such
11 conciliation shall be an agreement between the respondent
12 and the complainant, and shall be subject to approval by
13 the Department and Commission.

14 (5) A conciliation agreement may provide for binding
15 arbitration of the dispute arising from the charge. Any
16 such arbitration that results from a conciliation
17 agreement may award appropriate relief, including monetary
18 relief.

19 (6) Each conciliation agreement shall be made public
20 unless the complainant and respondent otherwise agree and
21 the Department determines that disclosure is not required
22 to further the purpose of this Act.

23 (F) Complaint.

24 (1) When there is a failure to settle or adjust any
25 charge through a conciliation conference and the charge is
26 not dismissed, the Department shall prepare a written

1 complaint, under oath or affirmation, stating the nature of
2 the civil rights violation and the relief sought on behalf
3 of the aggrieved party. Such complaint shall be based on
4 the final investigation report and need not be limited to
5 the facts or grounds alleged in the charge filed under
6 subsection (A).

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

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

13 (G) Time Limit.

14 (1) When a charge of a civil rights violation has been
15 properly filed, the Department, within 100 days thereof,
16 unless it is impracticable to do so, shall either issue and
17 file a complaint in the manner and form set forth in this
18 Section or shall order that no complaint be issued. Any
19 such order shall be duly served upon both the aggrieved
20 party and the respondent. The Department's failure to
21 either issue and file a complaint or order that no
22 complaint be issued within 100 days after the proper filing
23 of the charge does not deprive the Department of
24 jurisdiction over the charge.

25 (2) The Director shall make available to the aggrieved
26 party and the respondent, at any time, upon request

1 following completion of the Department's investigation,
2 information derived from an investigation and any final
3 investigative report relating to that investigation.

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

6 (I) The changes made to this Section by Public Act 95-243
7 ~~this amendatory Act of the 95th General Assembly~~ apply to
8 charges filed on or after the effective date of those changes.

9 (J) The changes made to this Section by this amendatory Act
10 of the 95th General Assembly apply to charges filed on or after
11 the effective date of those changes.

12 (Source: P.A. 94-326, eff. 7-26-05; 94-857, eff. 6-15-06;
13 95-243, eff. 1-1-08.)

14 (775 ILCS 5/8-103) (from Ch. 68, par. 8-103)

15 Sec. 8-103. Request for Review.

16 (A) Jurisdiction. The Commission, through a panel of three
17 members, shall have jurisdiction to hear and determine requests
18 for review of (1) decisions of the Department to dismiss a
19 charge; and (2) notices of default issued by the Department.

20 In each instance, the Department shall be the respondent.

21 (B) Review. When a request for review is properly filed,
22 the Commission may consider the Department's report, any
23 argument and supplemental evidence timely submitted, and the
24 results of any additional investigation conducted by the
25 Department in response to the request. In its discretion, the

1 Commission may designate a hearing officer to conduct a hearing
2 into the factual basis of the matter at issue.

3 (C) Default Order. When a respondent fails to file a timely
4 request for review of a notice of default, or the default is
5 sustained on review, the Commission shall enter a default order
6 and notify the parties that the complainant has the right to
7 either commence a civil action in the appropriate circuit court
8 to determine the complainant's damages or request that the
9 Commission set a hearing on damages before one of its hearing
10 officers. The complainant shall have 90 days after receipt of
11 the Commission's default order to either commence a civil
12 action in the appropriate circuit court or request that the
13 Commission set a hearing on damages.

14 (D) Time Period Toll. Proceedings on requests for review
15 shall toll the time limitation established in paragraph (G) of
16 Section 7A-102 from the date on which the Department's notice
17 of dismissal or default is issued to the date on which the
18 Commission's order is entered.

19 (E) The changes made to this Section by Public Act 95-243
20 ~~this amendatory Act of the 95th General Assembly~~ apply to
21 charges or complaints filed with the Department or Commission
22 on or after the effective date of those changes.

23 (F) The changes made to this Section by this amendatory Act
24 of the 95th General Assembly apply to charges or complaints
25 filed with the Department or Commission on or after the
26 effective date of those changes.

1 (Source: P.A. 95-243, eff. 1-1-08.)

2 Section 90. Section 7-101.1 of the Illinois Human Rights
3 Act, as it existed immediately before its repeal by Public Act
4 95-243, applies to charges that were filed under that Act
5 before January 1, 2008 and were pending on that date.

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.