

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

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 For those charges alleging violations within the jurisdiction  
14 of the Equal Employment Opportunity Commission and the  
15 Department and for which the Equal Employment Opportunity  
16 Commission does not determine that there is reasonable cause to  
17 believe that discrimination occurred, the Department shall  
18 adopt the Equal Employment Opportunity Commission's  
19 determination which shall be deemed a determination by the  
20 Department for all purposes under this Act. For those charges  
21 where the Equal Employment Opportunity Commission determines  
22 that there is reasonable cause to believe that discrimination  
23 occurred, the Department, at its discretion, shall either adopt  
24 the Equal Employment Opportunity Commission's determination or  
25 process the charge pursuant to this Act. ~~At the Department's~~  
26 discretion, ~~the Department shall either adopt the Equal~~

1 ~~Employment Opportunity Commission's determination or process~~  
2 ~~the charge pursuant to this Act. Adoption of the Equal~~  
3 ~~Employment Opportunity Commission's determination shall be~~  
4 ~~deemed a determination by the Department for all purposes under~~  
5 ~~this Act.~~

6 (B) Notice and Response to Charge. The Department shall,  
7 within 10 days of the date on which the charge was filed, serve  
8 a copy of the charge on the respondent. This period shall not  
9 be construed to be jurisdictional. The charging party and the  
10 respondent may each file a position statement and other  
11 materials with the Department regarding the charge of alleged  
12 discrimination within 60 days of receipt of the notice of the  
13 charge. The position statements and other materials filed shall  
14 remain confidential unless otherwise agreed to by the party  
15 providing the information and shall not be served on or made  
16 available to the other party during pendency of a charge with  
17 the Department. The Department shall require the respondent to  
18 file a verified response to the allegations contained in the  
19 charge within 60 days of receipt of the notice of the charge.  
20 The respondent shall serve a copy of its response on the  
21 complainant or his representative. All allegations contained  
22 in the charge not timely denied by the respondent shall be  
23 deemed admitted, unless the respondent states that it is  
24 without sufficient information to form a belief with respect to  
25 such allegation. The Department may issue a notice of default  
26 directed to any respondent who fails to file a verified

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

1 to voluntarily submit the charge to mediation without waiving  
2 any rights that are otherwise available to either party  
3 pursuant to this Act and without incurring any obligation to  
4 accept the result of the mediation process. Nothing occurring  
5 in mediation shall be disclosed by the Department or admissible  
6 in evidence in any subsequent proceeding unless the complainant  
7 and the respondent agree in writing that such disclosure be  
8 made.

9 (C) Investigation.

10 (1) After the respondent has been notified, the  
11 Department shall conduct a full investigation of the  
12 allegations set forth in the charge.

13 (2) The Director or his or her designated  
14 representatives 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 (3) 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 is provided for in the taking of  
25 depositions in civil cases in circuit courts.

26 (4) Upon reasonable notice to the complainant and the

1       respondent, the Department shall conduct a fact finding  
2       conference prior to 365 days after the date on which the  
3       charge was filed, unless the Director has determined  
4       whether there is substantial evidence that the alleged  
5       civil rights violation has been committed or the charge has  
6       been dismissed for lack of jurisdiction. If the parties  
7       agree in writing, the fact finding conference may be held  
8       at a time after the 365 day limit. Any party's failure to  
9       attend the conference without good cause shall result in  
10      dismissal or default. The term "good cause" shall be  
11      defined by rule promulgated by the Department. A notice of  
12      dismissal or default shall be issued by the Director. The  
13      notice of default issued by the Director shall notify the  
14      respondent that a request for review may be filed in  
15      writing with the Commission within 30 days of receipt of  
16      notice of default. The notice of dismissal issued by the  
17      Director shall give the complainant notice of his or her  
18      right to seek review of the dismissal before the Human  
19      Rights Commission or commence a civil action in the  
20      appropriate circuit court. If the complainant chooses to  
21      have the Human Rights Commission review the dismissal  
22      order, he or she shall file a request for review with the  
23      Commission within 90 days after receipt of the Director's  
24      notice. If the complainant chooses to file a request for  
25      review with the Commission, he or she may not later  
26      commence a civil action in a circuit court. If the

1 complainant chooses to commence a civil action in a circuit  
2 court, he or she must do so within 90 days after receipt of  
3 the Director's notice.

4 (D) Report.

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

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

23 (3) If the Director determines that there is no  
24 substantial evidence, the charge shall be dismissed by  
25 order of the Director and the Director shall give the  
26 complainant notice of his or her right to seek review of

1 the dismissal order before the Commission or commence a  
2 civil action in the appropriate circuit court. If the  
3 complainant chooses to have the Human Rights Commission  
4 review the dismissal order, he or she shall file a request  
5 for review with the Commission within 90 days after receipt  
6 of the Director's notice. If the complainant chooses to  
7 file a request for review with the Commission, he or she  
8 may not later commence a civil action in a circuit court.  
9 If the complainant chooses to commence a civil action in a  
10 circuit court, he or she must do so within 90 days after  
11 receipt of the Director's notice.

12 (4) If the Director determines that there is  
13 substantial evidence, he or she shall notify the  
14 complainant and respondent of that determination. The  
15 Director shall also notify the parties that the complainant  
16 has the right to either commence a civil action in the  
17 appropriate circuit court or request that the Department of  
18 Human Rights file a complaint with the Human Rights  
19 Commission on his or her behalf. Any such complaint shall  
20 be filed within 90 days after receipt of the Director's  
21 notice. If the complainant chooses to have the Department  
22 file a complaint with the Human Rights Commission on his or  
23 her behalf, the complainant must, within 30 days after  
24 receipt of the Director's notice, request in writing that  
25 the Department file the complaint. If the complainant  
26 timely requests that the Department file the complaint, the



1 Department shall file the complaint on his or her behalf.  
2 If the complainant fails to timely request that the  
3 Department file the complaint, the complainant may file his  
4 or her complaint with the Commission or commence a civil  
5 action in the appropriate circuit court. If the complainant  
6 files a complaint with the Human Rights Commission, the  
7 complainant shall give notice to the Department of the  
8 filing of the complaint with the Human Rights Commission.

9 (E) Conciliation.

10 (1) When there is a finding of substantial evidence,  
11 the Department may designate a Department employee who is  
12 an attorney licensed to practice in Illinois to endeavor to  
13 eliminate the effect of the alleged civil rights violation  
14 and to prevent its repetition by means of conference and  
15 conciliation.

16 (2) When the Department determines that a formal  
17 conciliation conference is necessary, the complainant and  
18 respondent shall be notified of the time and place of the  
19 conference by registered or certified mail at least 10 days  
20 prior thereto and either or both parties shall appear at  
21 the conference in person or by attorney.

22 (3) The place fixed for the conference shall be within  
23 35 miles of the place where the civil rights violation is  
24 alleged to have been committed.

25 (4) Nothing occurring at the conference shall be  
26 disclosed by the Department unless the complainant and

1 respondent agree in writing that such disclosure be made.

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

5 (F) Complaint.

6 (1) When the complainant requests that the Department  
7 file a complaint with the Commission on his or her behalf,  
8 the Department shall prepare a written complaint, under  
9 oath or affirmation, stating the nature of the civil rights  
10 violation substantially as alleged in the charge  
11 previously filed and the relief sought on behalf of the  
12 aggrieved party. The Department shall file the complaint  
13 with the Commission.

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

20 (G) Time Limit.

21 (1) When a charge of a civil rights violation has been  
22 properly filed, the Department, within 365 days thereof or  
23 within any extension of that period agreed to in writing by  
24 all parties, shall issue its report as required by  
25 subparagraph (D). Any such report shall be duly served upon  
26 both the complainant and the respondent.

1           (2) If the Department has not issued its report within  
2           365 days after the charge is filed, or any such longer  
3           period agreed to in writing by all the parties, the  
4           complainant shall have 90 days to either file his or her  
5           own complaint with the Human Rights Commission or commence  
6           a civil action in the appropriate circuit court. If the  
7           complainant files a complaint with the Commission, the form  
8           of the complaint shall be in accordance with the provisions  
9           of paragraph (F)(1). If the complainant commences a civil  
10          action in a circuit court, the form of the complaint shall  
11          be in accordance with the Illinois Code of Civil Procedure.  
12          The aggrieved party shall notify the Department that a  
13          complaint has been filed and shall serve a copy of the  
14          complaint on the Department on the same date that the  
15          complaint is filed with the Commission or in circuit court.  
16          If the complainant files a complaint with the Commission,  
17          he or she may not later commence a civil action in circuit  
18          court.

19          (3) If an aggrieved party files a complaint with the  
20          Human Rights Commission or commences a civil action in  
21          circuit court pursuant to paragraph (2) of this subsection,  
22          or if the time period for filing a complaint has expired,  
23          the Department shall immediately cease its investigation  
24          and dismiss the charge of civil rights violation. Any final  
25          order entered by the Commission under this Section is  
26          appealable in accordance with paragraph (B)(1) of Section

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

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

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

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

17 (J) The changes made to this Section by Public Act 95-243  
18 apply to charges filed on or after the effective date of those  
19 changes.

20 (K) The changes made to this Section by this amendatory Act  
21 of the 96th General Assembly apply to charges filed on or after  
22 the effective date of those changes.

23 (Source: P.A. 95-243, eff. 1-1-08; 96-876, eff. 2-2-10.)

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law.