

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 2-102 and 7A-102 as follows:

6 (775 ILCS 5/2-102) (from Ch. 68, par. 2-102)

7 Sec. 2-102. Civil Rights Violations - Employment. It is a
8 civil rights violation:

9 (A) Employers. For any employer to refuse to hire, to
10 segregate, or to act with respect to recruitment, hiring,
11 promotion, renewal of employment, selection for training or
12 apprenticeship, discharge, discipline, tenure or terms,
13 privileges or conditions of employment on the basis of unlawful
14 discrimination or citizenship status.

15 (A-5) Language. For an employer to impose a restriction
16 that has the effect of prohibiting a language from being spoken
17 by an employee in communications that are unrelated to the
18 employee's duties.

19 For the purposes of this subdivision (A-5), "language"
20 means a person's native tongue, such as Polish, Spanish, or
21 Chinese. "Language" does not include such things as slang,
22 jargon, profanity, or vulgarity.

23 (B) Employment Agency. For any employment agency to fail or

1 refuse to classify properly, accept applications and register
2 for employment referral or apprenticeship referral, refer for
3 employment, or refer for apprenticeship on the basis of
4 unlawful discrimination or citizenship status or to accept from
5 any person any job order, requisition or request for referral
6 of applicants for employment or apprenticeship which makes or
7 has the effect of making unlawful discrimination or
8 discrimination on the basis of citizenship status a condition
9 of referral.

10 (C) Labor Organization. For any labor organization to
11 limit, segregate or classify its membership, or to limit
12 employment opportunities, selection and training for
13 apprenticeship in any trade or craft, or otherwise to take, or
14 fail to take, any action which affects adversely any person's
15 status as an employee or as an applicant for employment or as
16 an apprentice, or as an applicant for apprenticeships, or
17 wages, tenure, hours of employment or apprenticeship
18 conditions on the basis of unlawful discrimination or
19 citizenship status.

20 (D) Sexual Harassment. For any employer, employee, agent of
21 any employer, employment agency or labor organization to engage
22 in sexual harassment; provided, that an employer shall be
23 responsible for sexual harassment of the employer's employees
24 by nonemployees or nonmanagerial and nonsupervisory employees
25 only if the employer becomes aware of the conduct and fails to
26 take reasonable corrective measures.

1 (E) Public Employers. For any public employer to refuse to
2 permit a public employee under its jurisdiction who takes time
3 off from work in order to practice his or her religious beliefs
4 to engage in work, during hours other than such employee's
5 regular working hours, consistent with the operational needs of
6 the employer and in order to compensate for work time lost for
7 such religious reasons. Any employee who elects such deferred
8 work shall be compensated at the wage rate which he or she
9 would have earned during the originally scheduled work period.
10 The employer may require that an employee who plans to take
11 time off from work in order to practice his or her religious
12 beliefs provide the employer with a notice of his or her
13 intention to be absent from work not exceeding 5 days prior to
14 the date of absence.

15 (F) Training and Apprenticeship Programs. For any
16 employer, employment agency or labor organization to
17 discriminate against a person on the basis of age in the
18 selection, referral for or conduct of apprenticeship or
19 training programs.

20 (G) Immigration-Related Practices.

21 (1) for an employer to request for purposes of
22 satisfying the requirements of Section 1324a(b) of Title 8
23 of the United States Code, as now or hereafter amended,
24 more or different documents than are required under such
25 Section or to refuse to honor documents tendered that on
26 their face reasonably appear to be genuine; or

1 (2) for an employer participating in the Basic Pilot
2 Program, as authorized by 8 U.S.C. 1324a, Notes, Pilot
3 Programs for Employment Eligibility Confirmation (enacted
4 by PL 104-208, div. C title IV, subtitle A) to refuse to
5 hire, to segregate, or to act with respect to recruitment,
6 hiring, promotion, renewal of employment, selection for
7 training or apprenticeship, discharge, discipline, tenure
8 or terms, privileges or conditions of employment without
9 following the procedures under the Basic Pilot Program.

10 (H) Pregnancy; peace officers and fire fighters. For a
11 public employer to refuse to temporarily transfer a pregnant
12 female peace officer or pregnant female fire fighter to a less
13 strenuous or hazardous position for the duration of her
14 pregnancy if she so requests, with the advice of her physician,
15 where that transfer can be reasonably accommodated. For the
16 purposes of this subdivision (H), "peace officer" and "fire
17 fighter" have the meanings ascribed to those terms in Section 3
18 of the Illinois Public Labor Relations Act.

19 It is not a civil rights violation for an employer to take
20 any action that is required by Section 1324a of Title 8 of the
21 United States Code, as now or hereafter amended.

22 (I) Pregnancy. For an employer to refuse to hire, to
23 segregate, or to act with respect to recruitment, hiring,
24 promotion, renewal of employment, selection for training or
25 apprenticeship, discharge, discipline, tenure or terms,
26 privileges or conditions of employment on the basis of

1 pregnancy, childbirth, or related medical conditions. Women
2 affected by pregnancy, childbirth, or related medical
3 conditions shall be treated the same for all employment-related
4 purposes, including receipt of benefits under fringe benefit
5 programs, as other persons not so affected but similar in their
6 ability or inability to work.

7 (Source: P.A. 95-25, eff. 1-1-08; 95-137, eff. 1-1-08; 95-876,
8 eff. 8-21-08.)

9 (775 ILCS 5/7A-102) (from Ch. 68, par. 7A-102)

10 Sec. 7A-102. Procedures.

11 (A) Charge.

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

17 (2) The charge shall be in such detail as to
18 substantially apprise any party properly concerned as to
19 the time, place, and facts surrounding the alleged civil
20 rights violation.

21 (3) Charges deemed filed with the Department pursuant
22 to subsection (A-1) of this Section shall be deemed to be
23 in compliance with this subsection.

24 (A-1) Equal Employment Opportunity Commission Charges.

25 (1) If a ~~A~~ charge is filed with the Equal Employment

1 Opportunity Commission (EEOC) within 180 days after the
2 date of the alleged civil rights violation, the charge
3 shall be deemed filed with the Department on the date filed
4 with the EEOC. ~~Equal Employment Opportunity Commission.~~
5 ~~Upon receipt of a charge filed with the Equal Employment~~
6 ~~Opportunity Commission, the Department shall notify the~~
7 ~~complainant that he or she may proceed with the Department.~~
8 ~~The complainant must notify the Department of his or her~~
9 ~~decision in writing within 35 days of receipt of the~~
10 ~~Department's notice to the complainant and the Department~~
11 ~~shall close the case if the complainant does not do so. If~~
12 ~~the complainant proceeds with the Department, If the EEOC~~
13 ~~is the governmental agency designated to investigate the~~
14 ~~charge first, the Department shall take no action until the~~
15 ~~EEOC ~~Equal Employment Opportunity Commission~~ makes a~~
16 ~~determination on the charge and after the complainant~~
17 ~~notifies the Department of the EEOC's determination. In~~
18 ~~such cases, after receiving notice from the EEOC that a~~
19 ~~charge was filed, the Department shall notify the parties~~
20 ~~that (i) a charge has been received by the EEOC and has~~
21 ~~been sent to the Department for dual filing purposes; (ii)~~
22 ~~the EEOC is the governmental agency responsible for~~
23 ~~investigating the charge and that the investigation shall~~
24 ~~be conducted pursuant to the rules and procedures adopted~~
25 ~~by the EEOC; (iii) it will take no action on the charge~~
26 ~~until the EEOC issues its determination; (iv) the~~

1 complainant must submit a copy of the EEOC's determination
2 within 30 days after service of the determination by the
3 EEOC on complainant; and (v) that the time period to
4 investigate the charge contained in subsection (G) of this
5 Section is tolled from the date on which the charge is
6 filed with the EEOC until the EEOC issues its
7 determination. ~~Upon receipt of the Equal Employment~~
8 ~~Opportunity Commission's determination, the Department~~
9 ~~shall cause the charge to be filed under oath or~~
10 ~~affirmation and to be in such detail as provided for under~~
11 ~~subparagraph (2) of paragraph (A).~~

12 (2) If the EEOC finds reasonable cause to believe that
13 there has been a violation of federal law and if the
14 Department is timely notified of the EEOC's findings by
15 complainant, the Department shall notify complainant that
16 the Department has adopted the EEOC's determination of
17 reasonable cause and that complainant has the right, within
18 90 days after receipt of the Department's notice, to either
19 file his or her own complaint with the Illinois Human
20 Rights Commission or commence a civil action in the
21 appropriate circuit court or other appropriate court of
22 competent jurisdiction. The Department's notice to
23 complainant that the Department has adopted the EEOC's
24 determination of reasonable cause shall constitute the
25 Department's Report for purposes of subparagraph (D) of
26 this Section.

1 (3) For those charges alleging violations within the
2 jurisdiction of both the EEOC and the Department and for
3 which the EEOC either (i) does not issue a determination,
4 but does issue the complainant a notice of a right to sue,
5 including when the right to sue is issued at the request of
6 the complainant, or (ii) determines that it is unable to
7 establish that illegal discrimination has occurred and
8 issues the complainant a right to sue notice, and if the
9 Department is timely notified of the EEOC's determination
10 by complainant, the Department shall notify the parties
11 that the Department will adopt the EEOC's determination as
12 a dismissal for lack of substantial evidence unless the
13 complainant requests in writing within 35 days after
14 receipt of the Department's notice that the Department
15 review the EEOC's determination.

16 (a) If the complainant does not file a written
17 request with the Department to review the EEOC's
18 determination within 35 days after receipt of the
19 Department's notice, the Department shall notify
20 complainant that the decision of the EEOC has been
21 adopted by the Department as a dismissal for lack of
22 substantial evidence and that the complainant has the
23 right, within 90 days after receipt of the Department's
24 notice, to commence a civil action in the appropriate
25 circuit court or other appropriate court of competent
26 jurisdiction. The Department's notice to complainant

1 that the Department has adopted the EEOC's
2 determination shall constitute the Department's report
3 for purposes of subparagraph (D) of this Section.

4 (b) If the complainant does file a written request
5 with the Department to review the EEOC's
6 determination, the Department shall review the EEOC's
7 determination and any evidence obtained by the EEOC
8 during its investigation. If, after reviewing the
9 EEOC's determination and any evidence obtained by the
10 EEOC, the Department determines there is no need for
11 further investigation of the charge, the Department
12 shall issue a report and the Director shall determine
13 whether there is substantial evidence that the alleged
14 civil rights violation has been committed pursuant to
15 subsection (D) of Section 7A-102. If, after reviewing
16 the EEOC's determination and any evidence obtained by
17 the EEOC, the Department determines there is a need for
18 further investigation of the charge, the Department
19 may conduct any further investigation it deems
20 necessary. After reviewing the EEOC's determination,
21 the evidence obtained by the EEOC, and any additional
22 investigation conducted by the Department, the
23 Department shall issue a report and the Director shall
24 determine whether there is substantial evidence that
25 the alleged civil rights violation has been committed
26 pursuant to subsection (D) of Section 7A-102 of this

1 Act.

2 (4) Pursuant to this Section, if the EEOC dismisses the
3 charge or a portion of the charge of discrimination
4 because, under federal law, the EEOC lacks jurisdiction
5 over the charge, and if, under this Act, the Department has
6 jurisdiction over the charge of discrimination, the
7 Department shall investigate the charge or portion of the
8 charge dismissed by the EEOC for lack of jurisdiction
9 pursuant to subsections (A), (A-1), (B), (B-1), (C), (D),
10 (E), (F), (G), (H), (I), (J), and (K) of Section 7A-102 of
11 this Act.

12 (5) The time limit set out in subsection (G) of this
13 Section is tolled from the date on which the charge is
14 filed with the EEOC to the date on which the EEOC issues
15 its determination. ~~At the Department's discretion, the~~
16 Department shall either adopt the Equal Employment
17 Opportunity Commission's determination or process the
18 charge pursuant to this Act. Adoption of the Equal
19 Employment Opportunity Commission's determination shall be
20 deemed a determination by the Department for all purposes
21 under this Act.

22 (B) Notice and Response to Charge. The Department shall,
23 within 10 days of the date on which the charge was filed, serve
24 a copy of the charge on the respondent. This period shall not
25 be construed to be jurisdictional. The charging party and the
26 respondent may each file a position statement and other

1 materials with the Department regarding the charge of alleged
2 discrimination within 60 days of receipt of the notice of the
3 charge. The position statements and other materials filed shall
4 remain confidential unless otherwise agreed to by the party
5 providing the information and shall not be served on or made
6 available to the other party during pendency of a charge with
7 the Department. The Department shall require the respondent to
8 file a verified response to the allegations contained in the
9 charge within 60 days of receipt of the notice of the charge.
10 The respondent shall serve a copy of its response on the
11 complainant or his representative. All allegations contained
12 in the charge not timely denied by the respondent shall be
13 deemed admitted, unless the respondent states that it is
14 without sufficient information to form a belief with respect to
15 such allegation. The Department may issue a notice of default
16 directed to any respondent who fails to file a verified
17 response to a charge within 60 days of receipt of the notice of
18 the charge, unless the respondent can demonstrate good cause as
19 to why such notice should not issue. The term "good cause"
20 shall be defined by rule promulgated by the Department. Within
21 30 days of receipt of the respondent's response, the
22 complainant may file a reply to said response and shall serve a
23 copy of said reply on the respondent or his representative. A
24 party shall have the right to supplement his response or reply
25 at any time that the investigation of the charge is pending.
26 The Department shall, within 10 days of the date on which the

1 charge was filed, and again no later than 335 days thereafter,
2 send by certified or registered mail written notice to the
3 complainant and to the respondent informing the complainant of
4 the complainant's right to either file a complaint with the
5 Human Rights Commission or commence a civil action in the
6 appropriate circuit court under subparagraph (2) of paragraph
7 (G), including in such notice the dates within which the
8 complainant may exercise this right. In the notice the
9 Department shall notify the complainant that the charge of
10 civil rights violation will be dismissed with prejudice and
11 with no right to further proceed if a written complaint is not
12 timely filed with the Commission or with the appropriate
13 circuit court by the complainant pursuant to subparagraph (2)
14 of paragraph (G) or by the Department pursuant to subparagraph
15 (1) of paragraph (G).

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

25 (C) Investigation.

26 (1) After the respondent has been notified, the

1 Department shall conduct a full investigation of the
2 allegations set forth in the charge.

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

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

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

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

20 (D) Report.

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

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

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

1 receipt of the Director's notice.

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

25 (E) Conciliation.

26 (1) When there is a finding of substantial evidence,

1 the Department may designate a Department employee who is
2 an attorney licensed to practice in Illinois to endeavor to
3 eliminate the effect of the alleged civil rights violation
4 and to prevent its repetition by means of conference and
5 conciliation.

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

12 (3) The place fixed for the conference shall be within
13 35 miles of the place where the civil rights violation is
14 alleged to have been committed.

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

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

21 (F) Complaint.

22 (1) When the complainant requests that the Department
23 file a complaint with the Commission on his or her behalf,
24 the Department shall prepare a written complaint, under
25 oath or affirmation, stating the nature of the civil rights
26 violation substantially as alleged in the charge

1 previously filed and the relief sought on behalf of the
2 aggrieved party. The Department shall file the complaint
3 with the Commission.

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

10 (G) Time Limit.

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

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

1 be in accordance with the Illinois Code of Civil Procedure.
2 The aggrieved party shall notify the Department that a
3 complaint has been filed and shall serve a copy of the
4 complaint on the Department on the same date that the
5 complaint is filed with the Commission or in circuit court.
6 If the complainant files a complaint with the Commission,
7 he or she may not later commence a civil action in circuit
8 court.

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

24 (4) The Department shall stay any administrative
25 proceedings under this Section after the filing of a civil
26 action by or on behalf of the aggrieved party under any

1 federal or State law seeking relief with respect to the
2 alleged civil rights violation.

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

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

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

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

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

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