

AN ACT concerning human rights.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Human Rights Act is amended by changing Sections 7A-102 and 7B-102 as follows:

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

Sec. 7A-102. Procedures.

(A) Charge.

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

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

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

(A-1) Equal Employment Opportunity Commission Charges.

(1) If a charge is filed with the Equal Employment Opportunity Commission (EEOC) within 180 days after the

date of the alleged civil rights violation, the charge shall be deemed filed with the Department on the date filed with the EEOC. If the EEOC is the governmental agency designated to investigate the charge first, the Department shall take no action until the EEOC makes a determination on the charge and after the complainant notifies the Department of the EEOC's determination. In such cases, after receiving notice from the EEOC that a charge was filed, the Department shall notify the parties that (i) a charge has been received by the EEOC and has been sent to the Department for dual filing purposes; (ii) the EEOC is the governmental agency responsible for investigating the charge and that the investigation shall be conducted pursuant to the rules and procedures adopted by the EEOC; (iii) it will take no action on the charge until the EEOC issues its determination; (iv) the complainant must submit a copy of the EEOC's determination within 30 days after service of the determination by the EEOC on complainant; and (v) that the time period to investigate the charge contained in subsection (G) of this Section is tolled from the date on which the charge is filed with the EEOC until the EEOC issues its determination.

(2) If the EEOC finds reasonable cause to believe that there has been a violation of federal law and if the Department is timely notified of the EEOC's findings by complainant, the Department shall notify complainant that

the Department has adopted the EEOC's determination of reasonable cause and that complainant has the right, within 90 days after receipt of the Department's notice, to either file his or her own complaint with the Illinois Human Rights Commission or commence a civil action in the appropriate circuit court or other appropriate court of competent jurisdiction. The Department's notice to complainant that the Department has adopted the EEOC's determination of reasonable cause shall constitute the Department's Report for purposes of subparagraph (D) of this Section.

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

(a) If the complainant does not file a written request with the Department to review the EEOC's determination within 35 days after receipt of the Department's notice, the Department shall notify complainant that the decision of the EEOC has been adopted by the Department as a dismissal for lack of substantial evidence and that the complainant has the right, within 90 days after receipt of the Department's notice, to commence a civil action in the appropriate circuit court or other appropriate court of competent jurisdiction. The Department's notice to complainant that the Department has adopted the EEOC's determination shall constitute the Department's report for purposes of subparagraph (D) of this Section.

(b) If the complainant does file a written request with the Department to review the EEOC's determination, the Department shall review the EEOC's determination and any evidence obtained by the EEOC during its investigation. If, after reviewing the EEOC's determination and any evidence obtained by the EEOC, the Department determines there is no need for further investigation of the charge, the Department shall issue a report and the Director shall determine whether there is substantial evidence that the alleged civil rights violation has been committed pursuant to subsection (D) of Section 7A-102. If, after reviewing

the EEOC's determination and any evidence obtained by the EEOC, the Department determines there is a need for further investigation of the charge, the Department may conduct any further investigation it deems necessary. After reviewing the EEOC's determination, the evidence obtained by the EEOC, and any additional investigation conducted by the Department, the Department shall issue a report and the Director shall determine whether there is substantial evidence that the alleged civil rights violation has been committed pursuant to subsection (D) of Section 7A-102 of this Act.

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

(5) The time limit set out in subsection (G) of this Section is tolled from the date on which the charge is filed with the EEOC to the date on which the EEOC issues its determination.

(B) Notice and Response to Charge. The Department shall, within 10 days of the date on which the charge was filed, serve a copy of the charge on the respondent. This period shall not be construed to be jurisdictional. The charging party and the respondent may each file a position statement and other materials with the Department regarding the charge of alleged discrimination within 60 days of receipt of the notice of the charge. The position statements and other materials filed shall remain confidential unless otherwise agreed to by the party providing the information and shall not be served on or made available to the other party during pendency of a charge with the Department. The Department may ~~shall~~ require the respondent to file a ~~verified~~ response to the allegations contained in the charge. Upon the Department's request, the respondent shall file a response to the charge within 60 days and of receipt of the notice of the charge. The respondent shall serve a copy of its response on the complainant or his or her representative. Notwithstanding any request from the Department, the respondent may elect to file a response to the charge within 60 days of receipt of notice of the charge, provided the respondent serves a copy of its response on the complainant or his or her representative. All allegations contained in the charge not ~~timely~~ denied by the respondent within 60 days of the Department's request for a response may ~~shall~~ be deemed admitted, unless the respondent states that it is without sufficient information to form a belief with respect to such

allegation. The Department may issue a notice of default directed to any respondent who fails to file a ~~verified~~ response to a charge within 60 days of receipt of the Department's request ~~notice of the charge~~, unless the respondent can demonstrate good cause as to why such notice should not issue. The term "good cause" shall be defined by rule promulgated by the Department. Within 30 days of receipt of the respondent's response, the complainant may file a reply to said response and shall serve a copy of said reply on the respondent or his or her representative. A party shall have the right to supplement his or her response or reply at any time that the investigation of the charge is pending. The Department shall, within 10 days of the date on which the charge was filed, and again no later than 335 days thereafter, send by certified or registered mail written notice to the complainant and to the respondent informing the complainant of the complainant's right to either file a complaint with the Human Rights Commission or commence a civil action in the appropriate circuit court under subparagraph (2) of paragraph (G), including in such notice the dates within which the complainant may exercise this right. In the notice the Department shall notify the complainant that the charge of civil rights violation will be dismissed with prejudice and with no right to further proceed if a written complaint is not timely filed with the Commission or with the appropriate circuit court by the complainant pursuant to subparagraph (2) of paragraph (G) or by

the Department pursuant to subparagraph (1) of paragraph (G).

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

(C) Investigation.

(1) ~~The~~ ~~After the respondent has been notified, the~~ Department shall conduct an ~~a full~~ investigation sufficient to determine whether ~~of~~ the allegations set forth in the charge are supported by substantial evidence.

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

(3) If any witness whose testimony is required for any investigation resides outside the State, or through illness or any other good cause as determined by the Director is unable to be interviewed by the investigator or appear at a fact finding conference, his or her testimony or deposition may be taken, within or without the State, in

the same manner as is provided for in the taking of depositions in civil cases in circuit courts.

(4) Upon reasonable notice to the complainant and the respondent, the Department shall conduct a fact finding conference, unless prior to 365 days after the date on which the charge was filed the Director has determined whether there is substantial evidence that the alleged civil rights violation has been committed, the charge has been dismissed for lack of jurisdiction, or the parties voluntarily and in writing agree to waive the fact finding conference. Any party's failure to attend the conference without good cause shall result in dismissal or default. The term "good cause" shall be defined by rule promulgated by the Department. A notice of dismissal or default shall be issued by the Director. The notice of default issued by the Director shall notify the respondent that a request for review may be filed in writing with the Commission within 30 days of receipt of notice of default. The notice of dismissal issued by the Director shall give the complainant notice of his or her right to seek review of the dismissal before the Human Rights Commission or commence a civil action in the appropriate circuit court. If the complainant chooses to have the Human Rights Commission review the dismissal order, he or she shall file a request for review with the Commission within 90 days after receipt of the Director's notice. If the complainant chooses to file a

request for review with the Commission, he or she may not later commence a civil action in a circuit court. If the complainant chooses to commence a civil action in a circuit court, he or she must do so within 90 days after receipt of the Director's notice.

(D) Report.

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

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

(3) If the Director determines that there is no substantial evidence, the charge shall be dismissed by

order of the Director and the Director shall give the complainant notice of his or her right to seek review of the dismissal order before the Commission or commence a civil action in the appropriate circuit court. If the complainant chooses to have the Human Rights Commission review the dismissal order, he or she shall file a request for review with the Commission within 90 days after receipt of the Director's notice. If the complainant chooses to file a request for review with the Commission, he or she may not later commence a civil action in a circuit court. If the complainant chooses to commence a civil action in a circuit court, he or she must do so within 90 days after receipt of the Director's notice.

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

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

(E) Conciliation.

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

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

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

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

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

(F) Complaint.

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

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

(G) Time Limit.

(1) When a charge of a civil rights violation has been properly filed, the Department, within 365 days thereof or within any extension of that period agreed to in writing by all parties, shall issue its report as required by

subparagraph (D). Any such report shall be duly served upon both the complainant and the respondent.

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

(3) If an aggrieved party files a complaint with the Human Rights Commission or commences a civil action in circuit court pursuant to paragraph (2) of this subsection, or if the time period for filing a complaint has expired, the Department shall immediately cease its investigation and dismiss the charge of civil rights violation. Any final

order entered by the Commission under this Section is appealable in accordance with paragraph (B)(1) of Section 8-111. Failure to immediately cease an investigation and dismiss the charge of civil rights violation as provided in this paragraph (3) constitutes grounds for entry of an order by the circuit court permanently enjoining the investigation. The Department may also be liable for any costs and other damages incurred by the respondent as a result of the action of the Department.

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

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

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

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

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

(Source: P.A. 96-876, eff. 2-2-10; 97-22, eff. 1-1-12; 97-596, eff. 8-26-11; 97-813, eff. 7-13-12.)

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

Sec. 7B-102. Procedures.

(A) Charge.

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

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

(B) Notice and Response to Charge.

(1) The Department shall serve notice upon the aggrieved party acknowledging such charge and advising the aggrieved party of the time limits and choice of forums provided under this Act. The Department shall, within 10 days of the date on which the charge was filed or the identification of an additional respondent under paragraph (2) of this subsection, serve on the respondent a copy of the charge along with a notice identifying the alleged civil rights violation and advising the respondent of the procedural rights and obligations of respondents under this Act and may ~~shall~~ require the respondent to file a ~~verified~~ response to the allegations contained in the

charge. Upon the Department's request, the respondent shall file a response to the charge within 30 days and. ~~The respondent~~ shall serve a copy of its response on the complainant or his or her representative. Notwithstanding any request from the Department, the respondent may elect to file a response to the charge within 30 days of receipt of notice of the charge, provided the respondent serves a copy of its response on the complainant or his or her representative. All allegations contained in the charge not ~~timely~~ denied by the respondent within 30 days after the Department's request for a response may ~~shall~~ be deemed admitted, unless the respondent states that it is without sufficient information to form a belief with respect to such allegation. The Department may issue a notice of default directed to any respondent who fails to file a ~~verified~~ response to a charge within 30 days of the Department's request ~~date on which the charge was filed,~~ unless the respondent can demonstrate good cause as to why such notice should not issue. The term "good cause" shall be defined by rule promulgated by the Department. Within 10 days of the date he or she receives the respondent's response, the complainant may file his or her reply to said response. If he or she chooses to file a reply, the complainant shall serve a copy of said reply on the respondent or his or her representative. A party may ~~shall~~ ~~have the right to~~ supplement his or her response or reply

at any time that the investigation of the charge is pending.

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

(C) Investigation.

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

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

(3) The Director or his or her designated representative shall have authority to request any member of the Commission to issue subpoenas to compel the

attendance of a witness or the production for examination of any books, records or documents whatsoever.

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

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

(D) Report.

(1) Each investigated charge shall be the subject of a report to the Director. The report shall be a confidential

document subject to review by the Director, authorized Department employees, the parties, and, where indicated by this Act, members of the Commission or their designated hearing officers.

The report shall contain:

- (a) the names and dates of contacts with witnesses;
- (b) a summary and the date of correspondence and other contacts with the aggrieved party and the respondent;
- (c) a summary description of other pertinent records;
- (d) a summary of witness statements; and
- (e) answers to questionnaires.

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

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

jurisdiction over the charge.

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

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

(E) Conciliation.

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

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

(2) The place fixed for the conference shall be within

35 miles of the place where the civil rights violation is alleged to have been committed.

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

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

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

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

(F) Complaint.

(1) When there is a failure to settle or adjust any charge through a conciliation conference and the charge is not dismissed, the Department shall prepare a written complaint, under oath or affirmation, stating the nature of the civil rights violation and the relief sought on behalf

of the aggrieved party. Such complaint shall be based on the final investigation report and need not be limited to the facts or grounds alleged in the charge filed under subsection (A).

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

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

(G) Time Limit.

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

(2) The Director shall make available to the aggrieved party and the respondent, at any time, upon request following completion of the Department's investigation, information derived from an investigation and any final

investigative report relating to that investigation.

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

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

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

(Source: P.A. 96-876, eff. 2-2-10; 97-22, eff. 1-1-12.)

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