

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 Section 10-104 as follows:

(775 ILCS 5/10-104)

Sec. 10-104. Circuit Court Actions by the Illinois Attorney General.

(A) Standing, venue, limitations on actions, preliminary investigations, notice, and Assurance of Voluntary Compliance.

(1) Whenever the Illinois Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern and practice of discrimination prohibited by this Act, the Illinois Attorney General may commence a civil action in the name of the People of the State, as parens patriae on behalf of persons within the State to enforce the provisions of this Act in any appropriate circuit court. Venue for this civil action shall be determined under paragraph (6) of subsection (C) of Section 8-111~~(B)(6)~~. Such actions shall be commenced no later than 2 years after the occurrence or the termination of an alleged civil rights violation or the breach of a conciliation agreement or Assurance of

Voluntary Compliance entered into under this Act, whichever occurs last, to obtain relief with respect to the alleged civil rights violation or breach.

(2) Prior to initiating a civil action, the Attorney General shall conduct a preliminary investigation to determine whether there is reasonable cause to believe that any person or group of persons is engaged in a pattern and practice of discrimination declared unlawful by this Act and whether the dispute can be resolved without litigation. In conducting this investigation, the Attorney General may:

(a) require the individual or entity to file a statement or report in writing under oath or otherwise, as to all information the Attorney General may consider necessary;

(b) examine under oath any person alleged to have participated in or with knowledge of the alleged pattern and practice violation; or

(c) issue subpoenas or conduct hearings in aid of any investigation.

(3) Service by the Attorney General of any notice requiring a person to file a statement or report, or of a subpoena upon any person, shall be made:

(a) personally by delivery of a duly executed copy thereof to the person to be served or, if a person is not a natural person, in the manner provided in the

Code of Civil Procedure when a complaint is filed; or

(b) by mailing by certified mail a duly executed copy thereof to the person to be served at his or her last known abode or principal place of business within this State.

(4) In lieu of a civil action, the individual or entity alleged to have engaged in a pattern or practice of discrimination deemed violative of this Act may enter into an Assurance of Voluntary Compliance with respect to the alleged pattern or practice violation.

(5) The Illinois Attorney General may commence a civil action under this subsection (A) whether or not a charge has been filed under Sections 7A-102 or 7B-102 and without regard to the status of any charge, however, if the Department or local agency has obtained a conciliation or settlement agreement or if the parties have entered into an Assurance of Voluntary Compliance no action may be filed under this subsection (A) with respect to the alleged civil rights violation practice that forms the basis for the complaint except for the purpose of enforcing the terms of the conciliation or settlement agreement or the terms of the Assurance of Voluntary Compliance.

(6) Subpoenas.

(a) Petition for enforcement. Whenever any person fails to comply with any subpoena issued under paragraph (2) of this subsection (A), or whenever

satisfactory copying or reproduction of any material requested in an investigation cannot be done and the person refuses to surrender the material, the Attorney General may file in any appropriate circuit court, and serve upon the person, a petition for a court order for the enforcement of the subpoena or other request. Venue for this enforcement action shall be determined under paragraph (C) (6) of Section 8-111.

(b) Petition to modify or set aside a subpoena.

(i) Any person who has received a subpoena issued under paragraph (2) of this subsection (A) may file in the appropriate circuit court, and serve upon the Attorney General, a petition for a court order to modify or set aside the subpoena or other request. The petition must be filed either (I) within 20 days after the date of service of the subpoena or at any time before the return date specified in the subpoena, whichever date is earlier, or (II) within such longer period as may be prescribed in writing by the Attorney General.

(ii) The petition shall specify each ground upon which the petitioner relies in seeking relief under subdivision (i) and may be based upon any failure of the subpoena to comply with the provisions of this Section or upon any constitutional or other legal right or privilege

of the petitioner. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the subpoena or other request, in whole or in part, except that the petitioner shall comply with any portion of the subpoena or other request not sought to be modified or set aside.

(c) Jurisdiction. Whenever any petition is filed in any circuit court under this paragraph (6), the court shall have jurisdiction to hear and determine the matter so presented and to enter such orders as may be required to carry out the provisions of this Section. Any final order so entered shall be subject to appeal in the same manner as appeals of other final orders in civil matters. Any disobedience of any final order entered under this paragraph (6) by any court shall be punished as a contempt of the court. ~~If any person fails or refuses to file any statement or report, or obey any subpoena, issued pursuant to subdivision (A) (2) of this Section, the Attorney General will be deemed to have met the requirement of conducting a preliminary investigation and may proceed to initiate a civil action pursuant to subdivision (A) (1) of this Section.~~

(B) Relief which may be granted.

(1) In any civil action brought pursuant to subsection

(A) of this Section, the Attorney General may obtain as a remedy, equitable relief (including any permanent or preliminary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such civil rights violation or ordering any action as may be appropriate). In addition, the Attorney General may request and the Court may impose a civil penalty to vindicate the public interest:

(a) for violations of Article 3 and Article 4 in an amount not exceeding \$25,000 per violation, and in the case of violations of all other Articles in an amount not exceeding \$10,000 if the defendant has not been adjudged to have committed any prior civil rights violations under the provision of the Act that is the basis of the complaint;

(b) for violations of Article 3 and Article 4 in an amount not exceeding \$50,000 per violation, and in the case of violations of all other Articles in an amount not exceeding \$25,000 if the defendant has been adjudged to have committed one other civil rights violation under the provision of the Act within 5 years of the occurrence of the civil rights violation that is the basis of the complaint; and

(c) for violations of Article 3 and Article 4 in an amount not exceeding \$75,000 per violation, and in the case of violations of all other Articles in an amount

not exceeding \$50,000 if the defendant has been adjudged to have committed 2 or more civil rights violations under the provision of the Act within 5 years of the occurrence of the civil rights violation that is the basis of the complaint.

(2) A civil penalty imposed under subdivision (B) (1) of this Section shall be deposited into the Attorney General Court Ordered and Voluntary Compliance Payment Projects Fund, which is a special fund in the State Treasury. Moneys in the Fund shall be used, subject to appropriation, for the performance of any function pertaining to the exercise of the duties of the Attorney General including but not limited to enforcement of any law of this State and conducting public education programs; however, any moneys in the Fund that are required by the court or by an agreement to be used for a particular purpose shall be used for that purpose.

(3) Aggrieved parties seeking actual damages must follow the procedure set out in Sections 7A-102 or 7B-102 for filing a charge.

(Source: P.A. 95-961, eff. 9-23-08.)