

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.