



Rep. Chris Nybo

**Filed: 3/31/2011**

09700HB1552ham002

LRB097 06777 AJ0 53737 a

1 AMENDMENT TO HOUSE BILL 1552

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1552, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Illinois Human Rights Act is amended by  
6 changing Section 7A-102 as follows:

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

8 Sec. 7A-102. Procedures.

9 (A) Charge.

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

15 (2) The charge shall be in such detail as to  
16 substantially apprise any party properly concerned as to

1 the time, place, and facts surrounding the alleged civil  
2 rights violation.

3 (A-1) Equal Employment Opportunity Commission Charges. A  
4 charge filed with the Equal Employment Opportunity Commission  
5 within 180 days after the date of the alleged civil rights  
6 violation shall be deemed filed with the Department on the date  
7 filed with the Equal Employment Opportunity Commission. Upon  
8 receipt of a charge filed with the Equal Employment Opportunity  
9 Commission, the Department shall notify the complainant that he  
10 or she may proceed with the Department. The complainant must  
11 notify the Department of his or her decision in writing within  
12 35 days of receipt of the Department's notice to the  
13 complainant and the Department shall close the case if the  
14 complainant does not do so. If the complainant proceeds with  
15 the Department, the Department shall take no action until the  
16 Equal Employment Opportunity Commission makes a determination  
17 on the charge. Upon receipt of the Equal Employment Opportunity  
18 Commission's determination, the Department shall cause the  
19 charge to be filed under oath or affirmation and to be in such  
20 detail as provided for under subparagraph (2) of paragraph (A).  
21 For those charges alleging violations within the jurisdiction  
22 of the Equal Employment Opportunity Commission and the  
23 Department and for which the Equal Employment Opportunity  
24 Commission does not determine that there is reasonable cause to  
25 believe that discrimination occurred, the Department shall  
26 adopt the Equal Employment Opportunity Commission's

1 determination which shall be deemed a determination by the  
2 Department for all purposes under this Act. For those charges  
3 where the Equal Employment Opportunity Commission determines  
4 that there is reasonable cause to believe that discrimination  
5 occurred, the Department, at its discretion, shall either adopt  
6 the Equal Employment Opportunity Commission's determination or  
7 process the charge pursuant to this Act. ~~At the Department's~~  
8 ~~discretion, the Department shall either adopt the Equal~~  
9 ~~Employment Opportunity Commission's determination or process~~  
10 ~~the charge pursuant to this Act. Adoption of the Equal~~  
11 ~~Employment Opportunity Commission's determination shall be~~  
12 ~~deemed a determination by the Department for all purposes under~~  
13 ~~this Act.~~

14 (B) Notice and Response to Charge. The Department shall,  
15 within 10 days of the date on which the charge was filed, serve  
16 a copy of the charge on the respondent. This period shall not  
17 be construed to be jurisdictional. The charging party and the  
18 respondent may each file a position statement and other  
19 materials with the Department regarding the charge of alleged  
20 discrimination within 60 days of receipt of the notice of the  
21 charge. The position statements and other materials filed shall  
22 remain confidential unless otherwise agreed to by the party  
23 providing the information and shall not be served on or made  
24 available to the other party during pendency of a charge with  
25 the Department. The Department shall require the respondent to  
26 file a verified response to the allegations contained in the

1 charge within 60 days of receipt of the notice of the charge.  
2 The respondent shall serve a copy of its response on the  
3 complainant or his representative. All allegations contained  
4 in the charge not timely denied by the respondent shall be  
5 deemed admitted, unless the respondent states that it is  
6 without sufficient information to form a belief with respect to  
7 such allegation. The Department may issue a notice of default  
8 directed to any respondent who fails to file a verified  
9 response to a charge within 60 days of receipt of the notice of  
10 the charge, unless the respondent can demonstrate good cause as  
11 to why such notice should not issue. The term "good cause"  
12 shall be defined by rule promulgated by the Department. Within  
13 30 days of receipt of the respondent's response, the  
14 complainant may file a reply to said response and shall serve a  
15 copy of said reply on the respondent or his representative. A  
16 party shall have the right to supplement his response or reply  
17 at any time that the investigation of the charge is pending.  
18 The Department shall, within 10 days of the date on which the  
19 charge was filed, and again no later than 335 days thereafter,  
20 send by certified or registered mail written notice to the  
21 complainant and to the respondent informing the complainant of  
22 the complainant's right to either file a complaint with the  
23 Human Rights Commission or commence a civil action in the  
24 appropriate circuit court under subparagraph (2) of paragraph  
25 (G), including in such notice the dates within which the  
26 complainant may exercise this right. In the notice the

1 Department shall notify the complainant that the charge of  
2 civil rights violation will be dismissed with prejudice and  
3 with no right to further proceed if a written complaint is not  
4 timely filed with the Commission or with the appropriate  
5 circuit court by the complainant pursuant to subparagraph (2)  
6 of paragraph (G) or by the Department pursuant to subparagraph  
7 (1) of paragraph (G).

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

17 (C) Investigation.

18 (1) After the respondent has been notified, the  
19 Department shall conduct a full investigation of the  
20 allegations set forth in the charge.

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

26 (3) If any witness whose testimony is required for any

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

8 (4) Upon reasonable notice to the complainant and the  
9 respondent, the Department shall conduct a fact finding  
10 conference prior to 365 days after the date on which the  
11 charge was filed, unless the Director has determined  
12 whether there is substantial evidence that the alleged  
13 civil rights violation has been committed or the charge has  
14 been dismissed for lack of jurisdiction. If the parties  
15 agree in writing, the fact finding conference may be held  
16 at a time after the 365 day limit. Any party's failure to  
17 attend the conference without good cause shall result in  
18 dismissal or default. The term "good cause" shall be  
19 defined by rule promulgated by the Department. A notice of  
20 dismissal or default shall be issued by the Director. The  
21 notice of default issued by the Director shall notify the  
22 respondent that a request for review may be filed in  
23 writing with the Commission within 30 days of receipt of  
24 notice of default. The notice of dismissal issued by the  
25 Director shall give the complainant notice of his or her  
26 right to seek review of the dismissal before the Human

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

12 (D) Report.

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

19 (2) Upon review of the report, the Director shall  
20 determine whether there is substantial evidence that the  
21 alleged civil rights violation has been committed. The  
22 determination of substantial evidence is limited to  
23 determining the need for further consideration of the  
24 charge pursuant to this Act and includes, but is not  
25 limited to, findings of fact and conclusions, as well as  
26 the reasons for the determinations on all material issues.

1 Substantial evidence is evidence which a reasonable mind  
2 accepts as sufficient to support a particular conclusion  
3 and which consists of more than a mere scintilla but may be  
4 somewhat less than a preponderance.

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

20 (4) If the Director determines that there is  
21 substantial evidence, he or she shall notify the  
22 complainant and respondent of that determination. The  
23 Director shall also notify the parties that the complainant  
24 has the right to either commence a civil action in the  
25 appropriate circuit court or request that the Department of  
26 Human Rights file a complaint with the Human Rights



1 Commission on his or her behalf. Any such complaint shall  
2 be filed within 90 days after receipt of the Director's  
3 notice. If the complainant chooses to have the Department  
4 file a complaint with the Human Rights Commission on his or  
5 her behalf, the complainant must, within 30 days after  
6 receipt of the Director's notice, request in writing that  
7 the Department file the complaint. If the complainant  
8 timely requests that the Department file the complaint, the  
9 Department shall file the complaint on his or her behalf.  
10 If the complainant fails to timely request that the  
11 Department file the complaint, the complainant may file his  
12 or her complaint with the Commission or commence a civil  
13 action in the appropriate circuit court. If the complainant  
14 files a complaint with the Human Rights Commission, the  
15 complainant shall give notice to the Department of the  
16 filing of the complaint with the Human Rights Commission.

17 (E) Conciliation.

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

24 (2) When the Department determines that a formal  
25 conciliation conference is necessary, the complainant and  
26 respondent shall be notified of the time and place of the

1 conference by registered or certified mail at least 10 days  
2 prior thereto and either or both parties shall appear at  
3 the conference in person or by attorney.

4 (3) The place fixed for the conference shall be within  
5 35 miles of the place where the civil rights violation is  
6 alleged to have been committed.

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

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

13 (F) Complaint.

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

22 (2) If the complainant chooses to commence a civil  
23 action in a circuit court, he or she must do so in the  
24 circuit court in the county wherein the civil rights  
25 violation was allegedly committed. The form of the  
26 complaint in any such civil action shall be in accordance

1 with the Illinois Code of Civil Procedure.

2 (G) Time Limit.

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

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

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

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

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

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

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

1 changes.

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

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

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