



Rep. Tracy Katz Muhl

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LRB104 20022 JRC 35930 a

1 AMENDMENT TO HOUSE BILL 5068

2 AMENDMENT NO. _____. Amend House Bill 5068 by replacing
3 everything after the enacting clause with the following:

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 2 years after the date that a civil rights
10 violation allegedly has been committed, a charge in
11 writing under oath or affirmation may be filed with the
12 Department by an aggrieved party or issued by the
13 Department itself 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

1 rights violation.

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

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

6 (1) If a charge is filed with the Equal Employment
7 Opportunity Commission (EEOC) within 300 calendar days
8 after the date of the alleged civil rights violation, the
9 charge shall be deemed filed with the Department on the
10 date filed with the EEOC. If the EEOC is the governmental
11 agency designated to investigate the charge first, the
12 Department shall take no action until the EEOC makes a
13 determination on the charge and after the complainant
14 notifies the Department of the EEOC's determination. In
15 such cases, after receiving notice ~~from the EEOC~~ that a
16 charge was filed with the EEOC, the Department shall
17 notify the parties that (i) a charge has been received by
18 the EEOC and has been sent to the Department for dual
19 filing purposes; (ii) the EEOC is the governmental agency
20 responsible for investigating the charge and that the
21 investigation shall be conducted pursuant to the rules and
22 procedures adopted by the EEOC; (iii) it will take no
23 action on the charge until the EEOC issues its
24 determination; (iv) the complainant must submit a copy of
25 the EEOC's determination within 30 days after service of
26 the determination by the EEOC on the complainant and may

1 request a Departmental notice of right to sue when
2 submitting the EEOC's determination; and (v) that the time
3 period to investigate the charge contained in subsection
4 (G) of this Section is tolled from the date on which the
5 charge is filed with the EEOC until the EEOC issues its
6 determination.

7 (2) If the EEOC finds reasonable cause to believe that
8 there has been a violation of federal law and if the
9 Department is timely notified of the EEOC's findings by
10 the complainant, the Department shall notify the
11 complainant that the Department has adopted the EEOC's
12 determination of reasonable cause and that the complainant
13 has the right, within 90 days after receipt of the
14 Department's notice, to either file the complainant's own
15 complaint with the Illinois Human Rights Commission or
16 commence a civil action in the appropriate circuit court
17 or other appropriate court of competent jurisdiction. This
18 notice shall be provided to the complainant within 10
19 business days after the Department's receipt of the EEOC's
20 determination. The Department's notice to the complainant
21 that the Department has adopted the EEOC's determination
22 of reasonable cause shall constitute the Department's
23 Report for purposes of subparagraph (D) of this Section.

24 (3) For those charges alleging violations within the
25 jurisdiction of both the EEOC and the Department and for
26 which the EEOC either (i) does not issue a determination,

1 but does issue the complainant a notice of a right to sue,
2 including when the right to sue is issued at the request of
3 the complainant, or (ii) determines that it is unable to
4 establish that illegal discrimination has occurred and
5 issues the complainant a right to sue notice, and if the
6 Department is timely notified of the EEOC's determination
7 by the complainant, the Department shall proceed as
8 follows:

9 (a) If the complainant timely notifies the
10 Department of the EEOC's determination and also
11 requests in writing that the Department issue a
12 Departmental notice of right to sue, then the
13 Department shall issue the notice within 10 business
14 days after the receipt of the EEOC's determination and
15 request from the complainant.

16 (b) If the complainant does not submit the written
17 request mentioned in (A-1)(3)(a) when notifying the
18 Department of the EEOC's determination, then the
19 Department shall inform ~~notify~~ the parties, within 10
20 business days after receipt of the EEOC's
21 determination, that the Department will issue a
22 Departmental notice of right to sue ~~adopt the EEOC's~~
23 ~~determination as a dismissal for lack of substantial~~
24 ~~evidence~~ unless the complainant requests in writing
25 within 35 days after receipt ~~of the Department's~~
26 ~~notice~~ that the Department review the EEOC's

1 determination.

2 (i) ~~(a)~~ If the complainant does not file a
3 written request with the Department to review the
4 EEOC's determination within 35 days after receipt
5 ~~of the Department's notice,~~ the Department shall
6 issue to notify the complainant, within 10
7 business days after the expiration of the 35-day
8 period, a Departmental notice of right to sue ~~that~~
9 ~~the decision of the EEOC has been adopted by the~~
10 ~~Department as a dismissal for lack of substantial~~
11 ~~evidence and~~ that the complainant has the right,
12 within 90 days after receipt of the Department's
13 notice, to either file the complainant's own
14 complaint with the Human Rights Commission or
15 commence a civil action in the appropriate circuit
16 court or other appropriate court of competent
17 jurisdiction. ~~The Department's notice to the~~
18 ~~complainant that the Department has adopted the~~
19 ~~EEOC's determination shall constitute the~~
20 ~~Department's report for purposes of subparagraph~~
21 ~~(D) of this Section.~~

22 (ii) ~~(b)~~ If the complainant does file a
23 written request with the Department to review the
24 EEOC's determination, the Department shall review
25 the EEOC's determination and may review any
26 information submitted by the complainant with the

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

24 (4) Pursuant to this Section, if the EEOC dismisses
25 the charge or a portion of the charge of discrimination
26 because, under federal law, the EEOC lacks jurisdiction

1 over the charge, and if, under this Act, the Department
2 has jurisdiction over the charge of discrimination, the
3 Department shall investigate the charge or portion of the
4 charge dismissed by the EEOC for lack of jurisdiction
5 pursuant to subsections (A), (A-1), (B), (B-1), (C), (D),
6 (E), (F), (G), (H), (I), (J), and (K) of this Section.

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

11 (6) The failure of the Department to meet the
12 10-business-day notification deadlines set out in
13 paragraph (2) of this subsection shall not impair the
14 rights of any party.

15 (B) Notice and Response to Charge. The Department shall,
16 within 10 days of the date on which the charge was filed, serve
17 a copy of the charge on the respondent and provide all parties
18 with a notice of the complainant's right to opt out of the
19 investigation within 60 days to commence an action in circuit
20 court as set forth in subsection (C-1) and the complainant's
21 right to request a Departmental notice of right to sue after 60
22 days as set forth in subsection (C-2). This period shall not be
23 construed to be jurisdictional. The charging party and the
24 respondent may each file a position statement and other
25 materials with the Department regarding the charge of alleged
26 discrimination within 60 days of receipt of the notice of the

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

1 and shall serve a copy of said reply on the respondent or the
2 respondent's representative. A party shall have the right to
3 supplement the party's response or reply at any time that the
4 investigation of the charge is pending. The Department shall,
5 within 10 days of the date on which the charge was filed, and
6 again no later than 335 days thereafter if the Department has
7 not issued its report or otherwise closed or dismissed the
8 charge in accordance with this Act, send by certified or
9 registered mail, or electronic mail if elected by the party,
10 written notice to the complainant and to the respondent
11 informing the complainant of the complainant's right to
12 request a Departmental notice of right to sue under subsection
13 (C-2) and the complainant's right ~~rights~~ to either file a
14 complaint with the Human Rights Commission or commence a civil
15 action in the appropriate circuit court under subparagraph (2)
16 of paragraph (G), including in such notice the dates within
17 which the complainant may exercise these rights. In the notice
18 the Department shall notify the complainant that the charge of
19 civil rights violation will be dismissed with prejudice and
20 with no right to further proceed if a written complaint is not
21 timely filed with the Commission or with the appropriate
22 circuit court by the complainant pursuant to subparagraph (2)
23 of paragraph (G) or by the Department pursuant to subparagraph
24 (1) of paragraph (G).

25 (B-1) Mediation. The complainant and respondent may agree
26 to voluntarily submit the charge to mediation without waiving

1 any rights that are otherwise available to either party
2 pursuant to this Act and without incurring any obligation to
3 accept the result of the mediation process. Nothing occurring
4 in mediation shall be disclosed by the Department or
5 admissible in evidence in any subsequent proceeding unless the
6 complainant and the respondent agree in writing that such
7 disclosure be made.

8 (C) Investigation.

9 (1) The Department shall conduct an investigation
10 sufficient to determine whether the allegations set forth
11 in the charge are supported by substantial evidence unless
12 the complainant elects to opt out of an investigation
13 pursuant to subsection (C-1).

14 (2) The Director or the Director's designated
15 representatives shall have authority to request any member
16 of the Commission to issue subpoenas to compel the
17 attendance of a witness or the production for examination
18 of any books, records or documents whatsoever.

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

1 (4) Upon reasonable notice to the complainant and the
2 respondent, the Department in its discretion may conduct a
3 fact finding conference. If the complainant and respondent
4 both submit a written request for a fact finding
5 conference prior to 90 days after the date on which the
6 charge was filed, the Department shall conduct a fact
7 finding conference unless prior to the Department's
8 receipt of both requests, the Department has issued its
9 report. Any request for a fact finding conference must
10 include the party's written agreement to grant an
11 extension of 120 days to the time period if requested by
12 the Department to issue its report. If the Department
13 conducts a fact finding conference, a complainant or
14 respondent's failure to attend the conference without good
15 cause shall result in dismissal or default. The term "good
16 cause" shall be defined by rule promulgated by the
17 Department. A notice of dismissal or default shall be
18 issued by the Director. The notice of default issued by
19 the Director shall notify the respondent that a request
20 for review may be filed in writing with the Commission
21 within 30 days of receipt of notice of default. The notice
22 of dismissal issued by the Director shall give the
23 complainant notice of the complainant's right to seek
24 review of the dismissal before the Human Rights Commission
25 or commence a civil action in the appropriate circuit
26 court. If the complainant chooses to have the Human Rights

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

10 (C-1) Opt out of Department's investigation. At any time
11 within 60 days after receipt of notice of the right to opt out,
12 or request a Departmental notice of right to sue, a
13 complainant may submit a written request seeking notice from
14 the Director indicating that the complainant has opted out of
15 the investigation and may commence a civil action in the
16 appropriate circuit court or other appropriate court of
17 competent jurisdiction. Within 10 business days of receipt of
18 the complainant's timely request to opt out of the
19 investigation, the Director shall issue an opt-out a notice to
20 commence an action in circuit court to the parties stating
21 that: (i) the complainant has exercised the right to opt out of
22 the investigation; (ii) the complainant has 90 days after
23 receipt of the Director's notice to commence an action in the
24 appropriate circuit court or other appropriate court of
25 competent jurisdiction; and (iii) the Department has ceased
26 its investigation and is administratively closing the charge.

1 The complainant shall notify the Department that a complaint
2 has been filed with the appropriate circuit court by serving a
3 copy of the complaint on the chief legal counsel of the
4 Department within 21 days from the date that the complaint is
5 filed with the appropriate circuit court. This 21-day period
6 for service on the chief legal counsel shall not be construed
7 to be jurisdictional. Once a complainant has opted out of the
8 investigation under this subsection, the complainant may not
9 file or refile a substantially similar charge with the
10 Department arising from the same incident of unlawful
11 discrimination or harassment. If the Department receives a
12 written request from the complainant to opt out of the
13 investigation after the 60-day opt-out time period has
14 elapsed, the Department shall process the request as a request
15 for a Departmental notice of right to sue pursuant to (C-2).

16 (C-2) Right to request Departmental notice of right to
17 sue. At any time after the opt-out time period has elapsed as
18 defined in subsection (C-1), a complainant may submit a
19 written request seeking a Departmental notice of right to sue.
20 The decision to issue such notice shall be at the Department's
21 discretion. If more than 365 days has elapsed after the charge
22 is filed, or any such longer period agreed to in writing by all
23 the parties, the complainant may exercise the complainant's
24 rights to either file a complaint with the Human Rights
25 Commission or commence a civil action in the appropriate
26 circuit court under subparagraph (2) of paragraph (G) without

1 requesting or obtaining a Departmental notice of right to sue.

2 (D) Report.

3 (1) Each charge investigated under subsection (C)
4 shall be the subject of a report to the Director. The
5 report shall be a confidential document subject to review
6 by the Director, authorized Department employees, the
7 parties, and, where indicated by this Act, members of the
8 Commission or their designated hearing officers.

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

21 (3) If the Director determines that there is no
22 substantial evidence, the charge shall be dismissed by the
23 Director and the Director shall give the complainant
24 notice of the complainant's right to seek review of the
25 notice of dismissal before the Commission or commence a
26 civil action in the appropriate circuit court. If the

1 complainant chooses to have the Human Rights Commission
2 review the notice of dismissal, the complainant shall file
3 a request for review with the Commission within 90 days
4 after receipt of the Director's notice. If the complainant
5 chooses to file a request for review with the Commission,
6 the complainant may not later commence a civil action in a
7 circuit court. If the complainant chooses to commence a
8 civil action in a circuit court, the complainant must do
9 so within 90 days after receipt of the Director's notice.
10 The complainant shall notify the Department that a
11 complaint has been filed by serving a copy of the
12 complaint on the chief legal counsel of the Department
13 within 21 days from the date that the complaint is filed in
14 circuit court. This 21-day period for service on the chief
15 legal counsel shall not be construed to be jurisdictional.

16 (4) If the Director determines that there is
17 substantial evidence, the Director shall notify the
18 complainant and respondent of that determination. The
19 Director shall also notify the parties that the
20 complainant has the right to either commence a civil
21 action in the appropriate circuit court or request that
22 the Department of Human Rights file a complaint with the
23 Human Rights Commission on the complainant's behalf. Any
24 such complaint shall be filed within 90 days after receipt
25 of the Director's notice. If the complainant chooses to
26 have the Department file a complaint with the Human Rights

1 Commission on the complainant's behalf, the complainant
2 must, within 30 days after receipt of the Director's
3 notice, request in writing that the Department file the
4 complaint. If the complainant timely requests that the
5 Department file the complaint, the Department shall file
6 the complaint on the complainant's behalf. If the
7 complainant fails to timely request that the Department
8 file the complaint, the complainant may file the
9 complainant's complaint with the Commission or commence a
10 civil action in the appropriate circuit court. If the
11 complainant files a complaint with the Human Rights
12 Commission, the complainant shall notify the Department
13 that a complaint has been filed by serving a copy of the
14 complaint on the chief legal counsel of the Department
15 within 21 days from the date that the complaint is filed
16 with the Human Rights Commission. This 21-day period for
17 service on the chief legal counsel shall not be construed
18 to be jurisdictional.

19 (5) A Departmental notice of right to sue may
20 constitute the Department's report for purposes of this
21 subparagraph and does not constitute a finding of
22 substantial evidence or a lack of substantial evidence.
23 Any Departmental notice of right to sue shall state that
24 the complainant shall have 90 days to either file the
25 complainant's own complaint with the Human Rights
26 Commission or commence a civil action in the appropriate

1 circuit court or other appropriate court of competent
2 jurisdiction. If the complainant chooses to file a
3 complaint with the Human Rights Commission or commence a
4 civil action in the appropriate circuit court or other
5 appropriate court of competent jurisdiction, the
6 complainant must do so within 90 days after receipt of the
7 Departmental notice of right to sue.

8 (E) Conciliation.

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

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

21 (3) The place fixed for the conference shall be within
22 35 miles of the place where the civil rights violation is
23 alleged to have been committed.

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

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

4 (F) Complaint.

5 (1) When the complainant requests that the Department
6 file a complaint with the Commission on the complainant's
7 behalf, the Department shall prepare a written complaint,
8 under oath or affirmation, stating the nature of the civil
9 rights violation substantially as alleged in the charge
10 previously filed and the relief sought on behalf of the
11 aggrieved party. The Department shall file the complaint
12 with the Commission.

13 (1.5) If the complainant chooses to file a complaint
14 with the Commission without the Department's assistance,
15 the complainant shall notify the Department that a
16 complaint has been filed by serving a copy of the
17 complaint on the chief legal counsel of the Department
18 within 21 days from the date that the complaint is filed
19 with the Human Rights Commission. This 21-day period for
20 service on the chief legal counsel shall not be construed
21 to be jurisdictional.

22 (2) If the complainant chooses to commence a civil
23 action in a circuit court:

24 (i) The complainant shall file the civil action in
25 the circuit court in the county wherein the civil
26 rights violation was allegedly committed.

1 (ii) The form of the complaint in any such civil
2 action shall be in accordance with the Code of Civil
3 Procedure.

4 (iii) The complainant shall notify the Department
5 that a complaint has been filed by serving a copy of
6 the complaint on the chief legal counsel of the
7 Department within 21 days from the date that the
8 complaint is filed in circuit court. This 21-day
9 period for service on the chief legal counsel shall
10 not be construed to be jurisdictional.

11 (G) Time Limit.

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

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

1 accordance with the provisions of paragraph (F)(1). If the
2 complainant commences a civil action in a circuit court,
3 the form of the complaint shall be in accordance with the
4 Code of Civil Procedure. The aggrieved party shall notify
5 the Department that a complaint has been filed by serving
6 a copy of the complaint on the chief legal counsel of the
7 Department within ~~with~~ 21 days from the date that the
8 complaint is filed with the Commission or in circuit
9 court. This 21-day period for service on the chief legal
10 counsel shall not be construed to be jurisdictional. If
11 the complainant files a complaint with the Commission, the
12 complainant may not later commence a civil action in
13 circuit court.

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

1 may also be liable for any costs and other damages
2 incurred by the respondent as a result of the action of the
3 Department.

4 (4) (Blank).

5 (H) Public Act 89-370 applies to causes of action filed on
6 or after January 1, 1996.

7 (I) Public Act 89-520 applies to causes of action filed on
8 or after January 1, 1996.

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

12 (K) The changes made to this Section by Public Act 96-876
13 apply to charges filed on or after the effective date of those
14 changes.

15 (L) The changes made to this Section by Public Act
16 100-1066 apply to charges filed on or after August 24, 2018
17 (the effective date of Public Act 100-1066).

18 (M) The changes made to this Section by Public Act 104-425
19 ~~this amendatory Act of the 104th General Assembly~~ apply to
20 charges pending or filed on or after January 1, 2026 (the
21 effective date of Public Act 104-425) ~~this amendatory Act of~~
22 ~~the 104th General Assembly~~.

23 (Source: P.A. 103-335, eff. 1-1-24; 103-973, eff. 1-1-25;
24 104-425, eff. 1-1-26; revised 12-12-25.)".