



Rep. Ann M. Williams

Filed: 4/20/2021

10200HB0700ham001

LRB102 02790 LNS 25288 a

1 AMENDMENT TO HOUSE BILL 700

2 AMENDMENT NO. _____. Amend House Bill 700 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Human Rights Act is amended by
5 changing Sections 7-101, 8A-102, 10-102, and 10-103 and by
6 adding Section 10-105 as follows:

7 (775 ILCS 5/7-101) (from Ch. 68, par. 7-101)

8 Sec. 7-101. Powers and Duties. In addition to other powers
9 and duties prescribed in this Act, the Department shall have
10 the following powers:

11 (A) Rules and Regulations. To adopt, promulgate, amend,
12 and rescind rules and regulations not inconsistent with the
13 provisions of this Act pursuant to the Illinois Administrative
14 Procedure Act.

15 (B) Charges. To issue, receive, investigate, conciliate,
16 settle, and dismiss charges filed in conformity with this Act.

1 (C) Compulsory Process. To request subpoenas as it deems
2 necessary for its investigations.

3 (D) Complaints. To file complaints with the Commission in
4 conformity with this Act and to intervene in complaints
5 pending before the Commission filed under Article 2, 4, 5, 5A,
6 or 6.

7 (E) Judicial Enforcement. To seek temporary relief and to
8 enforce orders of the Commission in conformity with this Act.

9 (F) Equal Employment Opportunities. To take such action as
10 may be authorized to provide for equal employment
11 opportunities and affirmative action.

12 (G) Recruitment; Research; Public Communication; Advisory
13 Councils. To engage in such recruitment, research and public
14 communication and create such advisory councils as may be
15 authorized to effectuate the purposes of this Act.

16 (H) Coordination with other Agencies. To coordinate its
17 activities with federal, state, and local agencies in
18 conformity with this Act.

19 (I) Public Grants; Private Gifts. To accept public grants
20 and private gifts as may be authorized.

21 (J) Education and Training. To implement a formal and
22 unbiased program of education and training for all employees
23 assigned to investigate and conciliate charges under Articles
24 7A and 7B. The training program shall include the following:

25 (1) substantive and procedural aspects of the
26 investigation and conciliation positions;

- 1 (2) current issues in human rights law and practice;
- 2 (3) lectures by specialists in substantive areas
3 related to human rights matters;
- 4 (4) orientation to each operational unit of the
5 Department and Commission;
- 6 (5) observation of experienced Department
7 investigators and attorneys conducting conciliation
8 conferences, combined with the opportunity to discuss
9 evidence presented and rulings made;
- 10 (6) the use of hypothetical cases requiring the
11 Department investigator and conciliation conference
12 attorney to issue judgments as a means to evaluating
13 knowledge and writing ability;
- 14 (7) writing skills;
- 15 (8) computer skills, including but not limited to word
16 processing and document management.

17 A formal, unbiased and ongoing professional development
18 program including, but not limited to, the above-noted areas
19 shall be implemented to keep Department investigators and
20 attorneys informed of recent developments and issues and to
21 assist them in maintaining and enhancing their professional
22 competence.

23 (Source: P.A. 99-74, eff. 7-20-15.)

24 (775 ILCS 5/8A-102) (from Ch. 68, par. 8A-102)
25 Sec. 8A-102. Hearing on Complaint.

1 (A) Services. Within five days after a complaint is filed
2 by the Department, or the aggrieved party, as the case may be,
3 the Commission shall cause it to be served on the respondent
4 together with a notice of hearing before a hearing officer of
5 the Commission at a place therein fixed.

6 (B) Time and Location of Hearing. An initial hearing date
7 shall be scheduled for not less than thirty nor more than
8 ninety days after service of the complaint at a place that is
9 within one hundred miles of the place at which the civil rights
10 violation is alleged to have occurred. The hearing officer
11 may, for good cause shown, extend the date of the hearing.

12 (B-5) Intervention by the Department.

13 (1) After the filing of a complaint under Article 2, 4, 5,
14 5A, or 6, the Department may petition and shall be permitted as
15 a matter of right to intervene as a party in the proceeding if
16 the Commission determines that: (i) the case involves matters
17 of public interest or importance beyond the issues in the
18 case; (ii) the Department has an interest different from one
19 or more of the parties; (iii) the expertise of the Department
20 makes it better suited to articulate a particular point of
21 view; or (iv) the representation of the Department's interest
22 by existing parties is or may be inadequate and the Department
23 will or may be bound by an order or judgment in the action.

24 (2) The Department, as an intervenor, shall have all of
25 the rights of an original party subject to the order of the
26 administrative law judge.

1 (3) Upon such intervention, the Commission may award such
2 relief as is authorized to be granted to a complainant under
3 Section 8A-104.

4 (C) Amendment.

5 (1) A complaint may be amended under oath by leave of
6 the presiding hearing officer, for good cause shown, upon
7 timely written motion and reasonable notice to all
8 interested parties at any time prior to the issuance of a
9 recommended order pursuant to Section 8A-102(I) or
10 8B-102(J). The amended complaint shall be served upon all
11 parties of record and the Department of Human Rights by
12 the complainant, or by the Department if it prepared and
13 filed the amended complaint, within 7 days of the date of
14 the order permitting its filing or such additional time as
15 the hearing officer may order. Amendments to the complaint
16 may encompass any unlawful discrimination which is like or
17 reasonably related to the charge and growing out of the
18 allegations in such charge, including, but not limited to,
19 allegations of retaliation.

20 (2) A motion that the complaint be amended to conform
21 to the evidence, made prior to the close of the public
22 hearing, may be addressed orally on the record to the
23 hearing officer, and shall be granted for good and
24 sufficient cause.

25 (D) Answer.

26 (1) The respondent shall file an answer under oath or

1 affirmation to the original or amended complaint within 30
2 days of the date of service thereof, but the hearing
3 officer may, for good cause shown, grant further time for
4 the filing of an answer.

5 (2) When the respondent files a motion to dismiss the
6 complaint within 30 days and the motion is denied by the
7 hearing officer, the time for filing the answer shall be
8 within 15 days of the date of denial of the motion.

9 (3) Any allegation in the complaint which is not
10 denied or admitted in the answer is deemed admitted unless
11 the respondent states in the answer that he is without
12 sufficient knowledge or information to form a belief with
13 respect to such allegation.

14 (4) The failure to file an answer is deemed to
15 constitute an admission of the allegations contained in
16 the complaint.

17 (5) The respondent has the right to amend his answer,
18 upon leave of the hearing officer, for good cause shown.

19 (E) Proceedings In Forma Pauperis.

20 (1) If the hearing officer is satisfied that the
21 complainant or respondent is a poor person, and unable to
22 prosecute or defend the complaint and pay the costs and
23 expenses thereof, the hearing officer may permit the party
24 to commence and prosecute or defend the action as a poor
25 person. Such party shall have all the necessary subpoenas,
26 appearances, and proceedings without prepayment of witness

1 fees or charges. Witnesses shall attend as in other cases
2 under this Act and the same remedies shall be available
3 for failure or refusal to obey the subpoena as are
4 provided for in Section 8-104 of this Act.

5 (2) A person desiring to proceed without payment of
6 fees or charges shall file with the hearing officer an
7 affidavit stating that he is a poor person and unable to
8 pay costs, and that the action is meritorious.

9 (F) Discovery. The procedure for obtaining discovery of
10 information from parties and witnesses shall be specified by
11 the Commission in rules. If no rule has been promulgated by the
12 Commission on a particular type of discovery, the Code of
13 Civil Procedure may be considered persuasive authority. The
14 types of discovery shall be the same as in civil cases in the
15 circuit courts of this State, provided, however, that a party
16 may take discovery depositions only upon leave of the hearing
17 officer and for good cause shown.

18 (G) Hearing.

19 (1) Both the complainant and the respondent may appear
20 at the hearing and examine and cross-examine witnesses.

21 (2) The testimony taken at the hearing shall be under
22 oath or affirmation and a transcript shall be made and
23 filed in the office of the Commission.

24 (3) The testimony taken at the hearing is subject to
25 the same rules of evidence that apply in courts of this
26 State in civil cases.

1 (H) Compelling Appearance of Parties at Hearing. The
2 appearance at the hearing of a party or a person who at the
3 time of the hearing is an officer, director, or employee of a
4 party may be required by serving the party with a notice
5 designating the person who is required to appear. The notice
6 also may require the production at the hearing of documents or
7 tangible things. If the party or person is a nonresident of the
8 county, the hearing officer may order any terms and conditions
9 in connection with his appearance at the hearing that are
10 just, including payment of his reasonable expenses. Upon a
11 failure to comply with the notice, the hearing officer may
12 enter any order that is just.

13 (I) Decision.

14 (1) When all the testimony has been taken, the hearing
15 officer shall determine whether the respondent has engaged
16 in or is engaging in the civil rights violation with
17 respect to the person aggrieved as charged in the
18 complaint. A determination sustaining a complaint shall be
19 based upon a preponderance of the evidence.

20 (2) The hearing officer shall make findings of fact in
21 writing and, if the finding is against the respondent,
22 shall issue and cause to be served on the parties and the
23 Department a recommended order for appropriate relief as
24 provided by this Act.

25 (3) If, upon all the evidence, the hearing officer
26 finds that a respondent has not engaged in the

1 discriminatory practice charged in the complaint or that a
2 preponderance of the evidence does not sustain the
3 complaint, he shall state his findings of fact and shall
4 issue and cause to be served on the parties and the
5 Department a recommended order dismissing the complaint.

6 (4) The findings and recommended order of the hearing
7 officer shall be filed with the Commission. The findings
8 and recommended order may be authored by a hearing officer
9 other than the hearing officer who presides at the public
10 hearing if:

11 (a) the hearing officer who presides at the public
12 hearing is unable to author the findings and
13 recommended order by reason of death, disability, or
14 separation from employment; and

15 (b) all parties to a complaint file a joint motion
16 agreeing to have the findings and recommended order
17 written by a hearing officer who did not preside at the
18 public hearing.

19 (5) A recommended order dismissing a complaint may
20 include an award of reasonable attorneys fees in favor of
21 the respondent against the complainant or the
22 complainant's attorney, or both, if the hearing officer
23 concludes that the complaint was frivolous, unreasonable
24 or groundless or that the complainant continued to
25 litigate after it became clearly so.

26 (6) The hearing officer may issue a recommended order

1 of dismissal with prejudice or a recommended order of
2 default as a sanction for the failure of a party to
3 prosecute his or her case, file a required pleading,
4 appear at a hearing, or otherwise comply with this Act,
5 the rules of the Commission, or a previous order of the
6 hearing officer.

7 (Source: P.A. 92-472, eff. 1-1-02.)

8 (775 ILCS 5/10-102) (from Ch. 68, par. 10-102)

9 Sec. 10-102. Court Actions. (A) Circuit Court Actions. (1)

10 An aggrieved party may commence a civil action in an
11 appropriate Circuit Court not later than 2 years after the
12 occurrence or the termination of an alleged civil rights
13 violation or the breach of a conciliation or settlement
14 agreement entered into under this Act, whichever occurs last,
15 to obtain appropriate relief with respect to the alleged civil
16 rights violation or breach. Venue for such civil action shall
17 be determined under Section 8-111(B) (6).

18 (2) The computation of such 2-year period shall not
19 include any time during which an administrative proceeding
20 under this Act was pending with respect to a complaint or
21 charge under this Act based upon the alleged civil rights
22 violation. This paragraph does not apply to actions arising
23 from a breach of a conciliation or settlement agreement.

24 (3) An aggrieved party may commence a civil action under
25 this subsection whether or not a charge has been filed under

1 Section 7B-102 and without regard to the status of any such
2 charge, however, if the Department or local agency has
3 obtained a conciliation or settlement agreement with the
4 consent of an aggrieved party, no action may be filed under
5 this subsection by such aggrieved party with respect to the
6 alleged civil rights violation practice which forms the basis
7 for such complaint except for the purpose of enforcing the
8 terms of such conciliation or settlement agreement.

9 (4) An aggrieved party shall not commence a civil action
10 under this subsection with respect to an alleged civil rights
11 violation which forms the basis of a complaint issued by the
12 Department if a hearing officer has commenced a hearing on the
13 record under Article 3 of this Act with respect to such
14 complaint.

15 (B) Appointment of Attorney by Court. Upon application by
16 a person alleging a civil rights violation or a person against
17 whom the civil rights violation is alleged, if in the opinion
18 of the court such person is financially unable to bear the
19 costs of such action, the court may:

20 (1) appoint an attorney for such person, any attorney so
21 appointed may petition for an award of attorneys fees pursuant
22 to subsection (C) (2) of this Section; or

23 (2) authorize the commencement or continuation of a civil
24 action under subsection (A) without the payment of fees,
25 costs, or security.

26 (C) Relief which may be granted. (1) In a civil action

1 under subsection (A) if the court finds that a civil rights
2 violation has occurred or is about to occur, the court may
3 award to the plaintiff actual and punitive damages, and may
4 grant as relief, as the court deems appropriate, any permanent
5 or preliminary injunction, temporary restraining order, or
6 other order, including an order enjoining the defendant from
7 engaging in such civil rights violation or ordering such
8 affirmative action as may be appropriate.

9 (2) In a civil action under subsection (A), the court, in
10 its discretion, may allow the prevailing party, other than the
11 State of Illinois, reasonable attorneys fees and costs. The
12 State of Illinois shall be liable for such fees and costs to
13 the same extent as a private person.

14 (D) Intervention By The Attorney General Department. If
15 the Department certifies that the case is of general public
16 importance, the ~~The~~ Attorney General of Illinois may seek to
17 intervene on behalf of the Department in a civil action filed
18 by a complainant in State or federal court under this Section
19 ~~if the Department certifies that the case is of general public~~
20 ~~importance~~. Upon such intervention, the court may award any of
21 the remedies set forth in Section 8B-104 and subsection (B) of
22 Section 10-104 ~~such relief as is authorized to be granted to a~~
23 ~~plaintiff in a civil action under Section 10-102(C)~~.

24 (Source: P.A. 86-910.)

1 Sec. 10-103. Circuit court actions pursuant to election.

2 (A) If an election is made under Section 8B-102, the
3 Department shall authorize and not later than 30 days after
4 the entry of the administrative closure order by the
5 Commission the Attorney General shall commence and maintain a
6 civil action on behalf of the aggrieved party in a circuit
7 court of Illinois seeking relief under this Section. Venue for
8 such civil action shall be determined under Section 8-111(C)
9 ~~(B)~~(6).

10 (B) Any aggrieved party with respect to the issues to be
11 determined in a civil action under this Section may intervene
12 as of right in that civil action.

13 (C) In a civil action under this Section, if the court
14 finds that a civil rights violation has occurred or is about to
15 occur the court may grant as relief any relief which a court
16 could grant with respect to such civil rights violation in a
17 civil action under Section 10-102. Any relief so granted that
18 would accrue to an aggrieved party in a civil action commenced
19 by that aggrieved party under Section 10-102 shall also accrue
20 to that aggrieved party in a civil action under this Section.
21 If monetary relief is sought for the benefit of an aggrieved
22 party who does not intervene in the civil action, the court
23 shall not award such relief if that aggrieved party has not
24 complied with discovery orders entered by the court.

25 (Source: P.A. 101-530, eff. 1-1-20.)

1 (775 ILCS 5/10-105 new)

2 Sec. 10-105. Intervention by the Attorney General. If the
3 Department certifies that the case is of general public
4 importance, the Attorney General may seek to intervene on
5 behalf of the Department in a civil action filed by a
6 complainant in State or federal court. Upon such intervention,
7 the court or jury may award any of the remedies set forth in
8 Section 8A-104 and subsection (B) of Section 10-104."