



Rep. Ann M. Williams

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LRB102 02790 LNS 36833 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, 10-101, and 10-102 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,
14 4, 5, 5A, or 6, the Department may petition and shall be
15 permitted as a matter of right to intervene as a party in
16 the proceeding if the Commission determines that:

17 (i) the case involves matters of public interest
18 or importance beyond the issues in the case;

19 (ii) the Department has an interest different from
20 one or more of the parties;

21 (iii) the expertise of the Department makes it
22 better suited to articulate a particular point of
23 view; or

24 (iv) the representation of the Department's
25 interest by existing parties is or may be inadequate
26 and the Department will or may be bound by an order or

1 judgment in the action.

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

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

8 (C) Amendment.

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

24 (2) A motion that the complaint be amended to conform
25 to the evidence, made prior to the close of the public
26 hearing, may be addressed orally on the record to the

1 hearing officer, and shall be granted for good and
2 sufficient cause.

3 (D) Answer.

4 (1) The respondent shall file an answer under oath or
5 affirmation to the original or amended complaint within 30
6 days of the date of service thereof, but the hearing
7 officer may, for good cause shown, grant further time for
8 the filing of an answer.

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

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

18 (4) The failure to file an answer is deemed to
19 constitute an admission of the allegations contained in
20 the complaint.

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

23 (E) Proceedings In Forma Pauperis.

24 (1) If the hearing officer is satisfied that the
25 complainant or respondent is a poor person, and unable to
26 prosecute or defend the complaint and pay the costs and

1 expenses thereof, the hearing officer may permit the party
2 to commence and prosecute or defend the action as a poor
3 person. Such party shall have all the necessary subpoenas,
4 appearances, and proceedings without prepayment of witness
5 fees or charges. Witnesses shall attend as in other cases
6 under this Act and the same remedies shall be available
7 for failure or refusal to obey the subpoena as are
8 provided for in Section 8-104 of this Act.

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

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

22 (G) Hearing.

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

25 (2) The testimony taken at the hearing shall be under
26 oath or affirmation and a transcript shall be made and

1 filed in the office of the Commission.

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

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

17 (I) Decision.

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

24 (2) The hearing officer shall make findings of fact in
25 writing and, if the finding is against the respondent,
26 shall issue and cause to be served on the parties and the

1 Department a recommended order for appropriate relief as
2 provided by this Act.

3 (3) If, upon all the evidence, the hearing officer
4 finds that a respondent has not engaged in the
5 discriminatory practice charged in the complaint or that a
6 preponderance of the evidence does not sustain the
7 complaint, he shall state his findings of fact and shall
8 issue and cause to be served on the parties and the
9 Department a recommended order dismissing the complaint.

10 (4) The findings and recommended order of the hearing
11 officer shall be filed with the Commission. The findings
12 and recommended order may be authored by a hearing officer
13 other than the hearing officer who presides at the public
14 hearing if:

15 (a) the hearing officer who presides at the public
16 hearing is unable to author the findings and
17 recommended order by reason of death, disability, or
18 separation from employment; and

19 (b) all parties to a complaint file a joint motion
20 agreeing to have the findings and recommended order
21 written by a hearing officer who did not preside at the
22 public hearing.

23 (5) A recommended order dismissing a complaint may
24 include an award of reasonable attorneys fees in favor of
25 the respondent against the complainant or the
26 complainant's attorney, or both, if the hearing officer

1 concludes that the complaint was frivolous, unreasonable
2 or groundless or that the complainant continued to
3 litigate after it became clearly so.

4 (6) The hearing officer may issue a recommended order
5 of dismissal with prejudice or a recommended order of
6 default as a sanction for the failure of a party to
7 prosecute his or her case, file a required pleading,
8 appear at a hearing, or otherwise comply with this Act,
9 the rules of the Commission, or a previous order of the
10 hearing officer.

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

12 (775 ILCS 5/10-101) (from Ch. 68, par. 10-101)

13 Sec. 10-101. Applicability. With the exception of Sections
14 ~~Section~~ 10-104 and 10-105, this Article shall apply solely to
15 civil actions arising under Article 3 of this Act.

16 (Source: P.A. 93-1017, eff. 8-24-04.)

17 (775 ILCS 5/10-102) (from Ch. 68, par. 10-102)

18 Sec. 10-102. Court Actions.

19 (A) Circuit Court Actions.

20 (1) An aggrieved party may commence a civil action in
21 an appropriate Circuit Court not later than 2 years after
22 the occurrence or the termination of an alleged civil
23 rights violation or the breach of a conciliation or
24 settlement agreement entered into under this Act,

1 whichever occurs last, to obtain appropriate relief with
2 respect to the alleged civil rights violation or breach.
3 Venue for such civil action shall be determined under
4 Section 8-111(A) (1).

5 (2) The computation of such 2-year period shall not
6 include any time during which an administrative proceeding
7 under this Act was pending with respect to a complaint or
8 charge under this Act based upon the alleged civil rights
9 violation. This paragraph does not apply to actions
10 arising from a breach of a conciliation or settlement
11 agreement.

12 (3) An aggrieved party may commence a civil action
13 under this subsection whether or not a charge has been
14 filed under Section 7B-102 and without regard to the
15 status of any such charge, however, if the Department or
16 local agency has obtained a conciliation or settlement
17 agreement with the consent of an aggrieved party, no
18 action may be filed under this subsection by such
19 aggrieved party with respect to the alleged civil rights
20 violation practice which forms the basis for such
21 complaint except for the purpose of enforcing the terms of
22 such conciliation or settlement agreement.

23 (4) An aggrieved party shall not commence a civil
24 action under this subsection with respect to an alleged
25 civil rights violation which forms the basis of a
26 complaint issued by the Department if a hearing officer

1 has commenced a hearing on the record under Article 3 of
2 this Act with respect to such complaint.

3 (B) Appointment of Attorney by Court. Upon application by
4 a person alleging a civil rights violation or a person against
5 whom the civil rights violation is alleged, if in the opinion
6 of the court such person is financially unable to bear the
7 costs of such action, the court may:

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

11 (2) authorize the commencement or continuation of a
12 civil action under subsection (A) without the payment of
13 fees, costs, or security.

14 (C) Relief which may be granted.

15 (1) In a civil action under subsection (A) if the
16 court finds that a civil rights violation has occurred or
17 is about to occur, the court may award to the plaintiff
18 actual and punitive damages, and may grant as relief, as
19 the court deems appropriate, any permanent or preliminary
20 injunction, temporary restraining order, or other order,
21 including an order enjoining the defendant from engaging
22 in such civil rights violation or ordering such
23 affirmative action as may be appropriate.

24 (2) In a civil action under subsection (A), the court,
25 in its discretion, may allow the prevailing party, other
26 than the State of Illinois, reasonable attorneys fees and

1 costs. The State of Illinois shall be liable for such fees
2 and costs to the same extent as a private person.

3 (D) Intervention by the Attorney General. If the
4 Department certifies that the case is of general public
5 importance, the ~~By The Department. The Attorney General of~~
6 ~~Illinois~~ may seek to intervene on behalf of the Department in a
7 civil action filed by a complainant in State or federal court
8 under this Section ~~if the Department certifies that the case~~
9 ~~is of general public importance.~~ Upon such intervention, the
10 court may award any of the remedies set forth in Section 8B-104
11 and subsection (B) of Section 10-104 ~~such relief as is~~
12 ~~authorized to be granted to a plaintiff in a civil action under~~
13 ~~Section 10-102(C).~~

14 (Source: P.A. 101-661, eff. 4-2-21.)

15 (775 ILCS 5/10-105 new)

16 Sec. 10-105. Intervention by the Attorney General. If the
17 Department certifies that the case is of general public
18 importance, the Attorney General may seek to intervene on
19 behalf of the Department in a civil action filed by a
20 complainant in State or federal court under Section 7A-102.
21 Upon such intervention, the court or jury may award any of the
22 remedies set forth in Section 8A-104 and subsection (B) of
23 Section 10-104."