



Rep. Jaime M. Andrade, Jr.

Filed: 4/20/2021

10200HB1811ham002

LRB102 03966 JLS 25587 a

1 AMENDMENT TO HOUSE BILL 1811

2 AMENDMENT NO. _____. Amend House Bill 1811 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 2-101 and 2-102 as follows:

6 (775 ILCS 5/2-101)

7 Sec. 2-101. Definitions. The following definitions are
8 applicable strictly in the context of this Article.

9 (A) Employee.

10 (1) "Employee" includes:

11 (a) Any individual performing services for
12 remuneration within this State for an employer;

13 (b) An apprentice;

14 (c) An applicant for any apprenticeship.

15 For purposes of subsection (D) of Section 2-102 of
16 this Act, "employee" also includes an unpaid intern. An

1 unpaid intern is a person who performs work for an
2 employer under the following circumstances:

3 (i) the employer is not committed to hiring the
4 person performing the work at the conclusion of the
5 intern's tenure;

6 (ii) the employer and the person performing the
7 work agree that the person is not entitled to wages for
8 the work performed; and

9 (iii) the work performed:

10 (I) supplements training given in an
11 educational environment that may enhance the
12 employability of the intern;

13 (II) provides experience for the benefit of
14 the person performing the work;

15 (III) does not displace regular employees;

16 (IV) is performed under the close supervision
17 of existing staff; and

18 (V) provides no immediate advantage to the
19 employer providing the training and may
20 occasionally impede the operations of the
21 employer.

22 (2) "Employee" does not include:

23 (a) (Blank);

24 (b) Individuals employed by persons who are not
25 "employers" as defined by this Act;

26 (c) Elected public officials or the members of

1 their immediate personal staffs;

2 (d) Principal administrative officers of the State
3 or of any political subdivision, municipal corporation
4 or other governmental unit or agency;

5 (e) A person in a vocational rehabilitation
6 facility certified under federal law who has been
7 designated an evaluatee, trainee, or work activity
8 client.

9 (B) Employer.

10 (1) "Employer" includes:

11 (a) Any person employing one or more employees
12 within Illinois during 20 or more calendar weeks
13 within the calendar year of or preceding the alleged
14 violation;

15 (b) Any person employing one or more employees
16 when a complainant alleges civil rights violation due
17 to unlawful discrimination based upon his or her
18 physical or mental disability unrelated to ability,
19 pregnancy, or sexual harassment;

20 (c) The State and any political subdivision,
21 municipal corporation or other governmental unit or
22 agency, without regard to the number of employees;

23 (d) Any party to a public contract without regard
24 to the number of employees;

25 (e) A joint apprenticeship or training committee
26 without regard to the number of employees.

1 (2) "Employer" does not include any place of worship,
2 religious corporation, association, educational
3 institution, society, or non-profit nursing institution
4 conducted by and for those who rely upon treatment by
5 prayer through spiritual means in accordance with the
6 tenets of a recognized church or religious denomination
7 with respect to the employment of individuals of a
8 particular religion to perform work connected with the
9 carrying on by such place of worship, corporation,
10 association, educational institution, society or
11 non-profit nursing institution of its activities.

12 (C) Employment Agency. "Employment Agency" includes both
13 public and private employment agencies and any person, labor
14 organization, or labor union having a hiring hall or hiring
15 office regularly undertaking, with or without compensation, to
16 procure opportunities to work, or to procure, recruit, refer
17 or place employees.

18 (D) Labor Organization. "Labor Organization" includes any
19 organization, labor union, craft union, or any voluntary
20 unincorporated association designed to further the cause of
21 the rights of union labor which is constituted for the
22 purpose, in whole or in part, of collective bargaining or of
23 dealing with employers concerning grievances, terms or
24 conditions of employment, or apprenticeships or applications
25 for apprenticeships, or of other mutual aid or protection in
26 connection with employment, including apprenticeships or

1 applications for apprenticeships.

2 (D-5) Predictive Data Analytics. "Predictive data
3 analytics" means the use of automated machine learning
4 algorithms for the purpose of statistically analyzing an
5 employee's behavior.

6 (E) Sexual Harassment. "Sexual harassment" means any
7 unwelcome sexual advances or requests for sexual favors or any
8 conduct of a sexual nature when (1) submission to such conduct
9 is made either explicitly or implicitly a term or condition of
10 an individual's employment, (2) submission to or rejection of
11 such conduct by an individual is used as the basis for
12 employment decisions affecting such individual, or (3) such
13 conduct has the purpose or effect of substantially interfering
14 with an individual's work performance or creating an
15 intimidating, hostile or offensive working environment.

16 For purposes of this definition, the phrase "working
17 environment" is not limited to a physical location an employee
18 is assigned to perform his or her duties.

19 (E-1) Harassment. "Harassment" means any unwelcome conduct
20 on the basis of an individual's actual or perceived race,
21 color, religion, national origin, ancestry, age, sex, marital
22 status, order of protection status, disability, military
23 status, sexual orientation, pregnancy, unfavorable discharge
24 from military service, or citizenship status that has the
25 purpose or effect of substantially interfering with the
26 individual's work performance or creating an intimidating,

1 hostile, or offensive working environment. For purposes of
2 this definition, the phrase "working environment" is not
3 limited to a physical location an employee is assigned to
4 perform his or her duties.

5 (F) Religion. "Religion" with respect to employers
6 includes all aspects of religious observance and practice, as
7 well as belief, unless an employer demonstrates that he is
8 unable to reasonably accommodate an employee's or prospective
9 employee's religious observance or practice without undue
10 hardship on the conduct of the employer's business.

11 (G) Public Employer. "Public employer" means the State, an
12 agency or department thereof, unit of local government, school
13 district, instrumentality or political subdivision.

14 (H) Public Employee. "Public employee" means an employee
15 of the State, agency or department thereof, unit of local
16 government, school district, instrumentality or political
17 subdivision. "Public employee" does not include public
18 officers or employees of the General Assembly or agencies
19 thereof.

20 (I) Public Officer. "Public officer" means a person who is
21 elected to office pursuant to the Constitution or a statute or
22 ordinance, or who is appointed to an office which is
23 established, and the qualifications and duties of which are
24 prescribed, by the Constitution or a statute or ordinance, to
25 discharge a public duty for the State, agency or department
26 thereof, unit of local government, school district,

1 instrumentality or political subdivision.

2 (J) Eligible Bidder. "Eligible bidder" means a person who,
3 prior to contract award or prior to bid opening for State
4 contracts for construction or construction-related services,
5 has filed with the Department a properly completed, sworn and
6 currently valid employer report form, pursuant to the
7 Department's regulations. The provisions of this Article
8 relating to eligible bidders apply only to bids on contracts
9 with the State and its departments, agencies, boards, and
10 commissions, and the provisions do not apply to bids on
11 contracts with units of local government or school districts.

12 (K) Citizenship Status. "Citizenship status" means the
13 status of being:

14 (1) a born U.S. citizen;

15 (2) a naturalized U.S. citizen;

16 (3) a U.S. national; or

17 (4) a person born outside the United States and not a
18 U.S. citizen who is not an unauthorized alien and who is
19 protected from discrimination under the provisions of
20 Section 1324b of Title 8 of the United States Code, as now
21 or hereafter amended.

22 (Source: P.A. 100-43, eff. 8-9-17; 101-221, eff. 1-1-20;
23 101-430, eff. 7-1-20; revised 8-4-20.)

24 (775 ILCS 5/2-102) (from Ch. 68, par. 2-102)

25 Sec. 2-102. Civil rights violations - employment. It is a

1 civil rights violation:

2 (A) Employers. For any employer to refuse to hire, to
3 segregate, to engage in harassment as defined in
4 subsection (E-1) of Section 2-101, or to act with respect
5 to recruitment, hiring, promotion, renewal of employment,
6 selection for training or apprenticeship, discharge,
7 discipline, tenure or terms, privileges or conditions of
8 employment on the basis of unlawful discrimination or
9 citizenship status. An employer is responsible for
10 harassment by the employer's nonmanagerial and
11 nonsupervisory employees only if the employer becomes
12 aware of the conduct and fails to take reasonable
13 corrective measures.

14 (A-5) Language. For an employer to impose a
15 restriction that has the effect of prohibiting a language
16 from being spoken by an employee in communications that
17 are unrelated to the employee's duties.

18 For the purposes of this subdivision (A-5), "language"
19 means a person's native tongue, such as Polish, Spanish,
20 or Chinese. "Language" does not include such things as
21 slang, jargon, profanity, or vulgarity.

22 (A-10) Harassment of nonemployees. For any employer,
23 employment agency, or labor organization to engage in
24 harassment of nonemployees in the workplace. An employer
25 is responsible for harassment of nonemployees by the
26 employer's nonmanagerial and nonsupervisory employees only

1 if the employer becomes aware of the conduct and fails to
2 take reasonable corrective measures. For the purposes of
3 this subdivision (A-10), "nonemployee" means a person who
4 is not otherwise an employee of the employer and is
5 directly performing services for the employer pursuant to
6 a contract with that employer. "Nonemployee" includes
7 contractors and consultants. This subdivision applies to
8 harassment occurring on or after the effective date of
9 this amendatory Act of the 101st General Assembly.

10 (B) Employment agency. For any employment agency to
11 fail or refuse to classify properly, accept applications
12 and register for employment referral or apprenticeship
13 referral, refer for employment, or refer for
14 apprenticeship on the basis of unlawful discrimination or
15 citizenship status or to accept from any person any job
16 order, requisition or request for referral of applicants
17 for employment or apprenticeship which makes or has the
18 effect of making unlawful discrimination or discrimination
19 on the basis of citizenship status a condition of
20 referral.

21 (C) Labor organization. For any labor organization to
22 limit, segregate or classify its membership, or to limit
23 employment opportunities, selection and training for
24 apprenticeship in any trade or craft, or otherwise to
25 take, or fail to take, any action which affects adversely
26 any person's status as an employee or as an applicant for

1 employment or as an apprentice, or as an applicant for
2 apprenticeships, or wages, tenure, hours of employment or
3 apprenticeship conditions on the basis of unlawful
4 discrimination or citizenship status.

5 (D) Sexual harassment. For any employer, employee,
6 agent of any employer, employment agency or labor
7 organization to engage in sexual harassment; provided,
8 that an employer shall be responsible for sexual
9 harassment of the employer's employees by nonemployees or
10 nonmanagerial and nonsupervisory employees only if the
11 employer becomes aware of the conduct and fails to take
12 reasonable corrective measures.

13 (D-5) Sexual harassment of nonemployees. For any
14 employer, employee, agent of any employer, employment
15 agency, or labor organization to engage in sexual
16 harassment of nonemployees in the workplace. An employer
17 is responsible for sexual harassment of nonemployees by
18 the employer's nonmanagerial and nonsupervisory employees
19 only if the employer becomes aware of the conduct and
20 fails to take reasonable corrective measures. For the
21 purposes of this subdivision (D-5), "nonemployee" means a
22 person who is not otherwise an employee of the employer
23 and is directly performing services for the employer
24 pursuant to a contract with that employer. "Nonemployee"
25 includes contractors and consultants. This subdivision
26 applies to sexual harassment occurring on or after the

1 effective date of this amendatory Act of the 101st General
2 Assembly.

3 (E) Public employers. For any public employer to
4 refuse to permit a public employee under its jurisdiction
5 who takes time off from work in order to practice his or
6 her religious beliefs to engage in work, during hours
7 other than such employee's regular working hours,
8 consistent with the operational needs of the employer and
9 in order to compensate for work time lost for such
10 religious reasons. Any employee who elects such deferred
11 work shall be compensated at the wage rate which he or she
12 would have earned during the originally scheduled work
13 period. The employer may require that an employee who
14 plans to take time off from work in order to practice his
15 or her religious beliefs provide the employer with a
16 notice of his or her intention to be absent from work not
17 exceeding 5 days prior to the date of absence.

18 (E-5) Religious discrimination. For any employer to
19 impose upon a person as a condition of obtaining or
20 retaining employment, including opportunities for
21 promotion, advancement, or transfer, any terms or
22 conditions that would require such person to violate or
23 forgo a sincerely held practice of his or her religion
24 including, but not limited to, the wearing of any attire,
25 clothing, or facial hair in accordance with the
26 requirements of his or her religion, unless, after

1 engaging in a bona fide effort, the employer demonstrates
2 that it is unable to reasonably accommodate the employee's
3 or prospective employee's sincerely held religious belief,
4 practice, or observance without undue hardship on the
5 conduct of the employer's business.

6 Nothing in this Section prohibits an employer from
7 enacting a dress code or grooming policy that may include
8 restrictions on attire, clothing, or facial hair to
9 maintain workplace safety or food sanitation.

10 (F) Training and apprenticeship programs. For any
11 employer, employment agency or labor organization to
12 discriminate against a person on the basis of age in the
13 selection, referral for or conduct of apprenticeship or
14 training programs.

15 (G) Immigration-related practices.

16 (1) for an employer to request for purposes of
17 satisfying the requirements of Section 1324a(b) of
18 Title 8 of the United States Code, as now or hereafter
19 amended, more or different documents than are required
20 under such Section or to refuse to honor documents
21 tendered that on their face reasonably appear to be
22 genuine; or

23 (2) for an employer participating in the E-Verify
24 Program, as authorized by 8 U.S.C. 1324a, Notes, Pilot
25 Programs for Employment Eligibility Confirmation
26 (enacted by PL 104-208, div. C title IV, subtitle A) to

1 refuse to hire, to segregate, or to act with respect to
2 recruitment, hiring, promotion, renewal of employment,
3 selection for training or apprenticeship, discharge,
4 discipline, tenure or terms, privileges or conditions
5 of employment without following the procedures under
6 the E-Verify Program.

7 (H) (Blank).

8 (I) Pregnancy. For an employer to refuse to hire, to
9 segregate, or to act with respect to recruitment, hiring,
10 promotion, renewal of employment, selection for training
11 or apprenticeship, discharge, discipline, tenure or terms,
12 privileges or conditions of employment on the basis of
13 pregnancy, childbirth, or medical or common conditions
14 related to pregnancy or childbirth. Women affected by
15 pregnancy, childbirth, or medical or common conditions
16 related to pregnancy or childbirth shall be treated the
17 same for all employment-related purposes, including
18 receipt of benefits under fringe benefit programs, as
19 other persons not so affected but similar in their ability
20 or inability to work, regardless of the source of the
21 inability to work or employment classification or status.

22 (J) Pregnancy; reasonable accommodations.

23 (1) If after a job applicant or employee,
24 including a part-time, full-time, or probationary
25 employee, requests a reasonable accommodation, for an
26 employer to not make reasonable accommodations for any

1 medical or common condition of a job applicant or
2 employee related to pregnancy or childbirth, unless
3 the employer can demonstrate that the accommodation
4 would impose an undue hardship on the ordinary
5 operation of the business of the employer. The
6 employer may request documentation from the employee's
7 health care provider concerning the need for the
8 requested reasonable accommodation or accommodations
9 to the same extent documentation is requested for
10 conditions related to disability if the employer's
11 request for documentation is job-related and
12 consistent with business necessity. The employer may
13 require only the medical justification for the
14 requested accommodation or accommodations, a
15 description of the reasonable accommodation or
16 accommodations medically advisable, the date the
17 reasonable accommodation or accommodations became
18 medically advisable, and the probable duration of the
19 reasonable accommodation or accommodations. It is the
20 duty of the individual seeking a reasonable
21 accommodation or accommodations to submit to the
22 employer any documentation that is requested in
23 accordance with this paragraph. Notwithstanding the
24 provisions of this paragraph, the employer may require
25 documentation by the employee's health care provider
26 to determine compliance with other laws. The employee

1 and employer shall engage in a timely, good faith, and
2 meaningful exchange to determine effective reasonable
3 accommodations.

4 (2) For an employer to deny employment
5 opportunities or benefits to or take adverse action
6 against an otherwise qualified job applicant or
7 employee, including a part-time, full-time, or
8 probationary employee, if the denial or adverse action
9 is based on the need of the employer to make reasonable
10 accommodations to the known medical or common
11 conditions related to the pregnancy or childbirth of
12 the applicant or employee.

13 (3) For an employer to require a job applicant or
14 employee, including a part-time, full-time, or
15 probationary employee, affected by pregnancy,
16 childbirth, or medical or common conditions related to
17 pregnancy or childbirth to accept an accommodation
18 when the applicant or employee did not request an
19 accommodation and the applicant or employee chooses
20 not to accept the employer's accommodation.

21 (4) For an employer to require an employee,
22 including a part-time, full-time, or probationary
23 employee, to take leave under any leave law or policy
24 of the employer if another reasonable accommodation
25 can be provided to the known medical or common
26 conditions related to the pregnancy or childbirth of

1 an employee. No employer shall fail or refuse to
2 reinstate the employee affected by pregnancy,
3 childbirth, or medical or common conditions related to
4 pregnancy or childbirth to her original job or to an
5 equivalent position with equivalent pay and
6 accumulated seniority, retirement, fringe benefits,
7 and other applicable service credits upon her
8 signifying her intent to return or when her need for
9 reasonable accommodation ceases, unless the employer
10 can demonstrate that the accommodation would impose an
11 undue hardship on the ordinary operation of the
12 business of the employer.

13 For the purposes of this subdivision (J), "reasonable
14 accommodations" means reasonable modifications or
15 adjustments to the job application process or work
16 environment, or to the manner or circumstances under which
17 the position desired or held is customarily performed,
18 that enable an applicant or employee affected by
19 pregnancy, childbirth, or medical or common conditions
20 related to pregnancy or childbirth to be considered for
21 the position the applicant desires or to perform the
22 essential functions of that position, and may include, but
23 is not limited to: more frequent or longer bathroom
24 breaks, breaks for increased water intake, and breaks for
25 periodic rest; private non-bathroom space for expressing
26 breast milk and breastfeeding; seating; assistance with

1 manual labor; light duty; temporary transfer to a less
2 strenuous or hazardous position; the provision of an
3 accessible worksite; acquisition or modification of
4 equipment; job restructuring; a part-time or modified work
5 schedule; appropriate adjustment or modifications of
6 examinations, training materials, or policies;
7 reassignment to a vacant position; time off to recover
8 from conditions related to childbirth; and leave
9 necessitated by pregnancy, childbirth, or medical or
10 common conditions resulting from pregnancy or childbirth.

11 For the purposes of this subdivision (J), "undue
12 hardship" means an action that is prohibitively expensive
13 or disruptive when considered in light of the following
14 factors: (i) the nature and cost of the accommodation
15 needed; (ii) the overall financial resources of the
16 facility or facilities involved in the provision of the
17 reasonable accommodation, the number of persons employed
18 at the facility, the effect on expenses and resources, or
19 the impact otherwise of the accommodation upon the
20 operation of the facility; (iii) the overall financial
21 resources of the employer, the overall size of the
22 business of the employer with respect to the number of its
23 employees, and the number, type, and location of its
24 facilities; and (iv) the type of operation or operations
25 of the employer, including the composition, structure, and
26 functions of the workforce of the employer, the geographic

1 separateness, administrative, or fiscal relationship of
2 the facility or facilities in question to the employer.
3 The employer has the burden of proving undue hardship. The
4 fact that the employer provides or would be required to
5 provide a similar accommodation to similarly situated
6 employees creates a rebuttable presumption that the
7 accommodation does not impose an undue hardship on the
8 employer.

9 No employer is required by this subdivision (J) to
10 create additional employment that the employer would not
11 otherwise have created, unless the employer does so or
12 would do so for other classes of employees who need
13 accommodation. The employer is not required to discharge
14 any employee, transfer any employee with more seniority,
15 or promote any employee who is not qualified to perform
16 the job, unless the employer does so or would do so to
17 accommodate other classes of employees who need it.

18 (K) Notice.

19 (1) For an employer to fail to post or keep posted
20 in a conspicuous location on the premises of the
21 employer where notices to employees are customarily
22 posted, or fail to include in any employee handbook
23 information concerning an employee's rights under this
24 Article, a notice, to be prepared or approved by the
25 Department, summarizing the requirements of this
26 Article and information pertaining to the filing of a

1 charge, including the right to be free from unlawful
2 discrimination, the right to be free from sexual
3 harassment, and the right to certain reasonable
4 accommodations. The Department shall make the
5 documents required under this paragraph available for
6 retrieval from the Department's website.

7 (2) Upon notification of a violation of paragraph
8 (1) of this subdivision (K), the Department may launch
9 a preliminary investigation. If the Department finds a
10 violation, the Department may issue a notice to show
11 cause giving the employer 30 days to correct the
12 violation. If the violation is not corrected, the
13 Department may initiate a charge of a civil rights
14 violation.

15 (L) Predictive Data Analytics.

16 (1) For an employer that uses predictive data
17 analytics in its employment decisions, to consider any
18 data about an employee that correlates with the
19 employee's race or zip code in making a decision to
20 refuse to hire, to segregate, or to act with respect to
21 recruitment, hiring, promotion, renewal of employment,
22 selection for training or apprenticeship, discharge,
23 discipline, tenure or terms, privileges, or conditions
24 of employment.

25 (2) An employer that uses predictive data
26 analytics to evaluate employees and that employs in a

1 calendar year more than 50 employees who are Illinois
2 residents shall, within 90 days after the effective
3 date of this amendatory Act of the 102nd General
4 Assembly, devise procedures to ensure that it does not
5 inadvertently consider information that correlates
6 with race or zip code when making a decision to refuse
7 to hire, to segregate, or to act with respect to
8 recruitment, hiring, promotion, renewal of employment,
9 selection for training or apprenticeship, discharge,
10 discipline, tenure or terms, privileges, or conditions
11 of employment.

12 (Source: P.A. 100-100, eff. 8-11-17; 100-588, eff. 6-8-18;
13 101-221, eff. 1-1-20.)

14 Section 10. The Consumer Fraud and Deceptive Business
15 Practices Act is amended by adding Section 2WWW as follows:

16 (815 ILCS 505/2WWW new)

17 Sec. 2WWW. Creditworthiness; use of predictive analytics.

18 (a) In this Section, "predictive data analytics" means the
19 use of automated machine learning algorithms for the purpose
20 of statistically analyzing a person's behavior.

21 (b) A person or entity that relies either partially or
22 fully on predictive data analytics to determine a consumer's
23 creditworthiness may not allow information about the consumer
24 that assigns specific risk factors to the consumer's race or

1 zip code to influence any conclusion regarding the consumer's
2 creditworthiness.

3 (c) A person or entity that uses predictive data analytics
4 to determine the creditworthiness of more than 50 consumers in
5 a calendar year who are Illinois residents shall, within 90
6 days after the effective date of this amendatory Act of the
7 102nd General Assembly, devise procedures to ensure that it
8 does not consider information that assigns specific risk
9 factors to a consumer's race or zip code when determining a
10 consumer's creditworthiness.

11 (d) A person or entity that violates this Section commits
12 an unlawful practice within the meaning of this Act."