



Rep. Jaime M. Andrade, Jr.

Filed: 3/1/2022

10200HB1811ham003

LRB102 03966 SPS 37173 a

1 AMENDMENT TO HOUSE BILL 1811

2 AMENDMENT NO. _____. Amend House Bill 1811, AS AMENDED,
3 by replacing everything after the enacting clause:

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 a
5 person'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, citizenship status, or work
25 authorization status that has the purpose or effect of
26 substantially interfering with the individual's work

1 performance or creating an intimidating, hostile, or offensive
2 working environment. For purposes of this definition, the
3 phrase "working environment" is not limited to a physical
4 location an employee is assigned to 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 (L) Work Authorization Status. "Work authorization status"
23 means the status of being a person born outside of the United
24 States, and not a U.S. citizen, who is authorized by the
25 federal government to work in the United States.

26 (Source: P.A. 101-221, eff. 1-1-20; 101-430, eff. 7-1-20;

1 102-233, eff. 8-2-21; 102-558, eff. 8-20-21.)

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

3 Sec. 2-102. Civil rights violations - employment. It is a
4 civil rights violation:

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

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

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

25 (A-10) Harassment of nonemployees. For any employer,

1 employment agency, or labor organization to engage in
2 harassment of nonemployees in the workplace. An employer
3 is responsible for harassment of nonemployees by the
4 employer's nonmanagerial and nonsupervisory employees only
5 if the employer becomes aware of the conduct and fails to
6 take reasonable corrective measures. For the purposes of
7 this subdivision (A-10), "nonemployee" means a person who
8 is not otherwise an employee of the employer and is
9 directly performing services for the employer pursuant to
10 a contract with that employer. "Nonemployee" includes
11 contractors and consultants. This subdivision applies to
12 harassment occurring on or after the effective date of
13 this amendatory Act of the 101st General Assembly.

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

26 (C) Labor organization. For any labor organization to

1 limit, segregate or classify its membership, or to limit
2 employment opportunities, selection and training for
3 apprenticeship in any trade or craft, or otherwise to
4 take, or fail to take, any action which affects adversely
5 any person's status as an employee or as an applicant for
6 employment or as an apprentice, or as an applicant for
7 apprenticeships, or wages, tenure, hours of employment or
8 apprenticeship conditions on the basis of unlawful
9 discrimination, citizenship status, or work authorization
10 status.

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

19 (D-5) Sexual harassment of nonemployees. For any
20 employer, employee, agent of any employer, employment
21 agency, or labor organization to engage in sexual
22 harassment of nonemployees in the workplace. An employer
23 is responsible for sexual harassment of nonemployees by
24 the employer's nonmanagerial and nonsupervisory employees
25 only if the employer becomes aware of the conduct and
26 fails to take reasonable corrective measures. For the

1 purposes of this subdivision (D-5), "nonemployee" means a
2 person who is not otherwise an employee of the employer
3 and is directly performing services for the employer
4 pursuant to a contract with that employer. "Nonemployee"
5 includes contractors and consultants. This subdivision
6 applies to sexual harassment occurring on or after the
7 effective date of this amendatory Act of the 101st General
8 Assembly.

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

24 (E-5) Religious discrimination. For any employer to
25 impose upon a person as a condition of obtaining or
26 retaining employment, including opportunities for

1 promotion, advancement, or transfer, any terms or
2 conditions that would require such person to violate or
3 forgo a sincerely held practice of his or her religion
4 including, but not limited to, the wearing of any attire,
5 clothing, or facial hair in accordance with the
6 requirements of his or her religion, unless, after
7 engaging in a bona fide effort, the employer demonstrates
8 that it is unable to reasonably accommodate the employee's
9 or prospective employee's sincerely held religious belief,
10 practice, or observance without undue hardship on the
11 conduct of the employer's business.

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

16 (F) Training and apprenticeship programs. For any
17 employer, employment agency or labor organization to
18 discriminate against a person on the basis of age in the
19 selection, referral for or conduct of apprenticeship or
20 training programs.

21 (G) Immigration-related practices.

22 (1) for an employer to request for purposes of
23 satisfying the requirements of Section 1324a(b) of
24 Title 8 of the United States Code, as now or hereafter
25 amended, more or different documents than are required
26 under such Section or to refuse to honor documents

1 tendered that on their face reasonably appear to be
2 genuine or to refuse to honor work authorization based
3 upon the specific status or term of status that
4 accompanies the authorization to work; or

5 (2) for an employer participating in the E-Verify
6 Program, as authorized by 8 U.S.C. 1324a, Notes, Pilot
7 Programs for Employment Eligibility Confirmation
8 (enacted by PL 104-208, div. C title IV, subtitle A) to
9 refuse to hire, to segregate, or to act with respect to
10 recruitment, hiring, promotion, renewal of employment,
11 selection for training or apprenticeship, discharge,
12 discipline, tenure or terms, privileges or conditions
13 of employment without following the procedures under
14 the E-Verify Program.

15 (H) (Blank).

16 (I) Pregnancy. For an employer to refuse to hire, to
17 segregate, or to act with respect to recruitment, hiring,
18 promotion, renewal of employment, selection for training
19 or apprenticeship, discharge, discipline, tenure or terms,
20 privileges or conditions of employment on the basis of
21 pregnancy, childbirth, or medical or common conditions
22 related to pregnancy or childbirth. Women affected by
23 pregnancy, childbirth, or medical or common conditions
24 related to pregnancy or childbirth shall be treated the
25 same for all employment-related purposes, including
26 receipt of benefits under fringe benefit programs, as

1 other persons not so affected but similar in their ability
2 or inability to work, regardless of the source of the
3 inability to work or employment classification or status.

4 (J) Pregnancy; reasonable accommodations.

5 (1) If after a job applicant or employee,
6 including a part-time, full-time, or probationary
7 employee, requests a reasonable accommodation, for an
8 employer to not make reasonable accommodations for any
9 medical or common condition of a job applicant or
10 employee related to pregnancy or childbirth, unless
11 the employer can demonstrate that the accommodation
12 would impose an undue hardship on the ordinary
13 operation of the business of the employer. The
14 employer may request documentation from the employee's
15 health care provider concerning the need for the
16 requested reasonable accommodation or accommodations
17 to the same extent documentation is requested for
18 conditions related to disability if the employer's
19 request for documentation is job-related and
20 consistent with business necessity. The employer may
21 require only the medical justification for the
22 requested accommodation or accommodations, a
23 description of the reasonable accommodation or
24 accommodations medically advisable, the date the
25 reasonable accommodation or accommodations became
26 medically advisable, and the probable duration of the

1 reasonable accommodation or accommodations. It is the
2 duty of the individual seeking a reasonable
3 accommodation or accommodations to submit to the
4 employer any documentation that is requested in
5 accordance with this paragraph. Notwithstanding the
6 provisions of this paragraph, the employer may require
7 documentation by the employee's health care provider
8 to determine compliance with other laws. The employee
9 and employer shall engage in a timely, good faith, and
10 meaningful exchange to determine effective reasonable
11 accommodations.

12 (2) For an employer to deny employment
13 opportunities or benefits to or take adverse action
14 against an otherwise qualified job applicant or
15 employee, including a part-time, full-time, or
16 probationary employee, if the denial or adverse action
17 is based on the need of the employer to make reasonable
18 accommodations to the known medical or common
19 conditions related to the pregnancy or childbirth of
20 the applicant or employee.

21 (3) For an employer to require a job applicant or
22 employee, including a part-time, full-time, or
23 probationary employee, affected by pregnancy,
24 childbirth, or medical or common conditions related to
25 pregnancy or childbirth to accept an accommodation
26 when the applicant or employee did not request an

1 accommodation and the applicant or employee chooses
2 not to accept the employer's accommodation.

3 (4) For an employer to require an employee,
4 including a part-time, full-time, or probationary
5 employee, to take leave under any leave law or policy
6 of the employer if another reasonable accommodation
7 can be provided to the known medical or common
8 conditions related to the pregnancy or childbirth of
9 an employee. No employer shall fail or refuse to
10 reinstate the employee affected by pregnancy,
11 childbirth, or medical or common conditions related to
12 pregnancy or childbirth to her original job or to an
13 equivalent position with equivalent pay and
14 accumulated seniority, retirement, fringe benefits,
15 and other applicable service credits upon her
16 signifying her intent to return or when her need for
17 reasonable accommodation ceases, unless the employer
18 can demonstrate that the accommodation would impose an
19 undue hardship on the ordinary operation of the
20 business of the employer.

21 For the purposes of this subdivision (J), "reasonable
22 accommodations" means reasonable modifications or
23 adjustments to the job application process or work
24 environment, or to the manner or circumstances under which
25 the position desired or held is customarily performed,
26 that enable an applicant or employee affected by

1 pregnancy, childbirth, or medical or common conditions
2 related to pregnancy or childbirth to be considered for
3 the position the applicant desires or to perform the
4 essential functions of that position, and may include, but
5 is not limited to: more frequent or longer bathroom
6 breaks, breaks for increased water intake, and breaks for
7 periodic rest; private non-bathroom space for expressing
8 breast milk and breastfeeding; seating; assistance with
9 manual labor; light duty; temporary transfer to a less
10 strenuous or hazardous position; the provision of an
11 accessible worksite; acquisition or modification of
12 equipment; job restructuring; a part-time or modified work
13 schedule; appropriate adjustment or modifications of
14 examinations, training materials, or policies;
15 reassignment to a vacant position; time off to recover
16 from conditions related to childbirth; and leave
17 necessitated by pregnancy, childbirth, or medical or
18 common conditions resulting from pregnancy or childbirth.

19 For the purposes of this subdivision (J), "undue
20 hardship" means an action that is prohibitively expensive
21 or disruptive when considered in light of the following
22 factors: (i) the nature and cost of the accommodation
23 needed; (ii) the overall financial resources of the
24 facility or facilities involved in the provision of the
25 reasonable accommodation, the number of persons employed
26 at the facility, the effect on expenses and resources, or

1 the impact otherwise of the accommodation upon the
2 operation of the facility; (iii) the overall financial
3 resources of the employer, the overall size of the
4 business of the employer with respect to the number of its
5 employees, and the number, type, and location of its
6 facilities; and (iv) the type of operation or operations
7 of the employer, including the composition, structure, and
8 functions of the workforce of the employer, the geographic
9 separateness, administrative, or fiscal relationship of
10 the facility or facilities in question to the employer.
11 The employer has the burden of proving undue hardship. The
12 fact that the employer provides or would be required to
13 provide a similar accommodation to similarly situated
14 employees creates a rebuttable presumption that the
15 accommodation does not impose an undue hardship on the
16 employer.

17 No employer is required by this subdivision (J) to
18 create additional employment that the employer would not
19 otherwise have created, unless the employer does so or
20 would do so for other classes of employees who need
21 accommodation. The employer is not required to discharge
22 any employee, transfer any employee with more seniority,
23 or promote any employee who is not qualified to perform
24 the job, unless the employer does so or would do so to
25 accommodate other classes of employees who need it.

26 (K) Notice.

1 (1) For an employer to fail to post or keep posted
2 in a conspicuous location on the premises of the
3 employer where notices to employees are customarily
4 posted, or fail to include in any employee handbook
5 information concerning an employee's rights under this
6 Article, a notice, to be prepared or approved by the
7 Department, summarizing the requirements of this
8 Article and information pertaining to the filing of a
9 charge, including the right to be free from unlawful
10 discrimination, the right to be free from sexual
11 harassment, and the right to certain reasonable
12 accommodations. The Department shall make the
13 documents required under this paragraph available for
14 retrieval from the Department's website.

15 (2) Upon notification of a violation of paragraph
16 (1) of this subdivision (K), the Department may launch
17 a preliminary investigation. If the Department finds a
18 violation, the Department may issue a notice to show
19 cause giving the employer 30 days to correct the
20 violation. If the violation is not corrected, the
21 Department may initiate a charge of a civil rights
22 violation.

23 (L) Predictive Data Analytics.

24 (1) An employer that uses predictive data
25 analytics in its employment decisions may not consider
26 the applicant's race or zip code when used as a proxy

1 for race to reject an applicant in the context of
2 recruiting, hiring, promotion, renewal of employment,
3 selection for training or apprenticeship, discharge,
4 discipline, tenure or terms, privileges, or conditions
5 of employment.

6 (2) Nothing in this Act shall be construed to
7 prevent the use of predictive data analytics to
8 support the inclusion of diverse candidates in making
9 employment decisions.

10 (Source: P.A. 101-221, eff. 1-1-20; 102-233, eff. 8-2-21.)

11 Section 10. The Consumer Fraud and Deceptive Business
12 Practices Act is amended by adding Section 2AAAA as follows:

13 (815 ILCS 505/2AAAA new)

14 Sec. 2AAAA. Creditworthiness; use of predictive analytics.

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

18 (b) A person or entity that relies either partially or
19 fully on predictive data analytics to determine a consumer's
20 creditworthiness may not allow the use of information about
21 the consumer that assigns specific risk factors to the
22 consumer's race or zip code resulting in rejection of credit
23 or other adverse credit-related action to a consumer.

24 (c) A person or entity that uses predictive data analytics

1 to determine the creditworthiness of more than 50 consumers in
2 a calendar year who are Illinois residents shall, within 90
3 days after the effective date of this amendatory Act of the
4 102nd General Assembly, devise procedures to ensure that it
5 does not consider information that assigns specific risk
6 factors to a consumer's race or zip code when rejecting or
7 taking other adverse action on a consumer's application for
8 credit.

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