



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3284

Introduced 2/19/2021, by Rep. Aaron M. Ortiz

SYNOPSIS AS INTRODUCED:

775 ILCS 5/2-102

from Ch. 68, par. 2-102

Amends the Employment Article of the Illinois Human Rights Act. Provides that an employer shall take all reasonable efforts to ensure the notice summarizing the requirements of the Article and information pertaining to the filing of a charge is made available to an employee in the employee's primary language, if English is not his or her primary language. Provides that the Department of Human Rights may make the notice available in other languages, at the request of an employer, for a reasonable fee.

LRB102 12523 LNS 17860 b

1 AN ACT concerning human rights.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Human Rights Act is amended by
5 changing Section 2-102 as follows:

6 (775 ILCS 5/2-102) (from Ch. 68, par. 2-102)

7 Sec. 2-102. Civil rights violations - employment. It is a
8 civil rights violation:

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

21 (A-5) Language. For an employer to impose a
22 restriction that has the effect of prohibiting a language
23 from being spoken by an employee in communications that

1 are unrelated to the employee's duties.

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

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

20 (B) Employment agency. For any employment agency to
21 fail or refuse to classify properly, accept applications
22 and register for employment referral or apprenticeship
23 referral, refer for employment, or refer for
24 apprenticeship on the basis of unlawful discrimination or
25 citizenship status or to accept from any person any job
26 order, requisition or request for referral of applicants

1 for employment or apprenticeship which makes or has the
2 effect of making unlawful discrimination or discrimination
3 on the basis of citizenship status a condition of
4 referral.

5 (C) Labor organization. For any labor organization to
6 limit, segregate or classify its membership, or to limit
7 employment opportunities, selection and training for
8 apprenticeship in any trade or craft, or otherwise to
9 take, or fail to take, any action which affects adversely
10 any person's status as an employee or as an applicant for
11 employment or as an apprentice, or as an applicant for
12 apprenticeships, or wages, tenure, hours of employment or
13 apprenticeship conditions on the basis of unlawful
14 discrimination or citizenship status.

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

23 (D-5) Sexual harassment of nonemployees. For any
24 employer, employee, agent of any employer, employment
25 agency, or labor organization to engage in sexual
26 harassment of nonemployees in the workplace. An employer

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

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

1 exceeding 5 days prior to the date of absence.

2 (E-5) Religious discrimination. For any employer to
3 impose upon a person as a condition of obtaining or
4 retaining employment, including opportunities for
5 promotion, advancement, or transfer, any terms or
6 conditions that would require such person to violate or
7 forgo a sincerely held practice of his or her religion
8 including, but not limited to, the wearing of any attire,
9 clothing, or facial hair in accordance with the
10 requirements of his or her religion, unless, after
11 engaging in a bona fide effort, the employer demonstrates
12 that it is unable to reasonably accommodate the employee's
13 or prospective employee's sincerely held religious belief,
14 practice, or observance without undue hardship on the
15 conduct of the employer's business.

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

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

25 (G) Immigration-related practices.

26 (1) for an employer to request for purposes of

1 satisfying the requirements of Section 1324a(b) of
2 Title 8 of the United States Code, as now or hereafter
3 amended, more or different documents than are required
4 under such Section or to refuse to honor documents
5 tendered that on their face reasonably appear to be
6 genuine; or

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

17 (H) (Blank).

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

1 same for all employment-related purposes, including
2 receipt of benefits under fringe benefit programs, as
3 other persons not so affected but similar in their ability
4 or inability to work, regardless of the source of the
5 inability to work or employment classification or status.

6 (J) Pregnancy; reasonable accommodations.

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

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

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

23 (3) For an employer to require a job applicant or
24 employee, including a part-time, full-time, or
25 probationary employee, affected by pregnancy,
26 childbirth, or medical or common conditions related to

1 pregnancy or childbirth to accept an accommodation
2 when the applicant or employee did not request an
3 accommodation and the applicant or employee chooses
4 not to accept the employer's accommodation.

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

23 For the purposes of this subdivision (J), "reasonable
24 accommodations" means reasonable modifications or
25 adjustments to the job application process or work
26 environment, or to the manner or circumstances under which

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

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

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

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

1 accommodate other classes of employees who need it.

2 (K) Notice.

3 (1) For an employer to fail to post or keep posted
4 in a conspicuous location on the premises of the
5 employer where notices to employees are customarily
6 posted, or fail to include in any employee handbook
7 information concerning an employee's rights under this
8 Article, a notice, to be prepared or approved by the
9 Department, summarizing the requirements of this
10 Article and information pertaining to the filing of a
11 charge, including the right to be free from unlawful
12 discrimination, the right to be free from sexual
13 harassment, and the right to certain reasonable
14 accommodations. The Department shall make the
15 documents required under this paragraph available for
16 retrieval from the Department's website. An employer
17 shall take all reasonable efforts to ensure this
18 notice is made available to an employee in the
19 employee's primary language if English is not his or
20 her primary language. The Department may make
21 documents required under this paragraph available in
22 other languages available, at the request of an
23 employer, for a reasonable fee.

24 (2) Upon notification of a violation of paragraph
25 (1) of this subdivision (K), the Department may launch
26 a preliminary investigation. If the Department finds a

1 violation, the Department may issue a notice to show
2 cause giving the employer 30 days to correct the
3 violation. If the violation is not corrected, the
4 Department may initiate a charge of a civil rights
5 violation.

6 (Source: P.A. 100-100, eff. 8-11-17; 100-588, eff. 6-8-18;
7 101-221, eff. 1-1-20.)