



Sen. Javier L. Cervantes

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LRB103 27562 SPS 73419 a

1 AMENDMENT TO HOUSE BILL 3773

2 AMENDMENT NO. _____. Amend House Bill 3773 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 (E) Sexual Harassment. "Sexual harassment" means any
3 unwelcome sexual advances or requests for sexual favors or any
4 conduct of a sexual nature when (1) submission to such conduct
5 is made either explicitly or implicitly a term or condition of
6 an individual's employment, (2) submission to or rejection of
7 such conduct by an individual is used as the basis for
8 employment decisions affecting such individual, or (3) such
9 conduct has the purpose or effect of substantially interfering
10 with an individual's work performance or creating an
11 intimidating, hostile or offensive working environment.

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

15 (E-1) Harassment. "Harassment" means any unwelcome conduct
16 on the basis of an individual's actual or perceived race,
17 color, religion, national origin, ancestry, age, sex, marital
18 status, order of protection status, disability, military
19 status, sexual orientation, pregnancy, unfavorable discharge
20 from military service, citizenship status, or work
21 authorization status that has the purpose or effect of
22 substantially interfering with the individual's work
23 performance or creating an intimidating, hostile, or offensive
24 working environment. For purposes of this definition, the
25 phrase "working environment" is not limited to a physical
26 location an employee is assigned to perform his or her duties.

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

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

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

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

24 (J) Eligible Bidder. "Eligible bidder" means a person who,
25 prior to contract award or prior to bid opening for State
26 contracts for construction or construction-related services,

1 has filed with the Department a properly completed, sworn and
2 currently valid employer report form, pursuant to the
3 Department's regulations. The provisions of this Article
4 relating to eligible bidders apply only to bids on contracts
5 with the State and its departments, agencies, boards, and
6 commissions, and the provisions do not apply to bids on
7 contracts with units of local government or school districts.

8 (K) Citizenship Status. "Citizenship status" means the
9 status of being:

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

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

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

13 (4) a person born outside the United States and not a
14 U.S. citizen who is lawfully present and who is protected
15 from discrimination under the provisions of Section 1324b
16 of Title 8 of the United States Code, as now or hereafter
17 amended.

18 (L) Work Authorization Status. "Work authorization status"
19 means the status of being a person born outside of the United
20 States, and not a U.S. citizen, who is authorized by the
21 federal government to work in the United States.

22 (M) Artificial Intelligence. "Artificial intelligence"
23 means a machine-based system that, for explicit or implicit
24 objectives, infers, from the input it receives, how to
25 generate outputs such as predictions, content,
26 recommendations, or decisions that can influence physical or

1 virtual environments. "Artificial intelligence" includes
2 generative artificial intelligence.

3 (N) Generative Artificial Intelligence. "Generative
4 artificial intelligence" means an automated computing system
5 that, when prompted with human prompts, descriptions, or
6 queries, can produce outputs that simulate human-produced
7 content, including, but not limited to, the following: (1)
8 textual outputs, such as short answers, essays, poetry, or
9 longer compositions or answers; (2) image outputs, such as
10 fine art, photographs, conceptual art, diagrams, and other
11 images; (3) multimedia outputs, such as audio or video in the
12 form of compositions, songs, or short-form or long-form audio
13 or video; and (4) other content that would be otherwise
14 produced by human means.

15 (Source: P.A. 101-221, eff. 1-1-20; 101-430, eff. 7-1-20;
16 102-233, eff. 8-2-21; 102-558, eff. 8-20-21; 102-1030, eff.
17 5-27-22.)

18 (775 ILCS 5/2-102) (from Ch. 68, par. 2-102)

19 Sec. 2-102. Civil rights violations - employment. It is a
20 civil rights violation:

21 (A) Employers. For any employer to refuse to hire, to
22 segregate, to engage in harassment as defined in
23 subsection (E-1) of Section 2-101, or to act with respect
24 to recruitment, hiring, promotion, renewal of employment,
25 selection for training or apprenticeship, discharge,

1 discipline, tenure or terms, privileges or conditions of
2 employment on the basis of unlawful discrimination,
3 citizenship status, or work authorization status. An
4 employer is responsible for harassment by the employer's
5 nonmanagerial and nonsupervisory employees only if the
6 employer becomes aware of the conduct and fails to take
7 reasonable corrective measures.

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

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

16 (A-10) Harassment of nonemployees. For any employer,
17 employment agency, or labor organization to engage in
18 harassment of nonemployees in the workplace. An employer
19 is responsible for harassment of nonemployees by the
20 employer's nonmanagerial and nonsupervisory employees only
21 if the employer becomes aware of the conduct and fails to
22 take reasonable corrective measures. For the purposes of
23 this subdivision (A-10), "nonemployee" means a person who
24 is not otherwise an employee of the employer and is
25 directly performing services for the employer pursuant to
26 a contract with that employer. "Nonemployee" includes

1 contractors and consultants. This subdivision applies to
2 harassment occurring on or after the effective date of
3 this amendatory Act of the 101st General Assembly.

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

16 (C) Labor organization. For any labor organization to
17 limit, segregate or classify its membership, or to limit
18 employment opportunities, selection and training for
19 apprenticeship in any trade or craft, or otherwise to
20 take, or fail to take, any action which affects adversely
21 any person's status as an employee or as an applicant for
22 employment or as an apprentice, or as an applicant for
23 apprenticeships, or wages, tenure, hours of employment or
24 apprenticeship conditions on the basis of unlawful
25 discrimination, citizenship status, or work authorization
26 status.

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

9 (D-5) Sexual harassment of nonemployees. For any
10 employer, employee, agent of any employer, employment
11 agency, or labor organization to engage in sexual
12 harassment of nonemployees in the workplace. An employer
13 is responsible for sexual harassment of nonemployees by
14 the employer's nonmanagerial and nonsupervisory employees
15 only if the employer becomes aware of the conduct and
16 fails to take reasonable corrective measures. For the
17 purposes of this subdivision (D-5), "nonemployee" means a
18 person who is not otherwise an employee of the employer
19 and is directly performing services for the employer
20 pursuant to a contract with that employer. "Nonemployee"
21 includes contractors and consultants. This subdivision
22 applies to sexual harassment occurring on or after the
23 effective date of this amendatory Act of the 101st General
24 Assembly.

25 (E) Public employers. For any public employer to
26 refuse to permit a public employee under its jurisdiction

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

14 (E-5) Religious discrimination. For any employer to
15 impose upon a person as a condition of obtaining or
16 retaining employment, including opportunities for
17 promotion, advancement, or transfer, any terms or
18 conditions that would require such person to violate or
19 forgo a sincerely held practice of his or her religion
20 including, but not limited to, the wearing of any attire,
21 clothing, or facial hair in accordance with the
22 requirements of his or her religion, unless, after
23 engaging in a bona fide effort, the employer demonstrates
24 that it is unable to reasonably accommodate the employee's
25 or prospective employee's sincerely held religious belief,
26 practice, or observance without undue hardship on the

1 conduct of the employer's business.

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

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

11 (G) Immigration-related practices.

12 (1) for an employer to request for purposes of
13 satisfying the requirements of Section 1324a(b) of
14 Title 8 of the United States Code, as now or hereafter
15 amended, more or different documents than are required
16 under such Section or to refuse to honor documents
17 tendered that on their face reasonably appear to be
18 genuine or to refuse to honor work authorization based
19 upon the specific status or term of status that
20 accompanies the authorization to work; or

21 (2) for an employer participating in the E-Verify
22 Program, as authorized by 8 U.S.C. 1324a, Notes, Pilot
23 Programs for Employment Eligibility Confirmation
24 (enacted by PL 104-208, div. C title IV, subtitle A) to
25 refuse to hire, to segregate, or to act with respect to
26 recruitment, hiring, promotion, renewal of employment,

1 selection for training or apprenticeship, discharge,
2 discipline, tenure or terms, privileges or conditions
3 of employment without following the procedures under
4 the E-Verify Program.

5 (H) (Blank).

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

20 (J) Pregnancy; reasonable accommodations.

21 (1) If after a job applicant or employee,
22 including a part-time, full-time, or probationary
23 employee, requests a reasonable accommodation, for an
24 employer to not make reasonable accommodations for any
25 medical or common condition of a job applicant or
26 employee related to pregnancy or childbirth, unless

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

1 accommodations.

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

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

19 (4) For an employer to require an employee,
20 including a part-time, full-time, or probationary
21 employee, to take leave under any leave law or policy
22 of the employer if another reasonable accommodation
23 can be provided to the known medical or common
24 conditions related to the pregnancy or childbirth of
25 an employee. No employer shall fail or refuse to
26 reinstate the employee affected by pregnancy,

1 childbirth, or medical or common conditions related to
2 pregnancy or childbirth to her original job or to an
3 equivalent position with equivalent pay and
4 accumulated seniority, retirement, fringe benefits,
5 and other applicable service credits upon her
6 signifying her intent to return or when her need for
7 reasonable accommodation ceases, unless the employer
8 can demonstrate that the accommodation would impose an
9 undue hardship on the ordinary operation of the
10 business of the employer.

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

1 accessible worksite; acquisition or modification of
2 equipment; job restructuring; a part-time or modified work
3 schedule; appropriate adjustment or modifications of
4 examinations, training materials, or policies;
5 reassignment to a vacant position; time off to recover
6 from conditions related to childbirth; and leave
7 necessitated by pregnancy, childbirth, or medical or
8 common conditions resulting from pregnancy or childbirth.

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

1 The employer has the burden of proving undue hardship. The
2 fact that the employer provides or would be required to
3 provide a similar accommodation to similarly situated
4 employees creates a rebuttable presumption that the
5 accommodation does not impose an undue hardship on the
6 employer.

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

16 (K) Notice.

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

1 harassment, and the right to certain reasonable
2 accommodations. The Department shall make the
3 documents required under this paragraph available for
4 retrieval from the Department's website.

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

13 (L) Use of artificial intelligence.

14 (1) With respect to recruitment, hiring,
15 promotion, renewal of employment, selection for
16 training or apprenticeship, discharge, discipline,
17 tenure, or the terms, privileges, or conditions of
18 employment, for an employer to use artificial
19 intelligence that has the effect of subjecting
20 employees to discrimination on the basis of protected
21 classes under this Article or to use zip codes as a
22 proxy for protected classes under this Article.

23 (2) For an employer to fail to provide notice to an
24 employee that the employer is using artificial
25 intelligence for the purposes described in paragraph
26 (1).

1 The Department shall adopt any rules necessary for the
2 implementation and enforcement of this subdivision,
3 including, but not limited to, rules on the circumstances
4 and conditions that require notice, the time period for
5 providing notice, and the means for providing notice.

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

7 Section 99. Effective date. This Act takes effect January
8 1, 2026."