



Rep. Anna Moeller

Filed: 3/8/2024

10300HB4867ham001

LRB103 37426 JRC 70405 a

1 AMENDMENT TO HOUSE BILL 4867

2 AMENDMENT NO. _____. Amend House Bill 4867 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, or reproductive health decisions that
22 has the purpose or effect of substantially interfering with
23 the individual's work performance or creating an intimidating,
24 hostile, or offensive working environment. For purposes of
25 this definition, the phrase "working environment" is not
26 limited to a physical location an employee is assigned to

1 perform his or her duties.

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

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

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

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

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

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

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

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

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

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

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

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

23 (M) Reproductive Health Decisions. "Reproductive health
24 decisions" means a person's decisions regarding the person's
25 use of: contraception; fertility or sterilization care;
26 miscarriage management care; health care related to the

1 continuation or termination of pregnancy; or prenatal,
2 intranatal, or postnatal care.

3 (Source: P.A. 101-221, eff. 1-1-20; 101-430, eff. 7-1-20;
4 102-233, eff. 8-2-21; 102-558, eff. 8-20-21; 102-1030, eff.
5 5-27-22.)

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,
16 citizenship status, ~~or~~ work authorization status, or
17 reproductive health decisions. An employer is responsible
18 for harassment by the employer's nonmanagerial and
19 nonsupervisory employees only if the employer becomes
20 aware of the conduct and fails to take reasonable
21 corrective measures.

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

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

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

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

1 applicants for employment or apprenticeship which makes or
2 has the effect of making unlawful discrimination or
3 discrimination on the basis of citizenship status, ~~or~~ work
4 authorization status, or reproductive health decisions a
5 condition of referral.

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

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

25 (D-5) Sexual harassment of nonemployees. For any
26 employer, employee, agent of any employer, employment

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

15 (E) Public employers. For any public employer to
16 refuse to permit a public employee under its jurisdiction
17 who takes time off from work in order to practice his or
18 her religious beliefs to engage in work, during hours
19 other than such employee's regular working hours,
20 consistent with the operational needs of the employer and
21 in order to compensate for work time lost for such
22 religious reasons. Any employee who elects such deferred
23 work shall be compensated at the wage rate which he or she
24 would have earned during the originally scheduled work
25 period. The employer may require that an employee who
26 plans to take time off from work in order to practice his

1 or her religious beliefs provide the employer with a
2 notice of his or her intention to be absent from work not
3 exceeding 5 days prior to the date of absence.

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

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

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

1 (G) Immigration-related practices.

2 (1) for an employer to request for purposes of
3 satisfying the requirements of Section 1324a(b) of
4 Title 8 of the United States Code, as now or hereafter
5 amended, more or different documents than are required
6 under such Section or to refuse to honor documents
7 tendered that on their face reasonably appear to be
8 genuine or to refuse to honor work authorization based
9 upon the specific status or term of status that
10 accompanies the authorization to work; or

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

21 (H) (Blank).

22 (I) Pregnancy. For an employer to refuse to hire, to
23 segregate, or to act with respect to recruitment, hiring,
24 promotion, renewal of employment, selection for training
25 or apprenticeship, discharge, discipline, tenure or terms,
26 privileges or conditions of employment on the basis of

1 pregnancy, childbirth, or medical or common conditions
2 related to pregnancy or childbirth. Women affected by
3 pregnancy, childbirth, or medical or common conditions
4 related to pregnancy or childbirth shall be treated the
5 same for all employment-related purposes, including
6 receipt of benefits under fringe benefit programs, as
7 other persons not so affected but similar in their ability
8 or inability to work, regardless of the source of the
9 inability to work or employment classification or status.

10 (J) Pregnancy; reasonable accommodations.

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

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

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

1 (3) For an employer to require a job applicant or
2 employee, including a part-time, full-time, or
3 probationary employee, affected by pregnancy,
4 childbirth, or medical or common conditions related to
5 pregnancy or childbirth to accept an accommodation
6 when the applicant or employee did not request an
7 accommodation and the applicant or employee chooses
8 not to accept the employer's accommodation.

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

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

25 For the purposes of this subdivision (J), "undue
26 hardship" means an action that is prohibitively expensive

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

23 No employer is required by this subdivision (J) to
24 create additional employment that the employer would not
25 otherwise have created, unless the employer does so or
26 would do so for other classes of employees who need

1 accommodation. The employer is not required to discharge
2 any employee, transfer any employee with more seniority,
3 or promote any employee who is not qualified to perform
4 the job, unless the employer does so or would do so to
5 accommodate other classes of employees who need it.

6 (K) Notice.

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

21 (2) Upon notification of a violation of paragraph
22 (1) of this subdivision (K), the Department may launch
23 a preliminary investigation. If the Department finds a
24 violation, the Department may issue a notice to show
25 cause giving the employer 30 days to correct the
26 violation. If the violation is not corrected, the

1 Department may initiate a charge of a civil rights
2 violation.

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