



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5234

Introduced 2/3/2010, by Rep. Patricia R. Bellock

SYNOPSIS AS INTRODUCED:

775 ILCS 5/1-102	from Ch. 68, par. 1-102
775 ILCS 5/Art. 5A heading	
775 ILCS 5/5A-101	from Ch. 68, par. 5A-101
775 ILCS 5/5A-102	from Ch. 68, par. 5A-102
775 ILCS 5/6-101	from Ch. 68, par. 6-101
775 ILCS 5/7-106	from Ch. 68, par. 7-106
775 ILCS 5/7-108	from Ch. 68, par. 7-108

Amends provisions of the Illinois Human Rights Act prohibiting sexual harassment in higher education so that they also apply to sexual harassment in elementary and secondary schools. Effective immediately.

LRB096 18648 AJO 34031 b

FISCAL NOTE ACT
MAY APPLY

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 Sections 1-102, 5A-101, 5A-102, 6-101, 7-106, and
6 7-108 and the heading of Article 5A as follows:

7 (775 ILCS 5/1-102) (from Ch. 68, par. 1-102)

8 Sec. 1-102. Declaration of Policy. It is the public policy
9 of this State:

10 (A) Freedom from Unlawful Discrimination. To secure for all
11 individuals within Illinois the freedom from discrimination
12 against any individual because of his or her race, color,
13 religion, sex, national origin, ancestry, age, order of
14 protection status, marital status, physical or mental
15 disability, military status, sexual orientation, or
16 unfavorable discharge from military service in connection with
17 employment, real estate transactions, access to financial
18 credit, and the availability of public accommodations.

19 (B) Freedom from Sexual Harassment-Employment and
20 Elementary, Secondary, and Higher Education. To prevent sexual
21 harassment in employment and sexual harassment in elementary,
22 secondary, and higher education.

23 (C) Freedom from Discrimination Based on Citizenship

1 Status-Employment. To prevent discrimination based on
2 citizenship status in employment.

3 (D) Freedom from Discrimination Based on Familial
4 Status-Real Estate Transactions. To prevent discrimination
5 based on familial status in real estate transactions.

6 (E) Public Health, Welfare and Safety. To promote the
7 public health, welfare and safety by protecting the interest of
8 all people in Illinois in maintaining personal dignity, in
9 realizing their full productive capacities, and in furthering
10 their interests, rights and privileges as citizens of this
11 State.

12 (F) Implementation of Constitutional Guarantees. To secure
13 and guarantee the rights established by Sections 17, 18 and 19
14 of Article I of the Illinois Constitution of 1970.

15 (G) Equal Opportunity, Affirmative Action. To establish
16 Equal Opportunity and Affirmative Action as the policies of
17 this State in all of its decisions, programs and activities,
18 and to assure that all State departments, boards, commissions
19 and instrumentalities rigorously take affirmative action to
20 provide equality of opportunity and eliminate the effects of
21 past discrimination in the internal affairs of State government
22 and in their relations with the public.

23 (H) Unfounded Charges. To protect citizens of this State
24 against unfounded charges of unlawful discrimination, sexual
25 harassment in employment and sexual harassment in elementary,
26 secondary, and higher education, and discrimination based on

1 citizenship status in employment.

2 (Source: P.A. 95-668, eff. 10-10-07; 96-447, eff. 1-1-10.)

3 (775 ILCS 5/Art. 5A heading)

4 ARTICLE 5A. ELEMENTARY, SECONDARY, AND HIGHER EDUCATION

5 (775 ILCS 5/5A-101) (from Ch. 68, par. 5A-101)

6 Sec. 5A-101. Definitions. The following definitions are
7 applicable strictly in the content of this Article, except that
8 the term "sexual harassment in elementary, secondary, and
9 higher education" as defined herein has the meaning herein
10 ascribed to it whenever that term is used anywhere in this Act.

11 (A) Institution of Elementary, Secondary, or Higher
12 Education. "Institution of elementary, secondary, or higher
13 education" means: (1) a ~~any~~ publicly or privately operated
14 university, college, community college, junior college,
15 business or vocational school, or other educational
16 institution offering degrees and instruction beyond the
17 secondary school level; or (2) a publicly or privately operated
18 elementary school or secondary school.

19 (B) Degree. "Degree" means: (1) a ~~any~~ designation,
20 appellation, series of letters or words or other symbols which
21 signifies or purports to signify that the recipient thereof has
22 satisfactorily completed an organized academic, business or
23 vocational program of study offered beyond the secondary school
24 level; or (2) a designation signifying that the recipient has

1 graduated from an elementary school or secondary school.

2 (C) Student. "Student" means any individual admitted to or
3 applying for admission to an institution of elementary,
4 secondary, or higher education, or enrolled on a full or part
5 time basis in a course or program of academic, business or
6 vocational instruction offered by or through an institution of
7 elementary, secondary, or higher education.

8 (D) Elementary, Secondary, or Higher Education
9 Representative. "Elementary, Secondary, or Higher Education
10 representative" means and includes the president, chancellor
11 or other holder of any executive office on the administrative
12 staff of an institution of higher education, an administrator
13 of an elementary school or secondary school, a ~~and any~~ member
14 of the faculty of an institution of higher education, including
15 but not limited to a dean or associate or assistant dean, a
16 professor or associate or assistant professor, and a full or
17 part time instructor or visiting professor, including a
18 graduate assistant or other student who is employed on a
19 temporary basis of less than full time as a teacher or
20 instructor of any course or program of academic, business or
21 vocational instruction offered by or through an institution of
22 higher education, and any teacher, instructor, or other
23 employee of an elementary school or secondary school.

24 (E) Sexual Harassment in Elementary, Secondary, and Higher
25 Education. "Sexual harassment in elementary, secondary, and
26 higher education" means any unwelcome sexual advances or

1 requests for sexual favors made by an elementary, secondary, or
2 ~~a~~ higher education representative to a student, or any conduct
3 of a sexual nature exhibited by an elementary, secondary, or a
4 higher education representative toward a student, when such
5 conduct has the purpose of substantially interfering with the
6 student's educational performance or creating an intimidating,
7 hostile or offensive educational environment; or when the
8 elementary, secondary, or higher education representative
9 either explicitly or implicitly makes the student's submission
10 to such conduct a term or condition of, or uses the student's
11 submission to or rejection of such conduct as a basis for
12 determining:

13 (1) Whether the student will be admitted to an institution
14 of elementary, secondary, or higher education;

15 (2) The educational performance required or expected of the
16 student;

17 (3) The attendance or assignment requirements applicable
18 to the student;

19 (4) To what courses, fields of study or programs, including
20 honors and graduate programs, the student will be admitted;

21 (5) What placement or course proficiency requirements are
22 applicable to the student;

23 (6) The quality of instruction the student will receive;

24 (7) What tuition or fee requirements are applicable to the
25 student;

26 (8) What scholarship opportunities are available to the

1 student;

2 (9) What extracurricular teams the student will be a member
3 of or in what extracurricular competitions the student will
4 participate;

5 (10) Any grade the student will receive in any examination
6 or in any course or program of instruction in which the student
7 is enrolled;

8 (11) The progress of the student toward successful
9 completion of or graduation from any course or program of
10 instruction in which the student is enrolled; or

11 (12) What degree, if any, the student will receive.

12 (Source: P.A. 83-91.)

13 (775 ILCS 5/5A-102) (from Ch. 68, par. 5A-102)

14 Sec. 5A-102. Civil Rights Violations-Elementary,
15 Secondary, and Higher Education. It is a civil rights
16 violation:

17 (A) Elementary, Secondary, or Higher Education
18 Representative. For any elementary, secondary, or higher
19 education representative to commit or engage in sexual
20 harassment in elementary, secondary, or higher education.

21 (B) Institution of Elementary, Secondary, or Higher
22 Education. For any institution of elementary, secondary, or
23 higher education to fail to take remedial action, or to fail to
24 take appropriate disciplinary action against an elementary,
25 secondary, or a higher education representative employed by

1 such institution, when such institution knows that such
2 elementary, secondary, or higher education representative was
3 committing or engaging in or committed or engaged in sexual
4 harassment in elementary, secondary, or higher education.

5 (Source: P.A. 96-574, eff. 8-18-09.)

6 (775 ILCS 5/6-101) (from Ch. 68, par. 6-101)

7 Sec. 6-101. Additional Civil Rights Violations. It is a
8 civil rights violation for a person, or for two or more persons
9 to conspire, to:

10 (A) Retaliation. Retaliate against a person because he or
11 she has opposed that which he or she reasonably and in good
12 faith believes to be unlawful discrimination, sexual
13 harassment in employment or sexual harassment in elementary,
14 secondary, and higher education, discrimination based on
15 citizenship status in employment, or because he or she has made
16 a charge, filed a complaint, testified, assisted, or
17 participated in an investigation, proceeding, or hearing under
18 this Act;

19 (B) Aiding and Abetting; Coercion. Aid, abet, compel or
20 coerce a person to commit any violation of this Act;

21 (C) Interference. Wilfully interfere with the performance
22 of a duty or the exercise of a power by the Commission or one of
23 its members or representatives or the Department or one of its
24 officers or employees.

25 (D) Definitions. For the purposes of this Section, "sexual

1 harassment" and "citizenship status" shall have the same
2 meaning as defined in Section 2-101 of this Act.

3 (Source: P.A. 87-579.)

4 (775 ILCS 5/7-106) (from Ch. 68, par. 7-106)

5 Sec. 7-106. Recruitment; Research; Public Communication)

6 For the purpose of promoting equal employment and housing
7 opportunities and eliminating unlawful discrimination, sexual
8 harassment in employment and sexual harassment in elementary,
9 secondary, and higher education, the Department shall have
10 authority to:

11 (A) Recruitment. Cooperate with public and private
12 organizations, as well as the Department of Central Management
13 Services, in encouraging individuals in underrepresented
14 classifications to seek employment in state government.

15 (B) Publications; Research. Issue publications, conduct
16 research, and make surveys as it deems necessary.

17 (C) Public Hearings. Hold public hearings to obtain
18 information from the general public on the effectiveness of the
19 state's equal employment opportunity program and the
20 protection against unlawful discrimination, sexual harassment
21 in employment and sexual harassment in elementary, secondary,
22 and higher education afforded by this Act and to accept public
23 recommendations concerning changes in the program and the Act
24 for inclusion in its annual report.

25 (D) Promotion of Communication and Goodwill. Establish a

1 program to cooperate with civic, religious and educational
2 organizations in order to improve human communication and
3 understanding, foster equal opportunities in employment and
4 housing, and promote and encourage communication, goodwill and
5 interfaith and interracial harmony.

6 (Source: P.A. 85-1229; 86-1343.)

7 (775 ILCS 5/7-108) (from Ch. 68, par. 7-108)

8 Sec. 7-108. Local Departments, Commissions.

9 (A) Authority. A political subdivision, or two or more
10 political subdivisions acting jointly, may create a local
11 department or commission as it or they see fit to promote the
12 purposes of this Act and to secure for all individuals within
13 the jurisdiction of the political subdivision or subdivisions
14 freedom from unlawful discrimination, sexual harassment in
15 employment and sexual harassment in elementary, secondary, and
16 higher education. The provisions of any ordinance enacted by
17 any municipality or county which prohibits broader or different
18 categories of discrimination than are prohibited by this Act
19 are not invalidated or affected by this Act.

20 (B) Concurrent Jurisdiction. When the Department and a
21 local department or commission have concurrent jurisdiction
22 over a complaint, either may transfer the complaint to the
23 other under regulations established by the Department.

24 (C) Exclusive Jurisdiction. When the Department or a local
25 department or commission has jurisdiction over a complaint and

1 the other does not, the Department or local department or
2 commission without jurisdiction may transfer the complaint to
3 the other under regulations established by the Department.

4 (D) To secure and guarantee the rights established by
5 Sections 17, 18 and 19 of Article I of the Illinois
6 Constitution, any ordinance, resolution, rule or regulation of
7 any county, municipality or other unit of local government or
8 of any local department or commission which prohibits,
9 restricts, narrows or limits the housing choice of any person
10 is unenforceable and void. Nothing in this amendatory Act of
11 1981 prohibits a unit of local government from making special
12 outreach efforts to inform members of minority groups of
13 housing opportunities available in areas of majority white
14 concentration and make similar efforts to inform the majority
15 white population of available housing opportunities located in
16 areas of minority concentration. This paragraph is applicable
17 to home rule units as well as non-home rule units.

18 Pursuant to Article VII, Section 6, paragraph (i) of the
19 Illinois Constitution, this amendatory Act of 1981 is a
20 limitation of the power of home rule units.

21 (Source: P.A. 85-1229; 86-1343.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.