



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB1272

Introduced 1/31/2023, by Rep. Rita Mayfield

#### SYNOPSIS AS INTRODUCED:

775 ILCS 5/2-102

from Ch. 68, par. 2-102

775 ILCS 5/3-102.2 new

Amends the Employment Article and the Real Estate Transactions Article of the Illinois Human Rights Act. Provides that it is a civil rights violation: (1) for any employer, employee, agent of any employer, employment agency, labor organization, or public employer to inquire about a job applicant's gender; and (2) for an owner or any other person engaging in a real estate transaction, or for a real estate broker or salesman, to inquire about a buyer's or renter's gender.

LRB103 05067 LNS 50081 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 and by adding Section 3-102.2 as  
6 follows:

7 (775 ILCS 5/2-102) (from Ch. 68, par. 2-102)

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

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

22 (A-5) Language. For an employer to impose a  
23 restriction that has the effect of prohibiting a language

1 from being spoken by an employee in communications that  
2 are unrelated to the employee's duties.

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

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

21 (B) Employment agency. For any employment agency to  
22 fail or refuse to classify properly, accept applications  
23 and register for employment referral or apprenticeship  
24 referral, refer for employment, or refer for  
25 apprenticeship on the basis of unlawful discrimination,  
26 citizenship status, or work authorization status or to

1 accept from any person any job order, requisition or  
2 request for referral of applicants for employment or  
3 apprenticeship which makes or has the effect of making  
4 unlawful discrimination or discrimination on the basis of  
5 citizenship status or work authorization status a  
6 condition of referral.

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

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

26 (D-5) Sexual harassment of nonemployees. For any

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

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

1 plans to take time off from work in order to practice his  
2 or her religious beliefs provide the employer with a  
3 notice of his or her intention to be absent from work not  
4 exceeding 5 days prior to the date of absence.

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

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

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

1 training programs.

2 (G) Immigration-related practices.

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

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

22 (H) (Blank).

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

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

11 (J) Pregnancy; reasonable accommodations.

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

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

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

1 the applicant or employee.

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

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

1 business of the employer.

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

26 For the purposes of this subdivision (J), "undue

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

24 No employer is required by this subdivision (J) to  
25 create additional employment that the employer would not  
26 otherwise have created, unless the employer does so or

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

7 (K) Notice.

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

22 (2) Upon notification of a violation of paragraph  
23 (1) of this subdivision (K), the Department may launch  
24 a preliminary investigation. If the Department finds a  
25 violation, the Department may issue a notice to show  
26 cause giving the employer 30 days to correct the

1 violation. If the violation is not corrected, the  
2 Department may initiate a charge of a civil rights  
3 violation.

4 (L) Gender. For any employer, employee, agent of any  
5 employer, employment agency, labor organization, or public  
6 employer to inquire about a job applicant's gender.

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

8 (775 ILCS 5/3-102.2 new)

9 Sec. 3-102.2. Gender. Except as provided in subsection (F)  
10 of Section 3-106, it is a civil rights violation for an owner  
11 or any other person engaging in a real estate transaction, or  
12 for a real estate broker or salesman, to inquire about a  
13 buyer's or renter's gender.