



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4283

Introduced 1/28/2020, by Rep. Jim Durkin - Bradley Stephens

SYNOPSIS AS INTRODUCED:

775 ILCS 40/20
775 ILCS 40/25
775 ILCS 40/45

Amends the Illinois Torture Inquiry and Relief Commission Act. Provides that the Illinois Torture and Inquiry and Relief Commission shall consist of 10 (rather than 8) voting members. Provides that the 2 additional members shall be members of the Fraternal Order of Police, Chicago Lodge 7, whose terms shall initially be for 2 years and shall begin on January 1, 2022. Makes corresponding changes. Effective immediately.

LRB101 12922 LNS 66944 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 Torture Inquiry and Relief
5 Commission Act is amended by changing Sections 20, 25, and 45
6 as follows:

7 (775 ILCS 40/20)

8 Sec. 20. Membership; chair; meetings; quorum.

9 (a) The Commission shall consist of 10 ~~8~~ voting members as
10 follows:

11 (1) One shall be a retired Circuit Court Judge.

12 (2) One shall be a former prosecuting attorney.

13 (3) One shall be a law school professor.

14 (4) One shall be engaged in the practice of criminal
15 defense law.

16 (5) Three shall be members of the public who are not
17 attorneys and who are not officers or employees of the
18 Judicial branch.

19 (6) One shall be a former public defender.

20 (7) Two shall be members of the Fraternal Order of
21 Police, Chicago Lodge 7.

22 The members of the Commission shall be appointed by the
23 Governor, with the advice and consent of the Senate. Members

1 may be re-appointed for additional terms, as provided for under
2 Section 25.

3 (a-1) The Governor shall also appoint alternate Commission
4 members for the Commission members he or she has appointed to
5 serve in the event of scheduling conflicts, conflicts of
6 interest, disability, or other disqualification arising in a
7 particular case. Where an alternate member is called upon to
8 serve in a particular place, the alternate member shall vote in
9 the place of, and otherwise exercise the same powers as, the
10 member which he or she is replacing. The alternate member shall
11 have the same qualifications for appointment as the original
12 member. In making the appointments, the Governor shall make a
13 good faith effort to appoint members with different
14 perspectives of the justice system. The Governor shall also
15 consider geographical location, gender, and racial diversity
16 in making the appointments.

17 (b) The retired judge who is appointed as a member under
18 subsection (a) shall serve as Chair of the Commission. The
19 Commission shall have its initial meeting no later than one
20 month after the appointment of a quorum of members of the
21 Commission, at the call of the Chair. The Commission shall meet
22 a minimum of once every 6 months and may also meet more often
23 at the call of the Chair. The Commission shall meet at such
24 time and place as designated by the Chair, in accordance with
25 the provisions of the Open Meetings Act. Notice of the meetings
26 shall be given at such time and manner as provided by the rules

1 of the Commission, in accordance with the provisions of the
2 Open Meetings Act. A majority of the voting members shall
3 constitute a quorum. All Commission votes shall be by majority
4 vote of the voting members appointed.

5 (Source: P.A. 96-223, eff. 8-10-09.)

6 (775 ILCS 40/25)

7 Sec. 25. Terms of members; compensation; expenses.

8 (a) Of the initial members, the appointments under clauses
9 (a) (3) and (6) of Section 20 shall be for one-year terms, the
10 appointments under clauses (a) (1), (2), ~~and~~ (4), and (7) of
11 Section 20 shall be for 2-year terms, and the appointments
12 under clause (a) (5) of Section 20 shall be for 3-year terms.
13 Thereafter, all terms shall be for 3 years. Members of the
14 Commission shall serve no more than 2 consecutive 3-year terms
15 plus any initial term of less than 3 years. Unless provided
16 otherwise by this Act, all terms of members shall begin on
17 January 1 and end on December 31.

18 Members serving by virtue of elective or appointive office,
19 may serve only so long as the office holders hold those
20 respective offices. The Chief Judge of the Cook County Circuit
21 Court may remove members for good cause shown. Vacancies
22 occurring before the expiration of a term shall be filled in
23 the manner provided for the members first appointed.

24 (b) The Commission members shall receive no salary for
25 serving, but may be reimbursed for reasonable expenses incurred

1 as a result of their duties as members of the Commission from
2 funds appropriated by the General Assembly for that purpose, or
3 from funds obtained from sources other than the General
4 Assembly.

5 (c) The terms of the persons appointed under paragraph (7)
6 of subsection (a) of Section 20 shall begin on January 1, 2022.

7 (Source: P.A. 96-223, eff. 8-10-09.)

8 (775 ILCS 40/45)

9 Sec. 45. Commission proceedings.

10 (a) At the completion of a formal inquiry, all relevant
11 evidence shall be presented to the full Commission. As part of
12 its proceedings, the Commission may conduct hearings. The
13 determination as to whether to conduct hearings is solely in
14 the discretion of the Commission. Any hearing held in
15 accordance with this Section shall be a public hearing and
16 shall be held subject to the Commission's rules of operation,
17 and conducted pursuant to the Open Meetings Act.

18 (b) The Director shall use all due diligence to notify the
19 victim at least 30 days prior to any proceedings of the full
20 Commission held in regard to the victim's case. The Commission
21 shall notify the victim that the victim is permitted to attend
22 proceedings otherwise closed to the public, subject to any
23 limitations imposed by this Act, and subject to Section
24 2(c)(14) of the Open Meetings Act. If the victim plans to
25 attend proceedings otherwise closed to the public, the victim

1 shall notify the Commission at least 10 days in advance of the
2 proceedings of his or her intent to attend. The Commission may
3 close any portion of the proceedings to the victim, if the
4 victim is to testify and the Commission determines that the
5 victim's testimony would be materially affected if the victim
6 hears other testimony at the proceeding.

7 (c) After hearing the evidence, the full Commission shall
8 vote to establish further case disposition as provided by this
9 subsection. All 10 & voting members of the Commission shall
10 participate in that vote.

11 If 7 & or more of the 10 & voting members of the Commission
12 conclude by a preponderance of the evidence that there is
13 sufficient evidence of torture to merit judicial review, the
14 case shall be referred to the Chief Judge of the Circuit Court
15 of Cook County by filing with the clerk of court the opinion of
16 the Commission with supporting findings of fact, as well as the
17 record in support of such opinion, with service on the State's
18 Attorney in non-capital cases and service on both the State's
19 Attorney and Attorney General in capital cases.

20 If less than 7 & of the 10 & voting members of the
21 Commission conclude by a preponderance of the evidence that
22 there is sufficient evidence of torture to merit judicial
23 review, the Commission shall conclude there is insufficient
24 evidence of torture to merit judicial review. The Commission
25 shall document that opinion, along with supporting findings of
26 fact, and file those documents and supporting materials with

1 the court clerk in the circuit of original jurisdiction, with a
2 copy to the State's Attorney and the chief judge.

3 The Director of the Commission shall use all due diligence
4 to notify immediately the victim of the Commission's conclusion
5 in a case.

6 (d) Evidence of criminal acts, professional misconduct, or
7 other wrongdoing disclosed through formal inquiry or
8 Commission proceedings shall be referred to the appropriate
9 authority. Evidence favorable to the convicted person
10 disclosed through formal inquiry or Commission proceedings
11 shall be disclosed to the convicted person and the convicted
12 person's counsel, if the convicted person has counsel. The
13 Commission shall have the discretion to refer its findings
14 together with the supporting record and evidence, to such other
15 parties or entities as the Commission in its discretion shall
16 deem appropriate.

17 (e) All proceedings of the Commission shall be recorded and
18 transcribed as part of the record. All Commission member votes
19 shall be recorded in the record. All records of the Commission
20 shall be confidential until the proceedings before the
21 Commission are concluded and a final decision has been made by
22 the Commission.

23 (Source: P.A. 96-223, eff. 8-10-09.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.