



Rep. Sonya M. Harper

Filed: 1/11/2021

10100SB1480ham002

LRB101 09073 RJF 74797 a

1 AMENDMENT TO SENATE BILL 1480

2 AMENDMENT NO. _____. Amend Senate Bill 1480 by replacing
3 everything after the enacting clause with the following:

4 "Article 1.

5 Section 1-5. The Illinois Human Rights Act is amended by
6 changing Section 1-103 and by adding Section 2-103.1 as
7 follows:

8 (775 ILCS 5/1-103) (from Ch. 68, par. 1-103)

9 Sec. 1-103. General definitions. When used in this Act,
10 unless the context requires otherwise, the term:

11 (A) Age. "Age" means the chronological age of a person who
12 is at least 40 years old, except with regard to any practice
13 described in Section 2-102, insofar as that practice concerns
14 training or apprenticeship programs. In the case of training or
15 apprenticeship programs, for the purposes of Section 2-102,

1 "age" means the chronological age of a person who is 18 but not
2 yet 40 years old.

3 (B) Aggrieved party. "Aggrieved party" means a person who
4 is alleged or proved to have been injured by a civil rights
5 violation or believes he or she will be injured by a civil
6 rights violation under Article 3 that is about to occur.

7 (B-5) Arrest record. "Arrest record" means:

8 (1) an arrest not leading to a conviction;

9 (2) a juvenile record; or

10 (3) criminal history record information ordered
11 expunged, sealed, or impounded under Section 5.2 of the
12 Criminal Identification Act.

13 (C) Charge. "Charge" means an allegation filed with the
14 Department by an aggrieved party or initiated by the Department
15 under its authority.

16 (D) Civil rights violation. "Civil rights violation"
17 includes and shall be limited to only those specific acts set
18 forth in Sections 2-102, 2-103, 2-105, 3-102, 3-102.1, 3-103,
19 3-104, 3-104.1, 3-105, 3-105.1, 4-102, 4-103, 5-102, 5A-102,
20 6-101, and 6-102 of this Act.

21 (E) Commission. "Commission" means the Human Rights
22 Commission created by this Act.

23 (F) Complaint. "Complaint" means the formal pleading filed
24 by the Department with the Commission following an
25 investigation and finding of substantial evidence of a civil
26 rights violation.

1 (G) Complainant. "Complainant" means a person including
2 the Department who files a charge of civil rights violation
3 with the Department or the Commission.

4 (G-5) Conviction record. "Conviction record" means
5 information indicating that a person has been convicted of a
6 felony, misdemeanor or other criminal offense, placed on
7 probation, fined, imprisoned, or paroled pursuant to any law
8 enforcement or military authority.

9 (H) Department. "Department" means the Department of Human
10 Rights created by this Act.

11 (I) Disability. "Disability" means a determinable physical
12 or mental characteristic of a person, including, but not
13 limited to, a determinable physical characteristic which
14 necessitates the person's use of a guide, hearing or support
15 dog, the history of such characteristic, or the perception of
16 such characteristic by the person complained against, which may
17 result from disease, injury, congenital condition of birth or
18 functional disorder and which characteristic:

19 (1) For purposes of Article 2, is unrelated to the
20 person's ability to perform the duties of a particular job
21 or position and, pursuant to Section 2-104 of this Act, a
22 person's illegal use of drugs or alcohol is not a
23 disability;

24 (2) For purposes of Article 3, is unrelated to the
25 person's ability to acquire, rent, or maintain a housing
26 accommodation;

1 (3) For purposes of Article 4, is unrelated to a
2 person's ability to repay;

3 (4) For purposes of Article 5, is unrelated to a
4 person's ability to utilize and benefit from a place of
5 public accommodation;

6 (5) For purposes of Article 5, also includes any
7 mental, psychological, or developmental disability,
8 including autism spectrum disorders.

9 (J) Marital status. "Marital status" means the legal status
10 of being married, single, separated, divorced, or widowed.

11 (J-1) Military status. "Military status" means a person's
12 status on active duty in or status as a veteran of the armed
13 forces of the United States, status as a current member or
14 veteran of any reserve component of the armed forces of the
15 United States, including the United States Army Reserve, United
16 States Marine Corps Reserve, United States Navy Reserve, United
17 States Air Force Reserve, and United States Coast Guard
18 Reserve, or status as a current member or veteran of the
19 Illinois Army National Guard or Illinois Air National Guard.

20 (K) National origin. "National origin" means the place in
21 which a person or one of his or her ancestors was born.

22 (K-5) "Order of protection status" means a person's status
23 as being a person protected under an order of protection issued
24 pursuant to the Illinois Domestic Violence Act of 1986, Article
25 112A of the Code of Criminal Procedure of 1963, the Stalking No
26 Contact Order Act, or the Civil No Contact Order Act, or an

1 order of protection issued by a court of another state.

2 (L) Person. "Person" includes one or more individuals,
3 partnerships, associations or organizations, labor
4 organizations, labor unions, joint apprenticeship committees,
5 or union labor associations, corporations, the State of
6 Illinois and its instrumentalities, political subdivisions,
7 units of local government, legal representatives, trustees in
8 bankruptcy or receivers.

9 (L-5) Pregnancy. "Pregnancy" means pregnancy, childbirth,
10 or medical or common conditions related to pregnancy or
11 childbirth.

12 (M) Public contract. "Public contract" includes every
13 contract to which the State, any of its political subdivisions,
14 or any municipal corporation is a party.

15 (N) Religion. "Religion" includes all aspects of religious
16 observance and practice, as well as belief, except that with
17 respect to employers, for the purposes of Article 2, "religion"
18 has the meaning ascribed to it in paragraph (F) of Section
19 2-101.

20 (O) Sex. "Sex" means the status of being male or female.

21 (O-1) Sexual orientation. "Sexual orientation" means
22 actual or perceived heterosexuality, homosexuality,
23 bisexuality, or gender-related identity, whether or not
24 traditionally associated with the person's designated sex at
25 birth. "Sexual orientation" does not include a physical or
26 sexual attraction to a minor by an adult.

1 (P) Unfavorable military discharge. "Unfavorable military
2 discharge" includes discharges from the Armed Forces of the
3 United States, their Reserve components, or any National Guard
4 or Naval Militia which are classified as RE-3 or the equivalent
5 thereof, but does not include those characterized as RE-4 or
6 "Dishonorable".

7 (Q) Unlawful discrimination. "Unlawful discrimination"
8 means discrimination against a person because of his or her
9 actual or perceived: race, color, religion, national origin,
10 ancestry, age, sex, marital status, order of protection status,
11 disability, military status, sexual orientation, pregnancy, or
12 unfavorable discharge from military service as those terms are
13 defined in this Section.

14 (Source: P.A. 100-714, eff. 1-1-19; 101-81, eff. 7-12-19;
15 101-221, eff. 1-1-20; 101-565, eff. 1-1-20; revised 9-18-19.)

16 (775 ILCS 5/2-103.1 new)

17 Sec. 2-103.1. Conviction record.

18 (A) Unless otherwise authorized by law, it is a civil
19 rights violation for any employer, employment agency or labor
20 organization to use a conviction record, as defined under
21 subsection (G-5) of Section 1-103, as a basis to refuse to
22 hire, to segregate, or to act with respect to recruitment,
23 hiring, promotion, renewal of employment, selection for
24 training or apprenticeship, discharge, discipline, tenure or
25 terms, privileges or conditions of employment (whether

1 "disqualification" or "adverse action"), unless:

2 (1) there is a substantial relationship between one or
3 more of the previous criminal offenses and the employment
4 sought or held; or

5 (2) the granting or continuation of the employment
6 would involve an unreasonable risk to property or to the
7 safety or welfare of specific individuals or the general
8 public.

9 For the purposes of this subsection (A), "substantial
10 relationship" means a consideration of whether the employment
11 position offers the opportunity for the same or a similar
12 offense to occur and whether the circumstances leading to the
13 conduct for which the person was convicted will recur in the
14 employment position.

15 (B) Factors considered. In making a determination pursuant
16 to subsection (A), the employer shall consider the following
17 factors:

18 (1) the length of time since the conviction;

19 (2) the number of convictions that appear on the
20 conviction record;

21 (3) the nature and severity of the conviction and its
22 relationship to the safety and security of others;

23 (4) the facts or circumstances surrounding the
24 conviction;

25 (5) the age of the employee at the time of the
26 conviction; and

1 (6) evidence of rehabilitation efforts.

2 (C) Interactive assessment required for disqualifying
3 conviction. If after considering the mitigating factors in
4 subsection (B), the employer makes a preliminary decision that
5 the employee's conviction record disqualifies the employee,
6 the employer shall notify the employee of this preliminary
7 decision in writing.

8 (1) Notification. The notification shall contain all
9 of the following:

10 (a) notice of the disqualifying conviction or
11 convictions that are the basis for the preliminary
12 decision and the employer's reasoning for the
13 disqualification;

14 (b) a copy of the conviction history report, if
15 any; and

16 (c) an explanation of the employee's right to
17 respond to the notice of the employer's preliminary
18 decision before that decision becomes final. The
19 explanation shall inform the employee that the
20 response may include, but is not limited to, submission
21 of evidence challenging the accuracy of the conviction
22 record that is the basis for the disqualification, or
23 evidence in mitigation, such as rehabilitation.

24 (2) Employee response. The employee shall have at least
25 5 business days to respond to the notification provided to
26 the employee before the employer may make a final decision.

1 (3) Final decision. The employer shall consider
2 information submitted by the employee before making a final
3 decision. If an employer makes a final decision to
4 disqualify or take an adverse action solely or in part
5 because of the employee's conviction record, the employer
6 shall notify the employee in writing of the following:

7 (a) notice of the disqualifying conviction or
8 convictions that are the basis for the final decision
9 and the employer's reasoning for the disqualification;

10 (b) any existing procedure the employer has for the
11 employee to challenge the decision or request
12 reconsideration; and

13 (c) the right to file a charge with the Department.

14 Article 5.

15 Section 5-5. The Business Corporation Act of 1983 is
16 amended by changing Section 14.05 as follows:

17 (805 ILCS 5/14.05) (from Ch. 32, par. 14.05)

18 Sec. 14.05. Annual report of domestic or foreign
19 corporation. Each domestic corporation organized under any
20 general law or special act of this State authorizing the
21 corporation to issue shares, other than homestead
22 associations, building and loan associations, banks and
23 insurance companies (which includes a syndicate or limited

1 syndicate regulated under Article V 1/2 of the Illinois
2 Insurance Code or member of a group of underwriters regulated
3 under Article V of that Code), and each foreign corporation
4 (except members of a group of underwriters regulated under
5 Article V of the Illinois Insurance Code) authorized to
6 transact business in this State, shall file, within the time
7 prescribed by this Act, an annual report setting forth:

8 (a) The name of the corporation.

9 (b) The address, including street and number, or rural
10 route number, of its registered office in this State, and
11 the name of its registered agent at that address.

12 (c) The address, including street and number, or rural
13 route number, of its principal office.

14 (d) The names and respective addresses, including
15 street and number, or rural route number, of its directors
16 and officers.

17 (e) A statement of the aggregate number of shares which
18 the corporation has authority to issue, itemized by classes
19 and series, if any, within a class.

20 (f) A statement of the aggregate number of issued
21 shares, itemized by classes, and series, if any, within a
22 class.

23 (g) A statement, expressed in dollars, of the amount of
24 paid-in capital of the corporation as defined in this Act.

25 (h) Either a statement that (1) all the property of the
26 corporation is located in this State and all of its

1 business is transacted at or from places of business in
2 this State, or the corporation elects to pay the annual
3 franchise tax on the basis of its entire paid-in capital,
4 or (2) a statement, expressed in dollars, of the value of
5 all the property owned by the corporation, wherever
6 located, and the value of the property located within this
7 State, and a statement, expressed in dollars, of the gross
8 amount of business transacted by the corporation and the
9 gross amount thereof transacted by the corporation at or
10 from places of business in this State as of the close of
11 its fiscal year on or immediately preceding the last day of
12 the third month prior to the anniversary month or in the
13 case of a corporation which has established an extended
14 filing month, as of the close of its fiscal year on or
15 immediately preceding the last day of the third month prior
16 to the extended filing month; however, in the case of a
17 domestic corporation that has not completed its first
18 fiscal year, the statement with respect to property owned
19 shall be as of the last day of the third month preceding
20 the anniversary month and the statement with respect to
21 business transacted shall be furnished for the period
22 between the date of incorporation and the last day of the
23 third month preceding the anniversary month. In the case of
24 a foreign corporation that has not been authorized to
25 transact business in this State for a period of 12 months
26 and has not commenced transacting business prior to

1 obtaining authority, the statement with respect to
2 property owned shall be as of the last day of the third
3 month preceding the anniversary month and the statement
4 with respect to business transacted shall be furnished for
5 the period between the date of its authorization to
6 transact business in this State and the last day of the
7 third month preceding the anniversary month. If the data
8 referenced in item (2) of this subsection is not completed,
9 the franchise tax provided for in this Act shall be
10 computed on the basis of the entire paid-in capital.

11 (i) A statement, including the basis therefor, of
12 status as a "minority-owned business" or as a "women-owned
13 business" as those terms are defined in the Business
14 Enterprise for Minorities, Women, and Persons with
15 Disabilities Act.

16 (j) Additional information as may be necessary or
17 appropriate in order to enable the Secretary of State to
18 administer this Act and to verify the proper amount of fees
19 and franchise taxes payable by the corporation.

20 (k) A statement of whether the corporation or foreign
21 corporation has outstanding shares listed on a major United
22 States stock exchange and is thereby subject to the
23 reporting requirements of Section 8.12.

24 (l) For those corporations subject to Section 8.12, a
25 statement providing the information required under Section
26 8.12.

1 (m) For those corporations required to file an Employer
2 Information Report EEO-1 with the Equal Employment
3 Opportunity Commission, information that is substantially
4 similar to the employment data reported under Section D of
5 the corporation's EEO-1 in a format approved by the
6 Secretary of State. For each corporation that submits data
7 under this paragraph, the Secretary of State shall publish
8 the data on the gender, race, and ethnicity of each
9 corporation's employees on the Secretary of State's
10 official website. The Secretary of State shall publish such
11 information within 90 days of receipt of a properly filed
12 annual report or as soon thereafter as practicable.

13 The annual report shall be made on forms prescribed and
14 furnished by the Secretary of State, and the information
15 therein required by paragraphs (a) through (d), both inclusive,
16 of this Section, shall be given as of the date of the execution
17 of the annual report and the information therein required by
18 paragraphs (e), (f), and (g) of this Section shall be given as
19 of the last day of the third month preceding the anniversary
20 month, except that the information required by paragraphs (e),
21 (f), and (g) shall, in the case of a corporation which has
22 established an extended filing month, be given in its final
23 transition annual report and each subsequent annual report as
24 of the close of its fiscal year on or immediately preceding the
25 last day of the third month prior to its extended filing month.
26 The information required by paragraph (m) shall be included in

1 the corporation's annual report filed on and after January 1,
2 2023. It shall be executed by the corporation by its president,
3 a vice-president, secretary, assistant secretary, treasurer or
4 other officer duly authorized by the board of directors of the
5 corporation to execute those reports, and verified by him or
6 her, or, if the corporation is in the hands of a receiver or
7 trustee, it shall be executed on behalf of the corporation and
8 verified by the receiver or trustee.

9 (Source: P.A. 100-391, eff. 8-25-17; 100-486, eff. 1-1-18;
10 100-863, eff. 8-14-18; 101-589, eff. 8-27-19.)

11 Article 10.

12 Section 10-1. The Freedom of Information Act is amended by
13 changing Section 7.5 as follows:

14 (5 ILCS 140/7.5)

15 Sec. 7.5. Statutory exemptions. To the extent provided for
16 by the statutes referenced below, the following shall be exempt
17 from inspection and copying:

18 (a) All information determined to be confidential
19 under Section 4002 of the Technology Advancement and
20 Development Act.

21 (b) Library circulation and order records identifying
22 library users with specific materials under the Library
23 Records Confidentiality Act.

1 (c) Applications, related documents, and medical
2 records received by the Experimental Organ Transplantation
3 Procedures Board and any and all documents or other records
4 prepared by the Experimental Organ Transplantation
5 Procedures Board or its staff relating to applications it
6 has received.

7 (d) Information and records held by the Department of
8 Public Health and its authorized representatives relating
9 to known or suspected cases of sexually transmissible
10 disease or any information the disclosure of which is
11 restricted under the Illinois Sexually Transmissible
12 Disease Control Act.

13 (e) Information the disclosure of which is exempted
14 under Section 30 of the Radon Industry Licensing Act.

15 (f) Firm performance evaluations under Section 55 of
16 the Architectural, Engineering, and Land Surveying
17 Qualifications Based Selection Act.

18 (g) Information the disclosure of which is restricted
19 and exempted under Section 50 of the Illinois Prepaid
20 Tuition Act.

21 (h) Information the disclosure of which is exempted
22 under the State Officials and Employees Ethics Act, and
23 records of any lawfully created State or local inspector
24 general's office that would be exempt if created or
25 obtained by an Executive Inspector General's office under
26 that Act.

1 (i) Information contained in a local emergency energy
2 plan submitted to a municipality in accordance with a local
3 emergency energy plan ordinance that is adopted under
4 Section 11-21.5-5 of the Illinois Municipal Code.

5 (j) Information and data concerning the distribution
6 of surcharge moneys collected and remitted by carriers
7 under the Emergency Telephone System Act.

8 (k) Law enforcement officer identification information
9 or driver identification information compiled by a law
10 enforcement agency or the Department of Transportation
11 under Section 11-212 of the Illinois Vehicle Code.

12 (l) Records and information provided to a residential
13 health care facility resident sexual assault and death
14 review team or the Executive Council under the Abuse
15 Prevention Review Team Act.

16 (m) Information provided to the predatory lending
17 database created pursuant to Article 3 of the Residential
18 Real Property Disclosure Act, except to the extent
19 authorized under that Article.

20 (n) Defense budgets and petitions for certification of
21 compensation and expenses for court appointed trial
22 counsel as provided under Sections 10 and 15 of the Capital
23 Crimes Litigation Act. This subsection (n) shall apply
24 until the conclusion of the trial of the case, even if the
25 prosecution chooses not to pursue the death penalty prior
26 to trial or sentencing.

1 (o) Information that is prohibited from being
2 disclosed under Section 4 of the Illinois Health and
3 Hazardous Substances Registry Act.

4 (p) Security portions of system safety program plans,
5 investigation reports, surveys, schedules, lists, data, or
6 information compiled, collected, or prepared by or for the
7 Regional Transportation Authority under Section 2.11 of
8 the Regional Transportation Authority Act or the St. Clair
9 County Transit District under the Bi-State Transit Safety
10 Act.

11 (q) Information prohibited from being disclosed by the
12 Personnel Record Review Act.

13 (r) Information prohibited from being disclosed by the
14 Illinois School Student Records Act.

15 (s) Information the disclosure of which is restricted
16 under Section 5-108 of the Public Utilities Act.

17 (t) All identified or deidentified health information
18 in the form of health data or medical records contained in,
19 stored in, submitted to, transferred by, or released from
20 the Illinois Health Information Exchange, and identified
21 or deidentified health information in the form of health
22 data and medical records of the Illinois Health Information
23 Exchange in the possession of the Illinois Health
24 Information Exchange Office due to its administration of
25 the Illinois Health Information Exchange. The terms
26 "identified" and "deidentified" shall be given the same

1 meaning as in the Health Insurance Portability and
2 Accountability Act of 1996, Public Law 104-191, or any
3 subsequent amendments thereto, and any regulations
4 promulgated thereunder.

5 (u) Records and information provided to an independent
6 team of experts under the Developmental Disability and
7 Mental Health Safety Act (also known as Brian's Law).

8 (v) Names and information of people who have applied
9 for or received Firearm Owner's Identification Cards under
10 the Firearm Owners Identification Card Act or applied for
11 or received a concealed carry license under the Firearm
12 Concealed Carry Act, unless otherwise authorized by the
13 Firearm Concealed Carry Act; and databases under the
14 Firearm Concealed Carry Act, records of the Concealed Carry
15 Licensing Review Board under the Firearm Concealed Carry
16 Act, and law enforcement agency objections under the
17 Firearm Concealed Carry Act.

18 (w) Personally identifiable information which is
19 exempted from disclosure under subsection (g) of Section
20 19.1 of the Toll Highway Act.

21 (x) Information which is exempted from disclosure
22 under Section 5-1014.3 of the Counties Code or Section
23 8-11-21 of the Illinois Municipal Code.

24 (y) Confidential information under the Adult
25 Protective Services Act and its predecessor enabling
26 statute, the Elder Abuse and Neglect Act, including

1 information about the identity and administrative finding
2 against any caregiver of a verified and substantiated
3 decision of abuse, neglect, or financial exploitation of an
4 eligible adult maintained in the Registry established
5 under Section 7.5 of the Adult Protective Services Act.

6 (z) Records and information provided to a fatality
7 review team or the Illinois Fatality Review Team Advisory
8 Council under Section 15 of the Adult Protective Services
9 Act.

10 (aa) Information which is exempted from disclosure
11 under Section 2.37 of the Wildlife Code.

12 (bb) Information which is or was prohibited from
13 disclosure by the Juvenile Court Act of 1987.

14 (cc) Recordings made under the Law Enforcement
15 Officer-Worn Body Camera Act, except to the extent
16 authorized under that Act.

17 (dd) Information that is prohibited from being
18 disclosed under Section 45 of the Condominium and Common
19 Interest Community Ombudsperson Act.

20 (ee) Information that is exempted from disclosure
21 under Section 30.1 of the Pharmacy Practice Act.

22 (ff) Information that is exempted from disclosure
23 under the Revised Uniform Unclaimed Property Act.

24 (gg) Information that is prohibited from being
25 disclosed under Section 7-603.5 of the Illinois Vehicle
26 Code.

1 (hh) Records that are exempt from disclosure under
2 Section 1A-16.7 of the Election Code.

3 (ii) Information which is exempted from disclosure
4 under Section 2505-800 of the Department of Revenue Law of
5 the Civil Administrative Code of Illinois.

6 (jj) Information and reports that are required to be
7 submitted to the Department of Labor by registering day and
8 temporary labor service agencies but are exempt from
9 disclosure under subsection (a-1) of Section 45 of the Day
10 and Temporary Labor Services Act.

11 (kk) Information prohibited from disclosure under the
12 Seizure and Forfeiture Reporting Act.

13 (ll) Information the disclosure of which is restricted
14 and exempted under Section 5-30.8 of the Illinois Public
15 Aid Code.

16 (mm) Records that are exempt from disclosure under
17 Section 4.2 of the Crime Victims Compensation Act.

18 (nn) Information that is exempt from disclosure under
19 Section 70 of the Higher Education Student Assistance Act.

20 (oo) Communications, notes, records, and reports
21 arising out of a peer support counseling session prohibited
22 from disclosure under the First Responders Suicide
23 Prevention Act.

24 (pp) Names and all identifying information relating to
25 an employee of an emergency services provider or law
26 enforcement agency under the First Responders Suicide

1 Prevention Act.

2 (qq) Information and records held by the Department of
3 Public Health and its authorized representatives collected
4 under the Reproductive Health Act.

5 (rr) Information that is exempt from disclosure under
6 the Cannabis Regulation and Tax Act.

7 (ss) Data reported by an employer to the Department of
8 Human Rights pursuant to Section 2-108 of the Illinois
9 Human Rights Act.

10 (tt) Recordings made under the Children's Advocacy
11 Center Act, except to the extent authorized under that Act.

12 (uu) Information that is exempt from disclosure under
13 Section 50 of the Sexual Assault Evidence Submission Act.

14 (vv) Information that is exempt from disclosure under
15 subsections (f) and (j) of Section 5-36 of the Illinois
16 Public Aid Code.

17 (ww) Information that is exempt from disclosure under
18 Section 16.8 of the State Treasurer Act.

19 (xx) Information that is exempt from disclosure or
20 information that shall not be made public under the
21 Illinois Insurance Code.

22 (yy) Information prohibited from being disclosed under
23 the Illinois Educational Labor Relations Act.

24 (zz) Information prohibited from being disclosed under
25 the Illinois Public Labor Relations Act.

26 (aaa) Information prohibited from being disclosed

1 under Section 1-167 of the Illinois Pension Code.

2 (bbb) Information that is exempt from disclosure under
3 subsection (k) of Section 11 of the Equal Pay Act of 2003.

4 (Source: P.A. 100-20, eff. 7-1-17; 100-22, eff. 1-1-18;
5 100-201, eff. 8-18-17; 100-373, eff. 1-1-18; 100-464, eff.
6 8-28-17; 100-465, eff. 8-31-17; 100-512, eff. 7-1-18; 100-517,
7 eff. 6-1-18; 100-646, eff. 7-27-18; 100-690, eff. 1-1-19;
8 100-863, eff. 8-14-18; 100-887, eff. 8-14-18; 101-13, eff.
9 6-12-19; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19; 101-221,
10 eff. 1-1-20; 101-236, eff. 1-1-20; 101-375, eff. 8-16-19;
11 101-377, eff. 8-16-19; 101-452, eff. 1-1-20; 101-466, eff.
12 1-1-20; 101-600, eff. 12-6-19; 101-620, eff. 12-20-19; 101-649,
13 eff. 7-7-20.)

14 Section 10-5. The State Finance Act is amended by adding
15 Section 5.935 as follows:

16 (30 ILCS 105/5.935 new)

17 Sec. 5.935. The Equal Pay Registration Fund.

18 Section 10-10. The Equal Pay Act of 2003 is amended by
19 adding Section 11 as follows:

20 (820 ILCS 112/11 new)

21 Sec. 11. Equal pay registration certificate requirements;
22 application.

1 For the purposes of this Section 11 only, "business" means
2 any private employer who has more than 100 employees in the
3 State of Illinois, and does not include the State of Illinois
4 or any political subdivision, municipal corporation, or other
5 governmental unit or agency.

6 (a) A business must obtain an equal pay registration
7 certificate from the Department or certify in writing that it
8 is exempt.

9 (b) Any business subject to the requirements of this
10 Section that is authorized to transact business in this State
11 on the effective date of this amendatory Act of the 101st
12 General Assembly must obtain an equal pay registration
13 certificate within 3 years after the effective date of this
14 amendatory Act of the 101st General Assembly and must recertify
15 every 2 years thereafter. Any business subject to the
16 requirements of this Section that is authorized to transact
17 business in this State after the effective date of this
18 amendatory Act of the 101st General Assembly must obtain an
19 equal pay registration certificate within 3 years of commencing
20 business operations and must recertify every 2 years
21 thereafter.

22 (c) Application.

23 (1) A business shall apply for an equal pay certificate
24 by paying a \$150 filing fee and submitting an equal pay
25 compliance statement to the Director. Any business that is
26 required to file an annual Employer Information Report

1 EEO-1 with the Equal Employment Opportunity Commission
2 must also submit to the Director a copy of the business's
3 most recently filed Employer Information Report EEO-1. The
4 business shall also compile, from records maintained and
5 available, a list of all employees during the past calendar
6 year, separated by gender and the race and ethnicity
7 categories as reported in the business's most recently
8 filed Employer Information Report EEO-1, and report the
9 total wages as defined by Section 2 of the Illinois Wage
10 Payment and Collection Act paid to each employee during the
11 past calendar year, rounded to the nearest hundred dollar,
12 to the Director. The proceeds from the fees collected under
13 this Section shall be deposited into the Equal Pay
14 Registration Fund, a special fund created in the State
15 treasury. Moneys in the Fund shall be appropriated to the
16 Department for the purposes of this Section. The Director
17 shall issue an equal pay registration certificate to a
18 business that submits to the Director a statement signed by
19 a corporate officer, legal counsel, or authorized agent of
20 the business, for each county in which the business has a
21 facility or employees:

22 (A) that the business is in compliance with Title
23 VII of the Civil Rights Act of 1964, the Equal Pay Act
24 of 1963, the Illinois Human Rights Act, the Equal Wage
25 Act, and the Equal Pay Act of 2003;

26 (B) that the average compensation for its female

1 and minority employees is not consistently below the
2 average compensation, as determined by rule by the
3 Department of Labor, for its male and non-minority
4 employees within each of the major job categories in
5 the Employer Information Report EEO-1 for which an
6 employee is expected to perform work under the
7 contract, taking into account factors such as length of
8 service, requirements of specific jobs, experience,
9 skill, effort, responsibility, working conditions of
10 the job, or other mitigating factors; as used in this
11 subparagraph, "minority" has the meaning ascribed to
12 that term in paragraph (1) of subsection (A) of Section
13 2 of the Business Enterprise for Minorities, Women, and
14 Persons with Disabilities Act;

15 (C) that the business does not restrict employees
16 of one sex to certain job classifications and makes
17 retention and promotion decisions without regard to
18 sex;

19 (D) that wage and benefit disparities are
20 corrected when identified to ensure compliance with
21 the Acts cited in subparagraph (A) and with
22 subparagraph (B); and

23 (E) how often wages and benefits are evaluated to
24 ensure compliance with the Acts cited in subparagraph
25 (A) and with subparagraph (B).

26 (2) The equal pay compliance statement shall also

1 indicate whether the business, in setting compensation and
2 benefits, utilizes:

3 (A) a market pricing approach;

4 (B) State prevailing wage or union contract
5 requirements;

6 (C) a performance pay system;

7 (D) an internal analysis; or

8 (E) an alternative approach to determine what
9 level of wages and benefits to pay its employees. If
10 the business uses an alternative approach, the
11 business must provide a description of its approach.

12 (3) Receipt of the equal pay compliance statement by
13 the Director does not establish compliance with the Acts
14 set forth in subparagraph (A).

15 (d) Issuance or rejection of registration certificate. The
16 Director must issue an equal pay registration certificate, or a
17 statement of why the application was rejected, within 45
18 calendar days of receipt of the application. An application may
19 be rejected only if it does not comply with the requirements of
20 subsection (c). The receipt of an application by the
21 Department, or the issuance of a registration certificate by
22 the Department, shall not establish compliance of the Equal Pay
23 Act of 2003 as to all Sections except Section 11. The issuance
24 of a registration certificate shall not be a defense against
25 any Equal Pay Act violation found by the Department, nor a
26 basis for mitigation of damages.

1 (e) Revocation of registration certificate. An equal pay
2 registration certificate for a business may be suspended or
3 revoked by the Director when the business fails to make a good
4 faith effort to comply with the Acts identified in subparagraph
5 (A) of paragraph (1) of subsection (c), fails to make a good
6 faith effort to comply with this Section, or has multiple
7 violations of this Section or the Acts identified in
8 subparagraph (A) of paragraph (1) of subsection (c). Prior to
9 suspending or revoking a registration certificate, the
10 Director must first have sought to conciliate with the business
11 regarding wages and benefits due to employees.

12 The Director of the Department of Labor, or his or her
13 authorized representative may interview workers, administer
14 oaths, take or cause to be taken the depositions of witnesses,
15 and require by subpoena the attendance and testimony of
16 witnesses, and the production of all books, records, and other
17 evidence relative to the matter under investigation or hearing.
18 Such subpoena shall be signed and issued by the Director or his
19 or her authorized representative.

20 Upon request by the Director of Labor or his or her
21 deputies or agents, records shall be copied and submitted for
22 evidence at no cost to the Department of Labor. Every employer
23 upon request shall furnish to the Director or his or her
24 authorized representative, on demand, a sworn statement of the
25 accuracy of the records. Any employer who refuses to furnish a
26 sworn statement of the records is in violation of this Act.

1 In case of failure of any person to comply with any
2 subpoena lawfully issued under this Section or on the refusal
3 of any witness to produce evidence or to testify to any matter
4 regarding which he or she may be lawfully interrogated, it is
5 the duty of any circuit court, upon application of the Director
6 or his or her authorized representative, to compel obedience by
7 proceedings for contempt, as in the case of disobedience of the
8 requirements of a subpoena issued by such court or a refusal to
9 testify therein. The Director may certify to official acts.

10 The Department and the Director shall not be held liable
11 for good faith errors in issuing, denying, suspending or
12 revoking certificates.

13 (f) Revocation of contract.

14 (1) If a contract is awarded to a business that does
15 not have an equal pay registration certificate or that is
16 not in compliance with paragraph (1) of subsection (c), the
17 Director may void the contract on behalf of the State. The
18 contract award entity that is a party to the agreement must
19 be notified by the Director prior to the Director taking
20 action to void the contract.

21 (2) A contract may be abridged or terminated by the
22 contract award entity upon notice that the Director has
23 suspended or revoked the certificate of the business.

24 (g) Administrative review.

25 (1) A business may obtain an administrative hearing in
26 accordance with the Illinois Administrative Procedure Act

1 before the suspension or revocation of its certificate is
2 effective by filing a written request for hearing within 20
3 calendar days after service of notice by the Director.

4 (2) A business may obtain an administrative hearing in
5 accordance with the Illinois Administrative Procedure Act
6 before the contract award entity's abridgement or
7 termination of a contract is effective by filing a written
8 request for a hearing 20 calendar days after service of
9 notice by the contract award entity.

10 (h) Technical assistance. The Director must provide
11 technical assistance to any business that requests assistance
12 regarding this Section.

13 (i) Audit. The Director may audit the business's compliance
14 with this Section. As part of an audit, upon request, a
15 business must provide the Director the following information
16 with respect to employees expected to perform work under the
17 contract in each of the major job categories in the Employer
18 Information Report EEO-1:

19 (1) number of male employees;

20 (2) number of female employees;

21 (3) average annualized salaries paid to male employees
22 and to female employees, in the manner most consistent with
23 the employer's compensation system, within each major job
24 category;

25 (4) information on performance payments, benefits, or
26 other elements of compensation, in the manner most

1 consistent with the employer's compensation system, if
2 requested by the Director as part of a determination as to
3 whether these elements of compensation are different for
4 male and female employees;

5 (5) average length of service for male and female
6 employees in each major job category; and

7 (6) other information identified by the business or by
8 the Director, as needed, to determine compliance with items
9 specified in paragraph (1) of subsection (c).

10 (j) Access to data. Data submitted to the Director related
11 to equal pay registration certificates or otherwise provided by
12 an employer in its equal pay compliance statement under
13 subsection (c) are private data on individuals or nonpublic
14 data with respect to persons other than Department employees.
15 The Director's decision to issue, not issue, revoke, or suspend
16 an equal pay registration certificate is public data.

17 (k) Penalty. The Department shall impose on any business
18 that does not obtain an equal pay registration certificate as
19 required under this Section, or whose equal pay registration
20 certificate is suspended or revoked after a Department
21 investigation, a civil penalty in an amount equal to 1% of the
22 business's gross profits.

23 Falsification or misrepresentation of information on an
24 application submitted to the Department shall constitute a
25 violation of this Act

26 (l) Whistleblower protection. As used in this subsection,

1 "retaliatory action" means the reprimand, discharge,
2 suspension, demotion, denial of promotion or transfer, or
3 change in the terms and conditions of employment of any
4 employee of a business that is taken in retaliation for the
5 employee's involvement in a protected activity.

6 (1) A business shall not take any retaliatory action
7 against an employee of the business because the employee
8 does any of the following:

9 (A) Discloses or threatens to disclose to a
10 supervisor or to a public body an activity, inaction,
11 policy, or practice implemented by a business that the
12 employee reasonably believes is in violation of a law,
13 rule, or regulation.

14 (B) Provides information to or testifies before
15 any public body conducting an investigation, hearing,
16 or inquiry into any violation of a law, rule, or
17 regulation by a nursing home administrator.

18 (C) Assists or participates in a proceeding to
19 enforce the provisions of this Act.

20 (2) A violation of this subsection (1) may be
21 established only upon a finding that (i) the employee of
22 the business engaged in conduct described in paragraph (1)
23 of this subsection and (ii) this conduct was a contributing
24 factor in the retaliatory action alleged by the employee.
25 There is no violation of this Section, however, if the
26 business demonstrates by clear and convincing evidence

