



Sen. Ram Villivalam

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10200HB0121sam001

LRB102 02562 LNS 24460 a

1 AMENDMENT TO HOUSE BILL 121

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 121 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 1-102, 2-101, 2-102, 2-104, and 6-101 as  
6 follows:

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

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

10 (A) Freedom from Unlawful Discrimination. To secure for  
11 all individuals within Illinois the freedom from  
12 discrimination against any individual because of his or her  
13 race, color, religion, sex, national origin, ancestry, age,  
14 order of protection status, marital status, physical or mental  
15 disability, military status, sexual orientation, pregnancy, or  
16 unfavorable discharge from military service in connection with

1 employment, real estate transactions, access to financial  
2 credit, and the availability of public accommodations.

3 (B) Freedom from Sexual Harassment-Employment and  
4 Elementary, Secondary, and Higher Education. To prevent sexual  
5 harassment in employment and sexual harassment in elementary,  
6 secondary, and higher education.

7 (C) Freedom from Discrimination Based on Citizenship  
8 Status-Employment. To prevent discrimination based on  
9 citizenship status in employment.

10 (C-5) Freedom from Discrimination Based on Work  
11 Authorization Status-Employment. To prevent discrimination  
12 based on the specific status or term of status that  
13 accompanies a legal work authorization.

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

17 (E) Public Health, Welfare and Safety. To promote the  
18 public health, welfare and safety by protecting the interest  
19 of all people in Illinois in maintaining personal dignity, in  
20 realizing their full productive capacities, and in furthering  
21 their interests, rights and privileges as citizens of this  
22 State.

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

26 (G) Equal Opportunity, Affirmative Action. To establish

1 Equal Opportunity and Affirmative Action as the policies of  
2 this State in all of its decisions, programs and activities,  
3 and to assure that all State departments, boards, commissions  
4 and instrumentalities rigorously take affirmative action to  
5 provide equality of opportunity and eliminate the effects of  
6 past discrimination in the internal affairs of State  
7 government and in their relations with the public.

8 (H) Unfounded Charges. To protect citizens of this State  
9 against unfounded charges of unlawful discrimination, sexual  
10 harassment in employment and sexual harassment in elementary,  
11 secondary, and higher education, and discrimination based on  
12 citizenship status or work authorization status in employment.  
13 (Source: P.A. 98-1050, eff. 1-1-15.)

14 (775 ILCS 5/2-101)

15 Sec. 2-101. Definitions. The following definitions are  
16 applicable strictly in the context of this Article.

17 (A) Employee.

18 (1) "Employee" includes:

19 (a) Any individual performing services for  
20 remuneration within this State for an employer;

21 (b) An apprentice;

22 (c) An applicant for any apprenticeship.

23 For purposes of subsection (D) of Section 2-102 of  
24 this Act, "employee" also includes an unpaid intern. An  
25 unpaid intern is a person who performs work for an

1 employer under the following circumstances:

2 (i) the employer is not committed to hiring the  
3 person performing the work at the conclusion of the  
4 intern's tenure;

5 (ii) the employer and the person performing the  
6 work agree that the person is not entitled to wages for  
7 the work performed; and

8 (iii) the work performed:

9 (I) supplements training given in an  
10 educational environment that may enhance the  
11 employability of the intern;

12 (II) provides experience for the benefit of  
13 the person performing the work;

14 (III) does not displace regular employees;

15 (IV) is performed under the close supervision  
16 of existing staff; and

17 (V) provides no immediate advantage to the  
18 employer providing the training and may  
19 occasionally impede the operations of the  
20 employer.

21 (2) "Employee" does not include:

22 (a) (Blank);

23 (b) Individuals employed by persons who are not  
24 "employers" as defined by this Act;

25 (c) Elected public officials or the members of  
26 their immediate personal staffs;

1 (d) Principal administrative officers of the State  
2 or of any political subdivision, municipal corporation  
3 or other governmental unit or agency;

4 (e) A person in a vocational rehabilitation  
5 facility certified under federal law who has been  
6 designated an evaluatee, trainee, or work activity  
7 client.

8 (B) Employer.

9 (1) "Employer" includes:

10 (a) Any person employing one or more employees  
11 within Illinois during 20 or more calendar weeks  
12 within the calendar year of or preceding the alleged  
13 violation;

14 (b) Any person employing one or more employees  
15 when a complainant alleges civil rights violation due  
16 to unlawful discrimination based upon his or her  
17 physical or mental disability unrelated to ability,  
18 pregnancy, or sexual harassment;

19 (c) The State and any political subdivision,  
20 municipal corporation or other governmental unit or  
21 agency, without regard to the number of employees;

22 (d) Any party to a public contract without regard  
23 to the number of employees;

24 (e) A joint apprenticeship or training committee  
25 without regard to the number of employees.

26 (2) "Employer" does not include any place of worship,

1 religious corporation, association, educational  
2 institution, society, or non-profit nursing institution  
3 conducted by and for those who rely upon treatment by  
4 prayer through spiritual means in accordance with the  
5 tenets of a recognized church or religious denomination  
6 with respect to the employment of individuals of a  
7 particular religion to perform work connected with the  
8 carrying on by such place of worship, corporation,  
9 association, educational institution, society or  
10 non-profit nursing institution of its activities.

11 (C) Employment Agency. "Employment Agency" includes both  
12 public and private employment agencies and any person, labor  
13 organization, or labor union having a hiring hall or hiring  
14 office regularly undertaking, with or without compensation, to  
15 procure opportunities to work, or to procure, recruit, refer  
16 or place employees.

17 (D) Labor Organization. "Labor Organization" includes any  
18 organization, labor union, craft union, or any voluntary  
19 unincorporated association designed to further the cause of  
20 the rights of union labor which is constituted for the  
21 purpose, in whole or in part, of collective bargaining or of  
22 dealing with employers concerning grievances, terms or  
23 conditions of employment, or apprenticeships or applications  
24 for apprenticeships, or of other mutual aid or protection in  
25 connection with employment, including apprenticeships or  
26 applications for apprenticeships.

1 (E) Sexual Harassment. "Sexual harassment" means any  
2 unwelcome sexual advances or requests for sexual favors or any  
3 conduct of a sexual nature when (1) submission to such conduct  
4 is made either explicitly or implicitly a term or condition of  
5 an individual's employment, (2) submission to or rejection of  
6 such conduct by an individual is used as the basis for  
7 employment decisions affecting such individual, or (3) such  
8 conduct has the purpose or effect of substantially interfering  
9 with an individual's work performance or creating an  
10 intimidating, hostile or offensive working environment.

11 For purposes of this definition, the phrase "working  
12 environment" is not limited to a physical location an employee  
13 is assigned to perform his or her duties.

14 (E-1) Harassment. "Harassment" means any unwelcome conduct  
15 on the basis of an individual's actual or perceived race,  
16 color, religion, national origin, ancestry, age, sex, marital  
17 status, order of protection status, disability, military  
18 status, sexual orientation, pregnancy, unfavorable discharge  
19 from military service, ~~or~~ citizenship status, or work  
20 authorization status that has the purpose or effect of  
21 substantially interfering with the individual's work  
22 performance or creating an intimidating, hostile, or offensive  
23 working environment. For purposes of this definition, the  
24 phrase "working environment" is not limited to a physical  
25 location an employee is assigned to perform his or her duties.

26 (F) Religion. "Religion" with respect to employers

1 includes all aspects of religious observance and practice, as  
2 well as belief, unless an employer demonstrates that he is  
3 unable to reasonably accommodate an employee's or prospective  
4 employee's religious observance or practice without undue  
5 hardship on the conduct of the employer's business.

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

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

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

23 (J) Eligible Bidder. "Eligible bidder" means a person who,  
24 prior to contract award or prior to bid opening for State  
25 contracts for construction or construction-related services,  
26 has filed with the Department a properly completed, sworn and



1 currently valid employer report form, pursuant to the  
2 Department's regulations. The provisions of this Article  
3 relating to eligible bidders apply only to bids on contracts  
4 with the State and its departments, agencies, boards, and  
5 commissions, and the provisions do not apply to bids on  
6 contracts with units of local government or school districts.

7 (K) Citizenship Status. "Citizenship status" means the  
8 status of being:

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

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

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

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

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

21 (Source: P.A. 100-43, eff. 8-9-17; 101-221, eff. 1-1-20;  
22 101-430, eff. 7-1-20; revised 8-4-20.)

23 (775 ILCS 5/2-102) (from Ch. 68, par. 2-102)

24 Sec. 2-102. Civil rights violations - employment. It is a  
25 civil rights violation:

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

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

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

21 (A-10) Harassment of nonemployees. For any employer,  
22 employment agency, or labor organization to engage in  
23 harassment of nonemployees in the workplace. An employer  
24 is responsible for harassment of nonemployees by the  
25 employer's nonmanagerial and nonsupervisory employees only  
26 if the employer becomes aware of the conduct and fails to

1 take reasonable corrective measures. For the purposes of  
2 this subdivision (A-10), "nonemployee" means a person who  
3 is not otherwise an employee of the employer and is  
4 directly performing services for the employer pursuant to  
5 a contract with that employer. "Nonemployee" includes  
6 contractors and consultants. This subdivision applies to  
7 harassment occurring on or after the effective date of  
8 this amendatory Act of the 101st General Assembly.

9 (B) Employment agency. For any employment agency to  
10 fail or refuse to classify properly, accept applications  
11 and register for employment referral or apprenticeship  
12 referral, refer for employment, or refer for  
13 apprenticeship on the basis of unlawful discrimination, ~~or~~  
14 citizenship status, or work authorization status or to  
15 accept from any person any job order, requisition or  
16 request for referral of applicants for employment or  
17 apprenticeship which makes or has the effect of making  
18 unlawful discrimination or discrimination on the basis of  
19 citizenship status or work authorization status a  
20 condition of referral.

21 (C) Labor organization. For any labor organization to  
22 limit, segregate or classify its membership, or to limit  
23 employment opportunities, selection and training for  
24 apprenticeship in any trade or craft, or otherwise to  
25 take, or fail to take, any action which affects adversely  
26 any person's status as an employee or as an applicant for

1 employment or as an apprentice, or as an applicant for  
2 apprenticeships, or wages, tenure, hours of employment or  
3 apprenticeship conditions on the basis of unlawful  
4 discrimination, ~~or~~ citizenship status, or work  
5 authorization status.

6 (D) Sexual harassment. For any employer, employee,  
7 agent of any employer, employment agency or labor  
8 organization to engage in sexual harassment; provided,  
9 that an employer shall be responsible for sexual  
10 harassment of the employer's employees by nonemployees or  
11 nonmanagerial and nonsupervisory employees only if the  
12 employer becomes aware of the conduct and fails to take  
13 reasonable corrective measures.

14 (D-5) Sexual harassment of nonemployees. For any  
15 employer, employee, agent of any employer, employment  
16 agency, or labor organization to engage in sexual  
17 harassment of nonemployees in the workplace. An employer  
18 is responsible for sexual harassment of nonemployees by  
19 the employer's nonmanagerial and nonsupervisory employees  
20 only if the employer becomes aware of the conduct and  
21 fails to take reasonable corrective measures. For the  
22 purposes of this subdivision (D-5), "nonemployee" means a  
23 person who is not otherwise an employee of the employer  
24 and is directly performing services for the employer  
25 pursuant to a contract with that employer. "Nonemployee"  
26 includes contractors and consultants. This subdivision

1 applies to sexual harassment occurring on or after the  
2 effective date of this amendatory Act of the 101st General  
3 Assembly.

4 (E) Public employers. For any public employer to  
5 refuse to permit a public employee under its jurisdiction  
6 who takes time off from work in order to practice his or  
7 her religious beliefs to engage in work, during hours  
8 other than such employee's regular working hours,  
9 consistent with the operational needs of the employer and  
10 in order to compensate for work time lost for such  
11 religious reasons. Any employee who elects such deferred  
12 work shall be compensated at the wage rate which he or she  
13 would have earned during the originally scheduled work  
14 period. The employer may require that an employee who  
15 plans to take time off from work in order to practice his  
16 or her religious beliefs provide the employer with a  
17 notice of his or her intention to be absent from work not  
18 exceeding 5 days prior to the date of absence.

19 (E-5) Religious discrimination. For any employer to  
20 impose upon a person as a condition of obtaining or  
21 retaining employment, including opportunities for  
22 promotion, advancement, or transfer, any terms or  
23 conditions that would require such person to violate or  
24 forgo a sincerely held practice of his or her religion  
25 including, but not limited to, the wearing of any attire,  
26 clothing, or facial hair in accordance with the

1 requirements of his or her religion, unless, after  
2 engaging in a bona fide effort, the employer demonstrates  
3 that it is unable to reasonably accommodate the employee's  
4 or prospective employee's sincerely held religious belief,  
5 practice, or observance without undue hardship on the  
6 conduct of the employer's business.

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

11 (F) Training and apprenticeship programs. For any  
12 employer, employment agency or labor organization to  
13 discriminate against a person on the basis of age in the  
14 selection, referral for or conduct of apprenticeship or  
15 training programs.

16 (G) Immigration-related practices.

17 (1) for an employer to request for purposes of  
18 satisfying the requirements of Section 1324a(b) of  
19 Title 8 of the United States Code, as now or hereafter  
20 amended, more or different documents than are required  
21 under such Section or to refuse to honor documents  
22 tendered that on their face reasonably appear to be  
23 genuine or to refuse to honor work authorization based  
24 upon the specific status or term of status that  
25 accompanies the authorization to work; or

26 (2) for an employer participating in the E-Verify

1 Program, as authorized by 8 U.S.C. 1324a, Notes, Pilot  
2 Programs for Employment Eligibility Confirmation  
3 (enacted by PL 104-208, div. C title IV, subtitle A) to  
4 refuse to hire, to segregate, or to act with respect to  
5 recruitment, hiring, promotion, renewal of employment,  
6 selection for training or apprenticeship, discharge,  
7 discipline, tenure or terms, privileges or conditions  
8 of employment without following the procedures under  
9 the E-Verify Program.

10 (H) (Blank).

11 (I) Pregnancy. For an employer to refuse to hire, to  
12 segregate, or to act with respect to recruitment, hiring,  
13 promotion, renewal of employment, selection for training  
14 or apprenticeship, discharge, discipline, tenure or terms,  
15 privileges or conditions of employment on the basis of  
16 pregnancy, childbirth, or medical or common conditions  
17 related to pregnancy or childbirth. Women affected by  
18 pregnancy, childbirth, or medical or common conditions  
19 related to pregnancy or childbirth shall be treated the  
20 same for all employment-related purposes, including  
21 receipt of benefits under fringe benefit programs, as  
22 other persons not so affected but similar in their ability  
23 or inability to work, regardless of the source of the  
24 inability to work or employment classification or status.

25 (J) Pregnancy; reasonable accommodations.

26 (1) If after a job applicant or employee,

1 including a part-time, full-time, or probationary  
2 employee, requests a reasonable accommodation, for an  
3 employer to not make reasonable accommodations for any  
4 medical or common condition of a job applicant or  
5 employee related to pregnancy or childbirth, unless  
6 the employer can demonstrate that the accommodation  
7 would impose an undue hardship on the ordinary  
8 operation of the business of the employer. The  
9 employer may request documentation from the employee's  
10 health care provider concerning the need for the  
11 requested reasonable accommodation or accommodations  
12 to the same extent documentation is requested for  
13 conditions related to disability if the employer's  
14 request for documentation is job-related and  
15 consistent with business necessity. The employer may  
16 require only the medical justification for the  
17 requested accommodation or accommodations, a  
18 description of the reasonable accommodation or  
19 accommodations medically advisable, the date the  
20 reasonable accommodation or accommodations became  
21 medically advisable, and the probable duration of the  
22 reasonable accommodation or accommodations. It is the  
23 duty of the individual seeking a reasonable  
24 accommodation or accommodations to submit to the  
25 employer any documentation that is requested in  
26 accordance with this paragraph. Notwithstanding the



1 provisions of this paragraph, the employer may require  
2 documentation by the employee's health care provider  
3 to determine compliance with other laws. The employee  
4 and employer shall engage in a timely, good faith, and  
5 meaningful exchange to determine effective reasonable  
6 accommodations.

7 (2) For an employer to deny employment  
8 opportunities or benefits to or take adverse action  
9 against an otherwise qualified job applicant or  
10 employee, including a part-time, full-time, or  
11 probationary employee, if the denial or adverse action  
12 is based on the need of the employer to make reasonable  
13 accommodations to the known medical or common  
14 conditions related to the pregnancy or childbirth of  
15 the applicant or employee.

16 (3) For an employer to require a job applicant or  
17 employee, including a part-time, full-time, or  
18 probationary employee, affected by pregnancy,  
19 childbirth, or medical or common conditions related to  
20 pregnancy or childbirth to accept an accommodation  
21 when the applicant or employee did not request an  
22 accommodation and the applicant or employee chooses  
23 not to accept the employer's accommodation.

24 (4) For an employer to require an employee,  
25 including a part-time, full-time, or probationary  
26 employee, to take leave under any leave law or policy

1 of the employer if another reasonable accommodation  
2 can be provided to the known medical or common  
3 conditions related to the pregnancy or childbirth of  
4 an employee. No employer shall fail or refuse to  
5 reinstate the employee affected by pregnancy,  
6 childbirth, or medical or common conditions related to  
7 pregnancy or childbirth to her original job or to an  
8 equivalent position with equivalent pay and  
9 accumulated seniority, retirement, fringe benefits,  
10 and other applicable service credits upon her  
11 signifying her intent to return or when her need for  
12 reasonable accommodation ceases, unless the employer  
13 can demonstrate that the accommodation would impose an  
14 undue hardship on the ordinary operation of the  
15 business of the employer.

16 For the purposes of this subdivision (J), "reasonable  
17 accommodations" means reasonable modifications or  
18 adjustments to the job application process or work  
19 environment, or to the manner or circumstances under which  
20 the position desired or held is customarily performed,  
21 that enable an applicant or employee affected by  
22 pregnancy, childbirth, or medical or common conditions  
23 related to pregnancy or childbirth to be considered for  
24 the position the applicant desires or to perform the  
25 essential functions of that position, and may include, but  
26 is not limited to: more frequent or longer bathroom

1 breaks, breaks for increased water intake, and breaks for  
2 periodic rest; private non-bathroom space for expressing  
3 breast milk and breastfeeding; seating; assistance with  
4 manual labor; light duty; temporary transfer to a less  
5 strenuous or hazardous position; the provision of an  
6 accessible worksite; acquisition or modification of  
7 equipment; job restructuring; a part-time or modified work  
8 schedule; appropriate adjustment or modifications of  
9 examinations, training materials, or policies;  
10 reassignment to a vacant position; time off to recover  
11 from conditions related to childbirth; and leave  
12 necessitated by pregnancy, childbirth, or medical or  
13 common conditions resulting from pregnancy or childbirth.

14 For the purposes of this subdivision (J), "undue  
15 hardship" means an action that is prohibitively expensive  
16 or disruptive when considered in light of the following  
17 factors: (i) the nature and cost of the accommodation  
18 needed; (ii) the overall financial resources of the  
19 facility or facilities involved in the provision of the  
20 reasonable accommodation, the number of persons employed  
21 at the facility, the effect on expenses and resources, or  
22 the impact otherwise of the accommodation upon the  
23 operation of the facility; (iii) the overall financial  
24 resources of the employer, the overall size of the  
25 business of the employer with respect to the number of its  
26 employees, and the number, type, and location of its

1 facilities; and (iv) the type of operation or operations  
2 of the employer, including the composition, structure, and  
3 functions of the workforce of the employer, the geographic  
4 separateness, administrative, or fiscal relationship of  
5 the facility or facilities in question to the employer.  
6 The employer has the burden of proving undue hardship. The  
7 fact that the employer provides or would be required to  
8 provide a similar accommodation to similarly situated  
9 employees creates a rebuttable presumption that the  
10 accommodation does not impose an undue hardship on the  
11 employer.

12 No employer is required by this subdivision (J) to  
13 create additional employment that the employer would not  
14 otherwise have created, unless the employer does so or  
15 would do so for other classes of employees who need  
16 accommodation. The employer is not required to discharge  
17 any employee, transfer any employee with more seniority,  
18 or promote any employee who is not qualified to perform  
19 the job, unless the employer does so or would do so to  
20 accommodate other classes of employees who need it.

21 (K) Notice.

22 (1) For an employer to fail to post or keep posted  
23 in a conspicuous location on the premises of the  
24 employer where notices to employees are customarily  
25 posted, or fail to include in any employee handbook  
26 information concerning an employee's rights under this

1 Article, a notice, to be prepared or approved by the  
2 Department, summarizing the requirements of this  
3 Article and information pertaining to the filing of a  
4 charge, including the right to be free from unlawful  
5 discrimination, the right to be free from sexual  
6 harassment, and the right to certain reasonable  
7 accommodations. The Department shall make the  
8 documents required under this paragraph available for  
9 retrieval from the Department's website.

10 (2) Upon notification of a violation of paragraph  
11 (1) of this subdivision (K), the Department may launch  
12 a preliminary investigation. If the Department finds a  
13 violation, the Department may issue a notice to show  
14 cause giving the employer 30 days to correct the  
15 violation. If the violation is not corrected, the  
16 Department may initiate a charge of a civil rights  
17 violation.

18 (Source: P.A. 100-100, eff. 8-11-17; 100-588, eff. 6-8-18;  
19 101-221, eff. 1-1-20.)

20 (775 ILCS 5/2-104) (from Ch. 68, par. 2-104)

21 Sec. 2-104. Exemptions.

22 (A) Nothing contained in this Act shall prohibit an  
23 employer, employment agency, or labor organization from:

24 (1) Bona Fide Qualification. Hiring or selecting  
25 between persons for bona fide occupational qualifications

1 or any reason except those civil-rights violations  
2 specifically identified in this Article.

3 (2) Veterans. Giving preferential treatment to  
4 veterans and their relatives as required by the laws or  
5 regulations of the United States or this State or a unit of  
6 local government, or pursuant to a private employer's  
7 voluntary veterans' preference employment policy  
8 authorized by the Veterans Preference in Private  
9 Employment Act.

10 (3) Unfavorable Discharge From Military Service.

11 (a) Using unfavorable discharge from military  
12 service as a valid employment criterion when  
13 authorized by federal law or regulation or when a  
14 position of employment involves the exercise of  
15 fiduciary responsibilities as defined by rules and  
16 regulations which the Department shall adopt; or

17 (b) Participating in a bona fide recruiting  
18 incentive program, sponsored by a branch of the United  
19 States Armed Forces, a reserve component of the United  
20 States Armed Forces, or any National Guard or Naval  
21 Militia, where participation in the program is limited  
22 by the sponsoring branch based upon the service  
23 member's discharge status.

24 (4) Ability Tests. Giving or acting upon the results  
25 of any professionally developed ability test provided that  
26 such test, its administration, or action upon the results,

1 is not used as a subterfuge for or does not have the effect  
2 of unlawful discrimination.

3 (5) Merit and Retirement Systems.

4 (a) Applying different standards of compensation,  
5 or different terms, conditions or privileges of  
6 employment pursuant to a merit or retirement system  
7 provided that such system or its administration is not  
8 used as a subterfuge for or does not have the effect of  
9 unlawful discrimination.

10 (b) Effecting compulsory retirement of any  
11 employee who has attained 65 years of age and who, for  
12 the 2-year period immediately preceding retirement, is  
13 employed in a bona fide executive or a high  
14 policymaking position, if such employee is entitled to  
15 an immediate nonforfeitable annual retirement benefit  
16 from a pension, profit-sharing, savings, or deferred  
17 compensation plan, or any combination of such plans of  
18 the employer of such employee, which equals, in the  
19 aggregate, at least \$44,000. If any such retirement  
20 benefit is in a form other than a straight life annuity  
21 (with no ancillary benefits) or if the employees  
22 contribute to any such plan or make rollover  
23 contributions, the retirement benefit shall be  
24 adjusted in accordance with regulations prescribed by  
25 the Department, so that the benefit is the equivalent  
26 of a straight life annuity (with no ancillary

1 benefits) under a plan to which employees do not  
2 contribute and under which no rollover contributions  
3 are made.

4 (c) Until January 1, 1994, effecting compulsory  
5 retirement of any employee who has attained 70 years  
6 of age, and who is serving under a contract of  
7 unlimited tenure (or similar arrangement providing for  
8 unlimited tenure) at an institution of higher  
9 education as defined by Section 1201(a) of the Higher  
10 Education Act of 1965.

11 (6) Training and Apprenticeship programs. Establishing  
12 an educational requirement as a prerequisite to selection  
13 for a training or apprenticeship program, provided such  
14 requirement does not operate to discriminate on the basis  
15 of any prohibited classification except age.

16 (7) Police and Firefighter/Paramedic Retirement.  
17 Imposing a mandatory retirement age for  
18 firefighters/paramedics or law enforcement officers and  
19 discharging or retiring such individuals pursuant to the  
20 mandatory retirement age if such action is taken pursuant  
21 to a bona fide retirement plan provided that the law  
22 enforcement officer or firefighter/paramedic has attained:

23 (a) the age of retirement in effect under  
24 applicable State or local law on March 3, 1983; or

25 (b) if the applicable State or local law was  
26 enacted after the date of enactment of the federal Age



1           Discrimination in Employment Act Amendments of 1996  
2           (P.L. 104-208), the age of retirement in effect on the  
3           date of such discharge under such law.

4           This paragraph (7) shall not apply with respect to any  
5           cause of action arising under the Illinois Human Rights  
6           Act as in effect prior to the effective date of this  
7           amendatory Act of 1997.

8           (8) Police and Firefighter/Paramedic Appointment.  
9           Failing or refusing to hire any individual because of such  
10          individual's age if such action is taken with respect to  
11          the employment of an individual as a firefighter/paramedic  
12          or as a law enforcement officer and the individual has  
13          attained:

14                 (a) the age of hiring or appointment in effect  
15                 under applicable State or local law on March 3, 1983;  
16                 or

17                 (b) the age of hiring in effect on the date of such  
18                 failure or refusal to hire under applicable State or  
19                 local law enacted after the date of enactment of the  
20                 federal Age Discrimination in Employment Act  
21                 Amendments of 1996 (P.L. 104-208).

22           As used in paragraph (7) or (8):

23           "Firefighter/paramedic" means an employee, the duties  
24           of whose position are primarily to perform work directly  
25           connected with the control and extinguishment of fires or  
26           the maintenance and use of firefighting apparatus and

1 equipment, or to provide emergency medical services,  
2 including an employee engaged in this activity who is  
3 transferred to a supervisory or administrative position.

4 "Law enforcement officer" means an employee, the  
5 duties of whose position are primarily the investigation,  
6 apprehension, or detention of individuals suspected or  
7 convicted of criminal offenses, including an employee  
8 engaged in this activity who is transferred to a  
9 supervisory or administrative position.

10 (9) Citizenship Status. Making legitimate distinctions  
11 based on citizenship status if specifically authorized or  
12 required by State or federal law.

13 (B) With respect to any employee who is subject to a  
14 collective bargaining agreement:

15 (a) which is in effect on June 30, 1986,

16 (b) which terminates after January 1, 1987,

17 (c) any provision of which was entered into by a labor  
18 organization as defined by Section 6(d)(4) of the Fair  
19 Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and

20 (d) which contains any provision that would be  
21 superseded by Public Act 85-748,

22 Public Act 85-748 shall not apply until the termination of  
23 such collective bargaining agreement or January 1, 1990,  
24 whichever occurs first.

25 (C)(1) For purposes of this Act, the term "disability"  
26 shall not include any employee or applicant who is currently

1 engaging in the illegal use of drugs, when an employer acts on  
2 the basis of such use.

3 (2) Paragraph (1) shall not apply where an employee or  
4 applicant for employment:

5 (a) has successfully completed a supervised drug  
6 rehabilitation program and is no longer engaging in the  
7 illegal use of drugs, or has otherwise been rehabilitated  
8 successfully and is no longer engaging in such use;

9 (b) is participating in a supervised rehabilitation  
10 program and is no longer engaging in such use; or

11 (c) is erroneously regarded as engaging in such use,  
12 but is not engaging in such use.

13 It shall not be a violation of this Act for an employer to  
14 adopt or administer reasonable policies or procedures,  
15 including but not limited to drug testing, designed to ensure  
16 that an individual described in subparagraph (a) or (b) is no  
17 longer engaging in the illegal use of drugs.

18 (3) An employer:

19 (a) may prohibit the illegal use of drugs and the use  
20 of alcohol at the workplace by all employees;

21 (b) may require that employees shall not be under the  
22 influence of alcohol or be engaging in the illegal use of  
23 drugs at the workplace;

24 (c) may require that employees behave in conformance  
25 with the requirements established under the federal  
26 Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.)

1 and the Drug Free Workplace Act;

2 (d) may hold an employee who engages in the illegal  
3 use of drugs or who is an alcoholic to the same  
4 qualification standards for employment or job performance  
5 and behavior that such employer holds other employees,  
6 even if any unsatisfactory performance or behavior is  
7 related to the drug use or alcoholism of such employee;  
8 and

9 (e) may, with respect to federal regulations regarding  
10 alcohol and the illegal use of drugs, require that:

11 (i) employees comply with the standards  
12 established in such regulations of the United States  
13 Department of Defense, if the employees of the  
14 employer are employed in an industry subject to such  
15 regulations, including complying with regulations (if  
16 any) that apply to employment in sensitive positions  
17 in such an industry, in the case of employees of the  
18 employer who are employed in such positions (as  
19 defined in the regulations of the Department of  
20 Defense);

21 (ii) employees comply with the standards  
22 established in such regulations of the Nuclear  
23 Regulatory Commission, if the employees of the  
24 employer are employed in an industry subject to such  
25 regulations, including complying with regulations (if  
26 any) that apply to employment in sensitive positions

1 in such an industry, in the case of employees of the  
2 employer who are employed in such positions (as  
3 defined in the regulations of the Nuclear Regulatory  
4 Commission); and

5 (iii) employees comply with the standards  
6 established in such regulations of the United States  
7 Department of Transportation, if the employees of the  
8 employer are employed in a transportation industry  
9 subject to such regulations, including complying with  
10 such regulations (if any) that apply to employment in  
11 sensitive positions in such an industry, in the case  
12 of employees of the employer who are employed in such  
13 positions (as defined in the regulations of the United  
14 States Department of Transportation).

15 (4) For purposes of this Act, a test to determine the  
16 illegal use of drugs shall not be considered a medical  
17 examination. Nothing in this Act shall be construed to  
18 encourage, prohibit, or authorize the conducting of drug  
19 testing for the illegal use of drugs by job applicants or  
20 employees or making employment decisions based on such test  
21 results.

22 (5) Nothing in this Act shall be construed to encourage,  
23 prohibit, restrict, or authorize the otherwise lawful exercise  
24 by an employer subject to the jurisdiction of the United  
25 States Department of Transportation of authority to:

26 (a) test employees of such employer in, and applicants

1 for, positions involving safety-sensitive duties for the  
2 illegal use of drugs and for on-duty impairment by  
3 alcohol; and

4 (b) remove such persons who test positive for illegal  
5 use of drugs and on-duty impairment by alcohol pursuant to  
6 subparagraph (a) from safety-sensitive duties in  
7 implementing paragraph (3).

8 (D) Nothing contained in this Act shall require an  
9 employer to sponsor, either monetarily or otherwise, any  
10 applicant or employee to obtain or modify work authorization  
11 status, unless otherwise required by federal law.

12 (Source: P.A. 99-152, eff. 1-1-16, 99-165, eff. 7-28-15;  
13 99-642, eff. 7-28-16.)

14 (775 ILCS 5/6-101) (from Ch. 68, par. 6-101)

15 Sec. 6-101. Additional Civil Rights Violations. It is a  
16 civil rights violation for a person, or for 2 ~~two~~ or more  
17 persons to conspire, to:

18 (A) Retaliation. Retaliate against a person because he  
19 or she has opposed that which he or she reasonably and in  
20 good faith believes to be unlawful discrimination, sexual  
21 harassment in employment or sexual harassment in  
22 elementary, secondary, and higher education, or  
23 discrimination based on citizenship status or work  
24 authorization status in employment, because he or she has  
25 made a charge, filed a complaint, testified, assisted, or

1 participated in an investigation, proceeding, or hearing  
2 under this Act, or because he or she has requested,  
3 attempted to request, used, or attempted to use a  
4 reasonable accommodation as allowed by this Act;

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

7 (C) Interference. Wilfully interfere with the  
8 performance of a duty or the exercise of a power by the  
9 Commission or one of its members or representatives or the  
10 Department or one of its officers or employees.

11 Definitions. For the purposes of this Section, "sexual  
12 harassment", ~~and~~ "citizenship status", and "work authorization  
13 status" shall have the same meaning as defined in Section  
14 2-101 of this Act.

15 (Source: P.A. 97-333, eff. 8-12-11; 98-1050, eff. 1-1-15.)

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law."