



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2613

Introduced 2/19/2021, by Rep. Jim Durkin

SYNOPSIS AS INTRODUCED:

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

Amends the Illinois Torture Inquiry and Relief Commission Act. Adds 2 members to the Illinois Torture Inquiry and Relief Commission who shall be members of a law enforcement organization representing law enforcement officers in a county of more than 3,000,000 inhabitants. Provides that the terms of the new members shall begin on January 1, 2023. Makes conforming changes. Effective immediately.

LRB102 14659 LNS 20012 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 a law enforcement
21 organization representing law enforcement officers in a
22 county of a more than 3,000,000 inhabitants.

23 The members of the Commission shall be appointed by the

1 Governor, with the advice and consent of the Senate. Members
2 may be re-appointed for additional terms, as provided for
3 under Section 25.

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

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

1 meetings shall be given at such time and manner as provided by
2 the rules of the Commission, in accordance with the provisions
3 of the Open Meetings Act. A majority of the voting members
4 shall constitute a quorum. All Commission votes shall be by
5 majority vote of the voting members appointed.

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

7 (775 ILCS 40/25)

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

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

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

25 (b) The Commission members shall receive no salary for

1 serving, but may be reimbursed for reasonable expenses
2 incurred as a result of their duties as members of the
3 Commission from funds appropriated by the General Assembly for
4 that purpose, or from funds obtained from sources other than
5 the General Assembly.

6 (c) The terms of the persons appointed under paragraph (7)
7 of subsection (a) of Section 20 shall begin on January 1, 2023.

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

9 (775 ILCS 40/45)

10 Sec. 45. Commission proceedings.

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

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

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

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

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

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

1 fact, and file those documents and supporting materials with
2 the court clerk in the circuit of original jurisdiction, with
3 a copy to the State's Attorney and the chief judge.

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

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

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

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

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