



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3135

Introduced 2/17/2023, by Rep. Ann M. Williams

SYNOPSIS AS INTRODUCED:

775 ILCS 5/7A-102

from Ch. 68, par. 7A-102

Amends the Illinois Human Rights Act. Requires, in various situations, a complainant to notify the Department of Human Rights that a complaint has been filed by serving a copy of the complaint on the chief legal counsel of the Department on the same date that the complaint is filed in circuit court. Requires a complainant who chooses to file a complaint with the Human Rights Commission without the Department's assistance to notify the Department that a complaint has been filed by serving a copy of the complaint on the chief legal counsel of the Department on the same date that the complaint is filed with the Commission. Makes conforming changes.

LRB103 27775 LNS 54153 b

1 AN ACT concerning human rights.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Human Rights Act is amended by
5 changing Section 7A-102 as follows:

6 (775 ILCS 5/7A-102) (from Ch. 68, par. 7A-102)

7 Sec. 7A-102. Procedures.

8 (A) Charge.

9 (1) Within 300 calendar days after the date that a
10 civil rights violation allegedly has been committed, a
11 charge in writing under oath or affirmation may be filed
12 with the Department by an aggrieved party or issued by the
13 Department itself under the signature of the Director.

14 (2) The charge shall be in such detail as to
15 substantially apprise any party properly concerned as to
16 the time, place, and facts surrounding the alleged civil
17 rights violation.

18 (3) Charges deemed filed with the Department pursuant
19 to subsection (A-1) of this Section shall be deemed to be
20 in compliance with this subsection.

21 (A-1) Equal Employment Opportunity Commission Charges.

22 (1) If a charge is filed with the Equal Employment
23 Opportunity Commission (EEOC) within 300 calendar days

1 after the date of the alleged civil rights violation, the
2 charge shall be deemed filed with the Department on the
3 date filed with the EEOC. If the EEOC is the governmental
4 agency designated to investigate the charge first, the
5 Department shall take no action until the EEOC makes a
6 determination on the charge and after the complainant
7 notifies the Department of the EEOC's determination. In
8 such cases, after receiving notice from the EEOC that a
9 charge was filed, the Department shall notify the parties
10 that (i) a charge has been received by the EEOC and has
11 been sent to the Department for dual filing purposes; (ii)
12 the EEOC is the governmental agency responsible for
13 investigating the charge and that the investigation shall
14 be conducted pursuant to the rules and procedures adopted
15 by the EEOC; (iii) it will take no action on the charge
16 until the EEOC issues its determination; (iv) the
17 complainant must submit a copy of the EEOC's determination
18 within 30 days after service of the determination by the
19 EEOC on the complainant; and (v) that the time period to
20 investigate the charge contained in subsection (G) of this
21 Section is tolled from the date on which the charge is
22 filed with the EEOC until the EEOC issues its
23 determination.

24 (2) If the EEOC finds reasonable cause to believe that
25 there has been a violation of federal law and if the
26 Department is timely notified of the EEOC's findings by

1 the complainant, the Department shall notify the
2 complainant that the Department has adopted the EEOC's
3 determination of reasonable cause and that the complainant
4 has the right, within 90 days after receipt of the
5 Department's notice, to either file the complainant's ~~his~~
6 ~~or her~~ own complaint with the Illinois Human Rights
7 Commission or commence a civil action in the appropriate
8 circuit court or other appropriate court of competent
9 jurisdiction. This notice shall be provided to the
10 complainant within 10 business days after the Department's
11 receipt of the EEOC's determination. The Department's
12 notice to the complainant that the Department has adopted
13 the EEOC's determination of reasonable cause shall
14 constitute the Department's Report for purposes of
15 subparagraph (D) of this Section.

16 (3) For those charges alleging violations within the
17 jurisdiction of both the EEOC and the Department and for
18 which the EEOC either (i) does not issue a determination,
19 but does issue the complainant a notice of a right to sue,
20 including when the right to sue is issued at the request of
21 the complainant, or (ii) determines that it is unable to
22 establish that illegal discrimination has occurred and
23 issues the complainant a right to sue notice, and if the
24 Department is timely notified of the EEOC's determination
25 by the complainant, the Department shall notify the
26 parties, within 10 business days after receipt of the

1 EEOC's determination, that the Department will adopt the
2 EEOC's determination as a dismissal for lack of
3 substantial evidence unless the complainant requests in
4 writing within 35 days after receipt of the Department's
5 notice that the Department review the EEOC's
6 determination.

7 (a) If the complainant does not file a written
8 request with the Department to review the EEOC's
9 determination within 35 days after receipt of the
10 Department's notice, the Department shall notify the
11 complainant, within 10 business days after the
12 expiration of the 35-day period, that the decision of
13 the EEOC has been adopted by the Department as a
14 dismissal for lack of substantial evidence and that
15 the complainant has the right, within 90 days after
16 receipt of the Department's notice, to commence a
17 civil action in the appropriate circuit court or other
18 appropriate court of competent jurisdiction. The
19 Department's notice to the complainant that the
20 Department has adopted the EEOC's determination shall
21 constitute the Department's report for purposes of
22 subparagraph (D) of this Section.

23 (b) If the complainant does file a written request
24 with the Department to review the EEOC's
25 determination, the Department shall review the EEOC's
26 determination and any evidence obtained by the EEOC

1 during its investigation. If, after reviewing the
2 EEOC's determination and any evidence obtained by the
3 EEOC, the Department determines there is no need for
4 further investigation of the charge, the Department
5 shall issue a report and the Director shall determine
6 whether there is substantial evidence that the alleged
7 civil rights violation has been committed pursuant to
8 subsection (D) of this Section. If, after reviewing
9 the EEOC's determination and any evidence obtained by
10 the EEOC, the Department determines there is a need
11 for further investigation of the charge, the
12 Department may conduct any further investigation it
13 deems necessary. After reviewing the EEOC's
14 determination, the evidence obtained by the EEOC, and
15 any additional investigation conducted by the
16 Department, the Department shall issue a report and
17 the Director shall determine whether there is
18 substantial evidence that the alleged civil rights
19 violation has been committed pursuant to subsection
20 (D) of this Section.

21 (4) Pursuant to this Section, if the EEOC dismisses
22 the charge or a portion of the charge of discrimination
23 because, under federal law, the EEOC lacks jurisdiction
24 over the charge, and if, under this Act, the Department
25 has jurisdiction over the charge of discrimination, the
26 Department shall investigate the charge or portion of the

1 charge dismissed by the EEOC for lack of jurisdiction
2 pursuant to subsections (A), (A-1), (B), (B-1), (C), (D),
3 (E), (F), (G), (H), (I), (J), and (K) of this Section.

4 (5) The time limit set out in subsection (G) of this
5 Section is tolled from the date on which the charge is
6 filed with the EEOC to the date on which the EEOC issues
7 its determination.

8 (6) The failure of the Department to meet the
9 10-business-day notification deadlines set out in
10 paragraph (2) of this subsection shall not impair the
11 rights of any party.

12 (B) Notice and Response to Charge. The Department shall,
13 within 10 days of the date on which the charge was filed, serve
14 a copy of the charge on the respondent and provide all parties
15 with a notice of the complainant's right to opt out of the
16 investigation within 60 days as set forth in subsection (C-1).
17 This period shall not be construed to be jurisdictional. The
18 charging party and the respondent may each file a position
19 statement and other materials with the Department regarding
20 the charge of alleged discrimination within 60 days of receipt
21 of the notice of the charge. The position statements and other
22 materials filed shall remain confidential unless otherwise
23 agreed to by the party providing the information and shall not
24 be served on or made available to the other party during the
25 pendency of a charge with the Department. The Department may
26 require the respondent to file a response to the allegations

1 contained in the charge. Upon the Department's request, the
2 respondent shall file a response to the charge within 60 days
3 and shall serve a copy of its response on the complainant or
4 the complainant's ~~his or her~~ representative. Notwithstanding
5 any request from the Department, the respondent may elect to
6 file a response to the charge within 60 days of receipt of
7 notice of the charge, provided the respondent serves a copy of
8 its response on the complainant or the complainant's ~~his or~~
9 ~~her~~ representative. All allegations contained in the charge
10 not denied by the respondent within 60 days of the
11 Department's request for a response may be deemed admitted,
12 unless the respondent states that it is without sufficient
13 information to form a belief with respect to such allegation.
14 The Department may issue a notice of default directed to any
15 respondent who fails to file a response to a charge within 60
16 days of receipt of the Department's request, unless the
17 respondent can demonstrate good cause as to why such notice
18 should not issue. The term "good cause" shall be defined by
19 rule promulgated by the Department. Within 30 days of receipt
20 of the respondent's response, the complainant may file a reply
21 to said response and shall serve a copy of said reply on the
22 respondent or the respondent's ~~his or her~~ representative. A
23 party shall have the right to supplement the party's ~~his or her~~
24 response or reply at any time that the investigation of the
25 charge is pending. The Department shall, within 10 days of the
26 date on which the charge was filed, and again no later than 335

1 days thereafter, send by certified or registered mail, or
2 electronic mail if elected by the party, written notice to the
3 complainant and to the respondent informing the complainant of
4 the complainant's rights to either file a complaint with the
5 Human Rights Commission or commence a civil action in the
6 appropriate circuit court under subparagraph (2) of paragraph
7 (G), including in such notice the dates within which the
8 complainant may exercise these rights. In the notice the
9 Department shall notify the complainant that the charge of
10 civil rights violation will be dismissed with prejudice and
11 with no right to further proceed if a written complaint is not
12 timely filed with the Commission or with the appropriate
13 circuit court by the complainant pursuant to subparagraph (2)
14 of paragraph (G) or by the Department pursuant to subparagraph
15 (1) of paragraph (G).

16 (B-1) Mediation. The complainant and respondent may agree
17 to voluntarily submit the charge to mediation without waiving
18 any rights that are otherwise available to either party
19 pursuant to this Act and without incurring any obligation to
20 accept the result of the mediation process. Nothing occurring
21 in mediation shall be disclosed by the Department or
22 admissible in evidence in any subsequent proceeding unless the
23 complainant and the respondent agree in writing that such
24 disclosure be made.

25 (C) Investigation.

26 (1) The Department shall conduct an investigation

1 sufficient to determine whether the allegations set forth
2 in the charge are supported by substantial evidence unless
3 the complainant elects to opt out of an investigation
4 pursuant to subsection (C-1).

5 (2) The Director or the Director's ~~his or her~~
6 designated representatives shall have authority to request
7 any member of the Commission to issue subpoenas to compel
8 the attendance of a witness or the production for
9 examination of any books, records or documents whatsoever.

10 (3) If any witness whose testimony is required for any
11 investigation resides outside the State, or through
12 illness or any other good cause as determined by the
13 Director is unable to be interviewed by the investigator
14 or appear at a fact finding conference, the witness' ~~his~~
15 ~~or her~~ testimony or deposition may be taken, within or
16 without the State, in the same manner as is provided for in
17 the taking of depositions in civil cases in circuit
18 courts.

19 (4) Upon reasonable notice to the complainant and the
20 respondent, the Department shall conduct a fact finding
21 conference, unless prior to 365 days after the date on
22 which the charge was filed the Director has determined
23 whether there is substantial evidence that the alleged
24 civil rights violation has been committed, the charge has
25 been dismissed for lack of jurisdiction, or the parties
26 voluntarily and in writing agree to waive the fact finding

1 conference. Any party's failure to attend the conference
2 without good cause shall result in dismissal or default.
3 The term "good cause" shall be defined by rule promulgated
4 by the Department. A notice of dismissal or default shall
5 be issued by the Director. The notice of default issued by
6 the Director shall notify the respondent that a request
7 for review may be filed in writing with the Commission
8 within 30 days of receipt of notice of default. The notice
9 of dismissal issued by the Director shall give the
10 complainant notice of the complainant's ~~his or her~~ right
11 to seek review of the dismissal before the Human Rights
12 Commission or commence a civil action in the appropriate
13 circuit court. If the complainant chooses to have the
14 Human Rights Commission review the dismissal order, the
15 complainant ~~he or she~~ shall file a request for review with
16 the Commission within 90 days after receipt of the
17 Director's notice. If the complainant chooses to file a
18 request for review with the Commission, the complainant ~~he~~
19 ~~or she~~ may not later commence a civil action in a circuit
20 court. If the complainant chooses to commence a civil
21 action in a circuit court, the complainant ~~he or she~~ must
22 do so within 90 days after receipt of the Director's
23 notice.

24 (C-1) Opt out of Department's investigation. At any time
25 within 60 days after receipt of notice of the right to opt out,
26 a complainant may submit a written request seeking notice from

1 the Director indicating that the complainant has opted out of
2 the investigation and may commence a civil action in the
3 appropriate circuit court or other appropriate court of
4 competent jurisdiction. Within 10 business days of receipt of
5 the complainant's request to opt out of the investigation, the
6 Director shall issue a notice to the parties stating that: (i)
7 the complainant has exercised the right to opt out of the
8 investigation; (ii) the complainant has 90 days after receipt
9 of the Director's notice to commence an action in the
10 appropriate circuit court or other appropriate court of
11 competent jurisdiction; and (iii) the Department has ceased
12 its investigation and is administratively closing the charge.
13 The complainant shall notify the Department and the respondent
14 that a complaint has been filed with the appropriate circuit
15 court or other appropriate court of competent jurisdiction and
16 shall mail a copy of the complaint to the Department and the
17 respondent on the same date that the complaint is filed with
18 the appropriate court. Once a complainant has opted out of the
19 investigation under this subsection, the complainant ~~he or she~~
20 may not file or refile a substantially similar charge with the
21 Department arising from the same incident of unlawful
22 discrimination or harassment.

23 (D) Report.

24 (1) Each charge investigated under subsection (C)
25 shall be the subject of a report to the Director. The
26 report shall be a confidential document subject to review

1 by the Director, authorized Department employees, the
2 parties, and, where indicated by this Act, members of the
3 Commission or their designated hearing officers.

4 (2) Upon review of the report, the Director shall
5 determine whether there is substantial evidence that the
6 alleged civil rights violation has been committed. The
7 determination of substantial evidence is limited to
8 determining the need for further consideration of the
9 charge pursuant to this Act and includes, but is not
10 limited to, findings of fact and conclusions, as well as
11 the reasons for the determinations on all material issues.
12 Substantial evidence is evidence which a reasonable mind
13 accepts as sufficient to support a particular conclusion
14 and which consists of more than a mere scintilla but may be
15 somewhat less than a preponderance.

16 (3) If the Director determines that there is no
17 substantial evidence, the charge shall be dismissed by
18 ~~order of~~ the Director and the Director shall give the
19 complainant notice of the complainant's ~~his or her~~ right
20 to seek review of the notice of dismissal ~~order~~ before the
21 Commission or commence a civil action in the appropriate
22 circuit court. If the complainant chooses to have the
23 Human Rights Commission review the notice of dismissal
24 ~~order~~, the complainant ~~he or she~~ shall file a request for
25 review with the Commission within 90 days after receipt of
26 the Director's notice. If the complainant chooses to file

1 a request for review with the Commission, the complainant
2 ~~he or she~~ may not later commence a civil action in a
3 circuit court. If the complainant chooses to commence a
4 civil action in a circuit court, the complainant ~~he or she~~
5 must do so within 90 days after receipt of the Director's
6 notice. The complainant shall notify the Department that a
7 complaint has been filed by serving a copy of the
8 complaint on the chief legal counsel of the Department on
9 the same date that the complaint is filed in circuit
10 court.

11 (4) If the Director determines that there is
12 substantial evidence, the Director ~~he or she~~ shall notify
13 the complainant and respondent of that determination. The
14 Director shall also notify the parties that the
15 complainant has the right to either commence a civil
16 action in the appropriate circuit court or request that
17 the Department of Human Rights file a complaint with the
18 Human Rights Commission on the complainant's ~~his or her~~
19 behalf. Any such complaint shall be filed within 90 days
20 after receipt of the Director's notice. If the complainant
21 chooses to have the Department file a complaint with the
22 Human Rights Commission on the complainant's ~~his or her~~
23 behalf, the complainant must, within 30 days after receipt
24 of the Director's notice, request in writing that the
25 Department file the complaint. If the complainant timely
26 requests that the Department file the complaint, the

1 Department shall file the complaint on the complainant's
2 ~~his or her~~ behalf. If the complainant fails to timely
3 request that the Department file the complaint, the
4 complainant may file the complainant's ~~his or her~~
5 complaint with the Commission or commence a civil action
6 in the appropriate circuit court. If the complainant files
7 a complaint with the Human Rights Commission, the
8 complainant shall notify the Department that a complaint
9 has been filed by serving a copy of the complaint on the
10 chief legal counsel of the Department on the same date
11 that the complaint is filed ~~give notice to the Department~~
12 ~~of the filing of the complaint with the Human Rights~~
13 ~~Commission.~~

14 (E) Conciliation.

15 (1) When there is a finding of substantial evidence,
16 the Department may designate a Department employee who is
17 an attorney licensed to practice in Illinois to endeavor
18 to eliminate the effect of the alleged civil rights
19 violation and to prevent its repetition by means of
20 conference and conciliation.

21 (2) When the Department determines that a formal
22 conciliation conference is necessary, the complainant and
23 respondent shall be notified of the time and place of the
24 conference by registered or certified mail at least 10
25 days prior thereto and either or both parties shall appear
26 at the conference in person or by attorney.

1 (3) The place fixed for the conference shall be within
2 35 miles of the place where the civil rights violation is
3 alleged to have been committed.

4 (4) Nothing occurring at the conference shall be
5 disclosed by the Department unless the complainant and
6 respondent agree in writing that such disclosure be made.

7 (5) The Department's efforts to conciliate the matter
8 shall not stay or extend the time for filing the complaint
9 with the Commission or the circuit court.

10 (F) Complaint.

11 (1) When the complainant requests that the Department
12 file a complaint with the Commission on the complainant's
13 ~~his or her~~ behalf, the Department shall prepare a written
14 complaint, under oath or affirmation, stating the nature
15 of the civil rights violation substantially as alleged in
16 the charge previously filed and the relief sought on
17 behalf of the aggrieved party. The Department shall file
18 the complaint with the Commission.

19 (1.5) If the complainant chooses to file a complaint
20 with the Commission without the Department's assistance,
21 the complainant shall give notice to the Department that a
22 complaint has been filed by serving a copy of the
23 complaint on the chief legal counsel of the Department on
24 the same date that the complaint is filed with the
25 Commission.

26 (2) If the complainant chooses to commence a civil

1 action in a circuit court:

2 (i) The complainant shall file the civil action 7
3 ~~he or she must do so~~ in the circuit court in the county
4 wherein the civil rights violation was allegedly
5 committed.

6 (ii) The form of the complaint in any such civil
7 action shall be in accordance with the Code of Civil
8 Procedure.

9 (iii) The complainant shall notify the Department
10 that a complaint has been filed by serving a copy of
11 the complaint on the chief legal counsel of the
12 Department on the same date that the complaint is
13 filed in circuit court.

14 (G) Time Limit.

15 (1) When a charge of a civil rights violation has been
16 properly filed, the Department, within 365 days thereof or
17 within any extension of that period agreed to in writing
18 by all parties, shall issue its report as required by
19 subparagraph (D). Any such report shall be duly served
20 upon both the complainant and the respondent.

21 (2) If the Department has not issued its report within
22 365 days after the charge is filed, or any such longer
23 period agreed to in writing by all the parties, the
24 complainant shall have 90 days to either file the
25 complainant's ~~his or her~~ own complaint with the Human
26 Rights Commission or commence a civil action in the

1 appropriate circuit court. If the complainant files a
2 complaint with the Commission, the form of the complaint
3 shall be in accordance with the provisions of paragraph
4 (F)(1). If the complainant commences a civil action in a
5 circuit court, the form of the complaint shall be in
6 accordance with the Code of Civil Procedure. The aggrieved
7 party shall notify the Department that a complaint has
8 been filed and shall serve a copy of the complaint on the
9 chief legal counsel of the Department on the same date
10 that the complaint is filed with the Commission or in
11 circuit court. If the complainant files a complaint with
12 the Commission, the complainant ~~he or she~~ may not later
13 commence a civil action in circuit court.

14 (3) If an aggrieved party files a complaint with the
15 Human Rights Commission or commences a civil action in
16 circuit court pursuant to paragraph (2) of this
17 subsection, or if the time period for filing a complaint
18 has expired, the Department shall immediately cease its
19 investigation and dismiss the charge of civil rights
20 violation. Any final order entered by the Commission under
21 this Section is appealable in accordance with paragraph
22 (B)(1) of Section 8-111. Failure to immediately cease an
23 investigation and dismiss the charge of civil rights
24 violation as provided in this paragraph (3) constitutes
25 grounds for entry of an order by the circuit court
26 permanently enjoining the investigation. The Department

1 may also be liable for any costs and other damages
2 incurred by the respondent as a result of the action of the
3 Department.

4 (4) (Blank).

5 (H) Public Act 89-370 applies to causes of action filed on
6 or after January 1, 1996.

7 (I) Public Act 89-520 applies to causes of action filed on
8 or after January 1, 1996.

9 (J) The changes made to this Section by Public Act 95-243
10 apply to charges filed on or after the effective date of those
11 changes.

12 (K) The changes made to this Section by Public Act 96-876
13 apply to charges filed on or after the effective date of those
14 changes.

15 (L) The changes made to this Section by Public Act
16 100-1066 apply to charges filed on or after August 24, 2018
17 (the effective date of Public Act 100-1066).

18 (Source: P.A. 101-221, eff. 1-1-20; 102-558, eff. 8-20-21.)