



Sen. Mike Simmons

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10300SB3310sam001

LRB103 37330 JRC 70993 a

1 AMENDMENT TO SENATE BILL 3310

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3310 by replacing  
3 everything after the enacting clause with the following:

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

15 (2) The charge shall be in such detail as to  
16 substantially apprise any party properly concerned as to

1 the time, place, and facts surrounding the alleged civil  
2 rights violation.

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

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

7 (1) If a charge is filed with the Equal Employment  
8 Opportunity Commission (EEOC) within 300 calendar days  
9 after the date of the alleged civil rights violation, the  
10 charge shall be deemed filed with the Department on the  
11 date filed with the EEOC. If the EEOC is the governmental  
12 agency designated to investigate the charge first, the  
13 Department shall take no action until the EEOC makes a  
14 determination on the charge and after the complainant  
15 notifies the Department of the EEOC's determination. In  
16 such cases, after receiving notice from the EEOC that a  
17 charge was filed, the Department shall notify the parties  
18 that (i) a charge has been received by the EEOC and has  
19 been sent to the Department for dual filing purposes; (ii)  
20 the EEOC is the governmental agency responsible for  
21 investigating the charge and that the investigation shall  
22 be conducted pursuant to the rules and procedures adopted  
23 by the EEOC; (iii) it will take no action on the charge  
24 until the EEOC issues its determination; (iv) the  
25 complainant must submit a copy of the EEOC's determination  
26 within 30 days after service of the determination by the

1 EEOC on the complainant; and (v) that the time period to  
2 investigate the charge contained in subsection (G) of this  
3 Section is tolled from the date on which the charge is  
4 filed with the EEOC until the EEOC issues its  
5 determination.

6 (2) If the EEOC finds reasonable cause to believe that  
7 there has been a violation of federal law and if the  
8 Department is timely notified of the EEOC's findings by  
9 the complainant, the Department shall notify the  
10 complainant that the Department has adopted the EEOC's  
11 determination of reasonable cause and that the complainant  
12 has the right, within 90 days after receipt of the  
13 Department's notice, to either file the complainant's own  
14 complaint with the Illinois Human Rights Commission or  
15 commence a civil action in the appropriate circuit court  
16 or other appropriate court of competent jurisdiction. This  
17 notice shall be provided to the complainant within 10  
18 business days after the Department's receipt of the EEOC's  
19 determination. The Department's notice to the complainant  
20 that the Department has adopted the EEOC's determination  
21 of reasonable cause shall constitute the Department's  
22 Report for purposes of subparagraph (D) of this Section.

23 (3) For those charges alleging violations within the  
24 jurisdiction of both the EEOC and the Department and for  
25 which the EEOC either (i) does not issue a determination,  
26 but does issue the complainant a notice of a right to sue,

1 including when the right to sue is issued at the request of  
2 the complainant, or (ii) determines that it is unable to  
3 establish that illegal discrimination has occurred and  
4 issues the complainant a right to sue notice, and if the  
5 Department is timely notified of the EEOC's determination  
6 by the complainant, the Department shall notify the  
7 parties, within 10 business days after receipt of the  
8 EEOC's determination, that the Department will adopt the  
9 EEOC's determination as a dismissal for lack of  
10 substantial evidence unless the complainant requests in  
11 writing within 35 days after receipt of the Department's  
12 notice that the Department review the EEOC's  
13 determination.

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

1 Department has adopted the EEOC's determination shall  
2 constitute the Department's report for purposes of  
3 subparagraph (D) of this Section.

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

1 (D) of this Section.

2 (4) Pursuant to this Section, if the EEOC dismisses  
3 the charge or a portion of the charge of discrimination  
4 because, under federal law, the EEOC lacks jurisdiction  
5 over the charge, and if, under this Act, the Department  
6 has jurisdiction over the charge of discrimination, the  
7 Department shall investigate the charge or portion of the  
8 charge dismissed by the EEOC for lack of jurisdiction  
9 pursuant to subsections (A), (A-1), (B), (B-1), (C), (D),  
10 (E), (F), (G), (H), (I), (J), and (K) of this Section.

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

15 (6) The failure of the Department to meet the  
16 10-business-day notification deadlines set out in  
17 paragraph (2) of this subsection shall not impair the  
18 rights of any party.

19 (B) Notice and Response to Charge. The Department shall,  
20 within 10 days of the date on which the charge was filed, serve  
21 a copy of the charge on the respondent and provide all parties  
22 with a notice of the complainant's right to opt out of the  
23 investigation within 60 days as set forth in subsection (C-1).  
24 This period shall not be construed to be jurisdictional. The  
25 charging party and the respondent may each file a position  
26 statement and other materials with the Department regarding

1 the charge of alleged discrimination within 60 days of receipt  
2 of the notice of the charge. The position statements and other  
3 materials filed shall remain confidential unless otherwise  
4 agreed to by the party providing the information and shall not  
5 be served on or made available to the other party during the  
6 pendency of a charge with the Department. The Department may  
7 require the respondent to file a response to the allegations  
8 contained in the charge. Upon the Department's request, the  
9 respondent shall file a response to the charge within 60 days  
10 and shall serve a copy of its response on the complainant or  
11 the complainant's representative. Notwithstanding any request  
12 from the Department, the respondent may elect to file a  
13 response to the charge within 60 days of receipt of notice of  
14 the charge, provided the respondent serves a copy of its  
15 response on the complainant or the complainant's  
16 representative. All allegations contained in the charge not  
17 denied by the respondent within 60 days of the Department's  
18 request for a response may be deemed admitted, unless the  
19 respondent states that it is without sufficient information to  
20 form a belief with respect to such allegation. The Department  
21 may issue a notice of default directed to any respondent who  
22 fails to file a response to a charge within 60 days of receipt  
23 of the Department's request, unless the respondent can  
24 demonstrate good cause as to why such notice should not issue.  
25 The term "good cause" shall be defined by rule promulgated by  
26 the Department. Within 30 days of receipt of the respondent's

1 response, the complainant may file a reply to said response  
2 and shall serve a copy of said reply on the respondent or the  
3 respondent's representative. A party shall have the right to  
4 supplement the party's response or reply at any time that the  
5 investigation of the charge is pending. The Department shall,  
6 within 10 days of the date on which the charge was filed, and  
7 again no later than 335 days thereafter, send by certified or  
8 registered mail, or electronic mail if elected by the party,  
9 written notice to the complainant and to the respondent  
10 informing the complainant of the complainant's rights to  
11 either file a complaint with the Human Rights Commission or  
12 commence a civil action in the appropriate circuit court under  
13 subparagraph (2) of paragraph (G), including in such notice  
14 the dates within which the complainant may exercise these  
15 rights. In the notice the Department shall notify the  
16 complainant that the charge of civil rights violation will be  
17 dismissed with prejudice and with no right to further proceed  
18 if a written complaint is not timely filed with the Commission  
19 or with the appropriate circuit court by the complainant  
20 pursuant to subparagraph (2) of paragraph (G) or by the  
21 Department pursuant to subparagraph (1) of paragraph (G).

22 (B-1) Mediation. The complainant and respondent may agree  
23 to voluntarily submit the charge to mediation without waiving  
24 any rights that are otherwise available to either party  
25 pursuant to this Act and without incurring any obligation to  
26 accept the result of the mediation process. Nothing occurring



1 in mediation shall be disclosed by the Department or  
2 admissible in evidence in any subsequent proceeding unless the  
3 complainant and the respondent agree in writing that such  
4 disclosure be made.

5 (C) Investigation.

6 (1) The Department shall conduct an investigation  
7 sufficient to determine whether the allegations set forth  
8 in the charge are supported by substantial evidence unless  
9 the complainant elects to opt out of an investigation  
10 pursuant to subsection (C-1).

11 (2) The Director or the Director's designated  
12 representatives shall have authority to request any member  
13 of the Commission to issue subpoenas to compel the  
14 attendance of a witness or the production for examination  
15 of any books, records or documents whatsoever.

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

24 (4) Upon reasonable notice to the complainant and the  
25 respondent, the Department shall conduct a fact finding  
26 conference, unless prior to 365 days after the date on

1       which the charge was filed the Director has determined  
2       whether there is substantial evidence that the alleged  
3       civil rights violation has been committed, the charge has  
4       been dismissed for lack of jurisdiction, or the parties  
5       voluntarily and in writing agree to waive the fact finding  
6       conference. Any party's failure to attend the conference  
7       without good cause shall result in dismissal or default.  
8       The term "good cause" shall be defined by rule promulgated  
9       by the Department. A notice of dismissal or default shall  
10      be issued by the Director. The notice of default issued by  
11      the Director shall notify the respondent that a request  
12      for review may be filed in writing with the Commission  
13      within 30 days of receipt of notice of default. The notice  
14      of dismissal issued by the Director shall give the  
15      complainant notice of the complainant's right to seek  
16      review of the dismissal before the Human Rights Commission  
17      or commence a civil action in the appropriate circuit  
18      court. If the complainant chooses to have the Human Rights  
19      Commission review the dismissal order, the complainant  
20      shall file a request for review with the Commission within  
21      90 days after receipt of the Director's notice. If the  
22      complainant chooses to file a request for review with the  
23      Commission, the complainant may not later commence a civil  
24      action in a circuit court. If the complainant chooses to  
25      commence a civil action in a circuit court, the  
26      complainant must do so within 90 days after receipt of the

1 Director's notice.

2 (C-1) Opt out of Department's investigation. At any time  
3 within 60 days after receipt of notice of the right to opt out,  
4 a complainant may submit a written request seeking notice from  
5 the Director indicating that the complainant has opted out of  
6 the investigation and may commence a civil action in the  
7 appropriate circuit court or other appropriate court of  
8 competent jurisdiction. Within 10 business days of receipt of  
9 the complainant's request to opt out of the investigation, the  
10 Director shall issue a notice to the parties stating that: (i)  
11 the complainant has exercised the right to opt out of the  
12 investigation; (ii) the complainant has 90 days after receipt  
13 of the Director's notice to commence an action in the  
14 appropriate circuit court or other appropriate court of  
15 competent jurisdiction; and (iii) the Department has ceased  
16 its investigation and is administratively closing the charge.  
17 The complainant shall notify the Department that a complaint  
18 has been filed with the appropriate circuit court by serving a  
19 copy of the complaint on the chief legal counsel of the  
20 Department within 21 days from the date that the complaint is  
21 filed with the appropriate circuit court. This 21-day period  
22 for service on the chief legal counsel shall not be construed  
23 to be jurisdictional. Once a complainant has opted out of the  
24 investigation under this subsection, the complainant may not  
25 file or refile a substantially similar charge with the  
26 Department arising from the same incident of unlawful

1 discrimination or harassment.

2 (D) Report.

3 (1) Each charge investigated under subsection (C)  
4 shall be the subject of a report to the Director. The  
5 report shall be a confidential document subject to review  
6 by the Director, authorized Department employees, the  
7 parties, and, where indicated by this Act, members of the  
8 Commission or their designated hearing officers.

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

21 (3) If the Director determines that there is no  
22 substantial evidence, the charge shall be dismissed by the  
23 Director and the Director shall give the complainant  
24 notice of the complainant's right to seek review of the  
25 notice of dismissal before the Commission or commence a  
26 civil action in the appropriate circuit court. If the

1 complainant chooses to have the Human Rights Commission  
2 review the notice of dismissal, the complainant shall file  
3 a request for review with the Commission within 90 days  
4 after receipt of the Director's notice. If the complainant  
5 chooses to file a request for review with the Commission,  
6 the complainant may not later commence a civil action in a  
7 circuit court. If the complainant chooses to commence a  
8 civil action in a circuit court, the complainant must do  
9 so within 90 days after receipt of the Director's notice.  
10 The complainant shall notify the Department that a  
11 complaint has been filed by serving a copy of the  
12 complaint on the chief legal counsel of the Department  
13 within 21 days from the date that the complaint is filed in  
14 circuit court. This 21-day period for service on the chief  
15 legal counsel shall not be construed to be jurisdictional.

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

1 Commission on the complainant's behalf, the complainant  
2 must, within 30 days after receipt of the Director's  
3 notice, request in writing that the Department file the  
4 complaint. If the complainant timely requests that the  
5 Department file the complaint, the Department shall file  
6 the complaint on the complainant's behalf. If the  
7 complainant fails to timely request that the Department  
8 file the complaint, the complainant may file the  
9 complainant's complaint with the Commission or commence a  
10 civil action in the appropriate circuit court. If the  
11 complainant files a complaint with the Human Rights  
12 Commission, the complainant shall notify the Department  
13 that a complaint has been filed by serving a copy of the  
14 complaint on the chief legal counsel of the Department  
15 within 21 days from the date that the complaint is filed  
16 with the Human Rights Commission. This 21-day period for  
17 service on the chief legal counsel shall not be construed  
18 to be jurisdictional.

19 (E) Conciliation.

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

26 (2) When the Department determines that a formal

1 conciliation conference is necessary, the complainant and  
2 respondent shall be notified of the time and place of the  
3 conference by registered or certified mail at least 10  
4 days prior thereto and either or both parties shall appear  
5 at the conference in person or by attorney.

6 (3) The place fixed for the conference shall be within  
7 35 miles of the place where the civil rights violation is  
8 alleged to have been committed.

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

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

15 (F) Complaint.

16 (1) When the complainant requests that the Department  
17 file a complaint with the Commission on the complainant's  
18 behalf, the Department shall prepare a written complaint,  
19 under oath or affirmation, stating the nature of the civil  
20 rights violation substantially as alleged in the charge  
21 previously filed and the relief sought on behalf of the  
22 aggrieved party. The Department shall file the complaint  
23 with the Commission.

24 (1.5) If the complainant chooses to file a complaint  
25 with the Commission without the Department's assistance,  
26 the complainant shall notify the Department that a

1 complaint has been filed by serving a copy of the  
2 complaint on the chief legal counsel of the Department  
3 within 21 days from the date that the complaint is filed  
4 with the Human Rights Commission. This 21-day period for  
5 service on the chief legal counsel shall not be construed  
6 to be jurisdictional.

7 (2) If the complainant chooses to commence a civil  
8 action in a circuit court:

9 (i) The complainant shall file the civil action in  
10 the circuit court in the county wherein the civil  
11 rights violation was allegedly committed.

12 (ii) The form of the complaint in any such civil  
13 action shall be in accordance with the Code of Civil  
14 Procedure.

15 (iii) The complainant shall notify the Department  
16 that a complaint has been filed by serving a copy of  
17 the complaint on the chief legal counsel of the  
18 Department within 21 days from date that the complaint  
19 is filed in circuit court. This 21-day period for  
20 service on the chief legal counsel shall not be  
21 construed to be jurisdictional.

22 (G) Time Limit.

23 (1) When a charge of a civil rights violation has been  
24 properly filed, the Department, within 365 days thereof or  
25 within any extension of that period agreed to in writing  
26 by all parties, shall issue its report as required by



1           subparagraph (D). Any such report shall be duly served  
2           upon both the complainant and the respondent.

3           (2) If the Department has not issued its report within  
4           365 days after the charge is filed, or any such longer  
5           period agreed to in writing by all the parties, the  
6           complainant shall have 90 days to either file the  
7           complainant's own complaint with the Human Rights  
8           Commission or commence a civil action in the appropriate  
9           circuit court. If the complainant files a complaint with  
10          the Commission, the form of the complaint shall be in  
11          accordance with the provisions of paragraph (F)(1). If the  
12          complainant commences a civil action in a circuit court,  
13          the form of the complaint shall be in accordance with the  
14          Code of Civil Procedure. The aggrieved party shall notify  
15          the Department that a complaint has been filed by serving  
16          a copy of the complaint on the chief legal counsel of the  
17          Department with 21 days from the date that the complaint  
18          is filed with the Commission or in circuit court. This  
19          21-day period for service on the chief legal counsel shall  
20          not be construed to be jurisdictional. If the complainant  
21          files a complaint with the Commission, the complainant may  
22          not later commence a civil action in circuit court.

23          (3) If an aggrieved party files a complaint with the  
24          Human Rights Commission or commences a civil action in  
25          circuit court pursuant to paragraph (2) of this  
26          subsection, or if the time period for filing a complaint

1 has expired, the Department shall immediately cease its  
2 investigation and dismiss the charge of civil rights  
3 violation. Any final order entered by the Commission under  
4 this Section is appealable in accordance with paragraph  
5 (B)(1) of Section 8-111. Failure to immediately cease an  
6 investigation and dismiss the charge of civil rights  
7 violation as provided in this paragraph (3) constitutes  
8 grounds for entry of an order by the circuit court  
9 permanently enjoining the investigation. The Department  
10 may also be liable for any costs and other damages  
11 incurred by the respondent as a result of the action of the  
12 Department.

13 (4) (Blank).

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

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

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

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

24 (L) The changes made to this Section by Public Act  
25 100-1066 apply to charges filed on or after August 24, 2018  
26 (the effective date of Public Act 100-1066).

1 (Source: P.A. 102-558, eff. 8-20-21; 103-335, eff. 1-1-24.)".