



**Adopted in House Comm. on Apr 29, 2004**

09300SB3186ham001

LRB093 20455 WGH 49226 a

1 AMENDMENT TO SENATE BILL 3186

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3186 on page 1,  
3 line 5 by changing "Section 1-103" to "Sections 1-103 and  
4 7A-102"; and

5 on page 3, by replacing lines 30 and 31 with the following:

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

8 (A) Charge.

9 (1) Within 180 days after the date that a civil rights  
10 violation allegedly has been committed, a charge in writing  
11 under oath or affirmation may be filed with the Department  
12 by an aggrieved party or issued by the Department itself  
13 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 (B) Notice, and Response, and Review of Charge. The  
19 Department shall, within 10 days of the date on which the  
20 charge was filed, serve a copy of the charge on the respondent.  
21 This period shall not be construed to be jurisdictional. The  
22 charging party and the respondent may each file a position  
23 statement and other materials with the Department regarding the  
24 charge of alleged discrimination within 60 days of receipt of

1 the notice of the charge. The position statements and other  
2 materials filed shall remain confidential unless otherwise  
3 agreed to by the party providing the information and shall not  
4 be served on or made available to the other party during  
5 pendency of a charge with the Department. The Department shall  
6 require the respondent to file a verified response to the  
7 allegations contained in the charge within 60 days of receipt  
8 of the notice of the charge. The respondent shall serve a copy  
9 of its response on the complainant or his representative. All  
10 allegations contained in the charge not timely denied by the  
11 respondent shall be deemed admitted, unless the respondent  
12 states that it is without sufficient information to form a  
13 belief with respect to such allegation. The Department shall  
14 issue a notice of default directed to any respondent who fails  
15 to file a verified response to a charge within 60 days of  
16 receipt of the notice of the charge, unless the respondent can  
17 demonstrate good cause as to why such notice should not issue.  
18 Within 30 days of receipt of the respondent's response, the  
19 complainant may file a reply to said response and shall serve a  
20 copy of said reply on the respondent or his representative. A  
21 party shall have the right to supplement his response or reply  
22 at any time that the investigation of the charge is pending.  
23 The Department shall, within 10 days of the date on which the  
24 charge was filed, and again no later than 335 days thereafter,  
25 send by certified or registered mail written notice to the  
26 complainant and to the respondent informing the complainant of  
27 the right to file a complaint with the Human Rights Commission  
28 under subparagraph (2) of paragraph (G), including in such  
29 notice the dates within which the complainant may exercise this  
30 right. In the notice the Department shall notify the  
31 complainant that the charge of civil rights violation will be  
32 dismissed with prejudice and with no right to further proceed  
33 if a written complaint is not timely filed with the Commission  
34 by the complainant pursuant to subparagraph (2) of paragraph

1 (G) or by the Department pursuant to subparagraph (1) of  
2 paragraph (G).

3 (B-1) Mediation. The complainant and respondent may agree  
4 to voluntarily submit the charge to mediation without waiving  
5 any rights that are otherwise available to either party  
6 pursuant to this Act and without incurring any obligation to  
7 accept the result of the mediation process. Nothing occurring  
8 in mediation shall be disclosed by the Department or admissible  
9 in evidence in any subsequent proceeding unless the complainant  
10 and the respondent agree in writing that such disclosure be  
11 made.

12 (C) Investigation.

13 (1) After the respondent has been notified, the  
14 Department shall conduct a full investigation of the  
15 allegations set forth in the charge.

16 (2) The Director or his or her designated  
17 representatives shall have authority to request any member  
18 of the Commission to issue subpoenas to compel the  
19 attendance of a witness or the production for examination  
20 of any books, records or documents whatsoever.

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

29 (4) Upon reasonable notice to the complainant and the  
30 respondent, the Department shall conduct a fact finding  
31 conference prior to 365 days after the date on which the  
32 charge was filed, unless the Director has determined  
33 whether there is substantial evidence that the alleged  
34 civil rights violation has been committed or the charge has

1           been dismissed for lack of jurisdiction. If the parties  
2           agree in writing, the fact finding conference may be held  
3           at a time after the 365 day limit. Any party's failure to  
4           attend the conference without good cause shall result in  
5           dismissal or default. The term "good cause" shall be  
6           defined by rule promulgated by the Department. A notice of  
7           dismissal or default shall be issued by the Director and  
8           shall notify the relevant party that a request for review  
9           may be filed in writing with the Chief Legal Counsel of the  
10          Department within 30 days of receipt of notice of dismissal  
11          or default.

12          (D) Report.

13           (1) Each charge shall be the subject of a report to the  
14          Director. The report shall be a confidential document  
15          subject to review by the Director, authorized Department  
16          employees, the parties, and, where indicated by this Act,  
17          members of the Commission or their designated hearing  
18          officers.

19           (2) Upon review of the report, the Director shall  
20          determine whether there is substantial evidence that the  
21          alleged civil rights violation has been committed. The  
22          determination of substantial evidence is limited to  
23          determining the need for further consideration of the  
24          charge pursuant to this Act and includes, but is not  
25          limited to, findings of fact and conclusions, as well as  
26          the reasons for the determinations on all material issues  
27          ~~and questions of credibility~~. Substantial evidence is  
28          evidence which a reasonable mind accepts as sufficient to  
29          support a particular conclusion and which consists of more  
30          than a mere scintilla but may be somewhat less than a  
31          preponderance.

32           (a) If the Director determines that there is no  
33          substantial evidence, the charge shall be dismissed by  
34          order of the Director and the complainant notified that

1 he or she may seek review of the dismissal order before  
2 the Chief Legal Counsel of the Department. The  
3 complainant shall have 30 days from receipt of notice  
4 to file a request for review by the Chief Legal Counsel  
5 of the Department.

6 (b) If the Director determines that there is  
7 substantial evidence, he or she shall designate a  
8 Department employee who is an attorney licensed to  
9 practice in Illinois to endeavor to eliminate the  
10 effect of the alleged civil rights violation and to  
11 prevent its repetition by means of conference and  
12 conciliation.

13 (E) Conciliation.

14 (1) When the Department determines that a formal  
15 conciliation conference is necessary, the complainant and  
16 respondent shall be notified of the time and place of the  
17 conference by registered or certified mail at least 10 days  
18 prior thereto and either or both parties shall appear at  
19 the conference in person or by attorney.

20 (2) The place fixed for the conference shall be within  
21 35 miles of the place where the civil rights violation is  
22 alleged to have been committed.

23 (3) Nothing occurring at the conference shall be  
24 disclosed by the Department unless the complainant and  
25 respondent agree in writing that such disclosure be made.

26 (F) Complaint.

27 (1) When there is a failure to settle or adjust any  
28 charge through conciliation, the Department shall prepare  
29 a written complaint, under oath or affirmation, stating the  
30 nature of the civil rights violation substantially as  
31 alleged in the charge previously filed and the relief  
32 sought on behalf of the aggrieved party.

33 (2) The complaint shall be filed with the Commission.

34 (G) Time Limit.

1           (1) When a charge of a civil rights violation has been  
2 properly filed, the Department, within 365 days thereof or  
3 within any extension of that period agreed to in writing by  
4 all parties, shall either issue and file a complaint in the  
5 manner and form set forth in this Section or shall order  
6 that no complaint be issued and dismiss the charge with  
7 prejudice without any further right to proceed except in  
8 cases in which the order was procured by fraud or duress.  
9 Any such order shall be duly served upon both the  
10 complainant and the respondent.

11           (2) Between 365 and 395 days after the charge is filed,  
12 or such longer period agreed to in writing by all parties,  
13 the aggrieved party may file a complaint with the  
14 Commission, if the Director has not sooner issued a report  
15 and determination pursuant to paragraphs (D) (1) and (D) (2)  
16 of this Section. The form of the complaint shall be in  
17 accordance with the provisions of paragraph (F). The  
18 aggrieved party shall notify the Department that a  
19 complaint has been filed and shall serve a copy of the  
20 complaint on the Department on the same date that the  
21 complaint is filed with the Commission.

22           (3) If an aggrieved party files a complaint with the  
23 Human Rights Commission pursuant to paragraph (2) of this  
24 subsection, or if the time period for filing a complaint  
25 has expired, the Department shall immediately cease its  
26 investigation and dismiss the charge of civil rights  
27 violation. Any final order entered by the Chief Legal  
28 Counsel under this Section is appealable in accordance with  
29 paragraph (A) (1) of Section 8-111. Failure to immediately  
30 cease an investigation and dismiss the charge of civil  
31 rights violation as provided in this paragraph (3)  
32 constitutes grounds for entry of an order by the circuit  
33 court permanently enjoining the investigation. The  
34 Department may also be liable for any costs and other

1 damages incurred by the respondent as a result of the  
2 action of the Department.

3 (4) The Department shall stay any administrative  
4 proceedings under this Section after the filing of a civil  
5 action by or on behalf of the aggrieved party under any  
6 federal or State law seeking relief with respect to the  
7 alleged civil rights violation.

8 (H) This amendatory Act of 1995 applies to causes of action  
9 filed on or after January 1, 1996.

10 (I) This amendatory Act of 1996 applies to causes of action  
11 filed on or after January 1, 1996.

12 (Source: P.A. 89-370, eff. 8-18-95; 89-520, eff. 7-18-96.)

13 Section 99. Effective date. This Act takes effect on  
14 January 1, 2005, except that this Section and the provisions  
15 changing Section 7A-102 of the Illinois Human Rights Act take  
16 effect upon becoming law.".