

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 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  
25 the notice of the charge. The position statements and other  
26 materials filed shall remain confidential unless otherwise  
27 agreed to by the party providing the information and shall not  
28 be served on or made available to the other party during  
29 pendency of a charge with the Department. The Department shall  
30 require the respondent to file a verified response to the  
31 allegations contained in the charge within 60 days of receipt  
32 of the notice of the charge. The respondent shall serve a copy

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

29 (B-1) Mediation. The complainant and respondent may agree  
30 to voluntarily submit the charge to mediation without waiving  
31 any rights that are otherwise available to either party  
32 pursuant to this Act and without incurring any obligation to  
33 accept the result of the mediation process. Nothing occurring  
34 in mediation shall be disclosed by the Department or admissible  
35 in evidence in any subsequent proceeding unless the complainant  
36 and the respondent agree in writing that such disclosure be

1 made.

2 (C) Investigation.

3 (1) After the respondent has been notified, the  
4 Department shall conduct a full investigation of the  
5 allegations set forth in the charge.

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

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

19 (4) Upon reasonable notice to the complainant and the  
20 respondent, the Department shall conduct a fact finding  
21 conference prior to 365 days after the date on which the  
22 charge was filed, unless the Director has determined  
23 whether there is substantial evidence that the alleged  
24 civil rights violation has been committed or the charge has  
25 been dismissed for lack of jurisdiction. If the parties  
26 agree in writing, the fact finding conference may be held  
27 at a time after the 365 day limit. Any party's failure to  
28 attend the conference without good cause shall result in  
29 dismissal or default. The term "good cause" shall be  
30 defined by rule promulgated by the Department. A notice of  
31 dismissal or default shall be issued by the Director and  
32 shall notify the relevant party that a request for review  
33 may be filed in writing with the Chief Legal Counsel of the  
34 Department within 30 days of receipt of notice of dismissal  
35 or default.

36 (D) Report.

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

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

20 (a) If the Director determines that there is no  
21 substantial evidence, the charge shall be dismissed by  
22 order of the Director and the complainant notified that  
23 he or she may seek review of the dismissal order before  
24 the Chief Legal Counsel of the Department. The  
25 complainant shall have 30 days from receipt of notice  
26 to file a request for review by the Chief Legal Counsel  
27 of the Department.

28 (b) If the Director determines that there is  
29 substantial evidence, he or she shall designate a  
30 Department employee who is an attorney licensed to  
31 practice in Illinois to endeavor to eliminate the  
32 effect of the alleged civil rights violation and to  
33 prevent its repetition by means of conference and  
34 conciliation.

35 (E) Conciliation.

36 (1) 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 days  
4 prior thereto and either or both parties shall appear at  
5 the conference in person or by attorney.

6 (2) 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 (3) 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 (F) Complaint.

13 (1) When there is a failure to settle or adjust any  
14 charge through conciliation, the Department shall prepare  
15 a written complaint, under oath or affirmation, stating the  
16 nature of the civil rights violation substantially as  
17 alleged in the charge previously filed and the relief  
18 sought on behalf of the aggrieved party.

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

20 (G) Time Limit.

21 (1) When a charge of a civil rights violation has been  
22 properly filed, the Department, within 365 days thereof or  
23 within any extension of that period agreed to in writing by  
24 all parties, shall either issue and file a complaint in the  
25 manner and form set forth in this Section or shall order  
26 that no complaint be issued and dismiss the charge with  
27 prejudice without any further right to proceed except in  
28 cases in which the order was procured by fraud or duress.  
29 Any such order shall be duly served upon both the  
30 complainant and the respondent.

31 (2) Between 365 and 395 days after the charge is filed,  
32 or such longer period agreed to in writing by all parties,  
33 the aggrieved party may file a complaint with the  
34 Commission, if the Director has not sooner issued a report  
35 and determination pursuant to paragraphs (D) (1) and (D) (2)  
36 of this Section. The form of the complaint shall be in

1           accordance with the provisions of paragraph (F). The  
2           aggrieved party shall notify the Department that a  
3           complaint has been filed and shall serve a copy of the  
4           complaint on the Department on the same date that the  
5           complaint is filed with the Commission.

6           (3) If an aggrieved party files a complaint with the  
7           Human Rights Commission pursuant to paragraph (2) of this  
8           subsection, or if the time period for filing a complaint  
9           has expired, the Department shall immediately cease its  
10          investigation and dismiss the charge of civil rights  
11          violation. Any final order entered by the Chief Legal  
12          Counsel under this Section is appealable in accordance with  
13          paragraph (A)(1) of Section 8-111. Failure to immediately  
14          cease an investigation and dismiss the charge of civil  
15          rights violation as provided in this paragraph (3)  
16          constitutes grounds for entry of an order by the circuit  
17          court permanently enjoining the investigation. The  
18          Department may also be liable for any costs and other  
19          damages incurred by the respondent as a result of the  
20          action of the Department.

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

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

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29          filed on or after January 1, 1996.

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

31          Section 99. Effective date. This Act takes effect upon  
32          becoming law.