



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB4605

by Rep. Michael P. McAuliffe

#### SYNOPSIS AS INTRODUCED:

775 ILCS 5/1-102  
775 ILCS 5/2-102

from Ch. 68, par. 1-102  
from Ch. 68, par. 2-102

Amends the Illinois Human Rights Act. Provides that it is a civil rights violation for an employer, employment agency, or labor organization to discriminate against any person on the basis of the person's familial status. Provides that "familial status" has the same meaning as in the Article of the Act concerning real estate transactions. Makes a corresponding change in a Section containing a declaration of policy.

LRB099 18766 HEP 43150 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 Sections 1-102 and 2-102 as follows:

6 (775 ILCS 5/1-102) (from Ch. 68, par. 1-102)

7 Sec. 1-102. Declaration of Policy. It is the public policy  
8 of this State:

9 (A) Freedom from Unlawful Discrimination. To secure for all  
10 individuals within Illinois the freedom from discrimination  
11 against any individual because of his or her race, color,  
12 religion, sex, national origin, ancestry, age, order of  
13 protection status, marital status, physical or mental  
14 disability, military status, sexual orientation, pregnancy, or  
15 unfavorable discharge from military service in connection with  
16 employment, real estate transactions, access to financial  
17 credit, and the availability of public accommodations.

18 (B) Freedom from Sexual Harassment-Employment and  
19 Elementary, Secondary, and Higher Education. To prevent sexual  
20 harassment in employment and sexual harassment in elementary,  
21 secondary, and higher education.

22 (C) Freedom from Discrimination Based on Citizenship  
23 Status-Employment. To prevent discrimination based on

1 citizenship status in employment.

2 (D) Freedom from Discrimination Based on Familial  
3 Status-Employment and Real Estate Transactions. To prevent  
4 discrimination based on familial status in employment and in  
5 real estate transactions.

6 (E) Public Health, Welfare and Safety. To promote the  
7 public health, welfare and safety by protecting the interest of  
8 all people in Illinois in maintaining personal dignity, in  
9 realizing their full productive capacities, and in furthering  
10 their interests, rights and privileges as citizens of this  
11 State.

12 (F) Implementation of Constitutional Guarantees. To secure  
13 and guarantee the rights established by Sections 17, 18 and 19  
14 of Article I of the Illinois Constitution of 1970.

15 (G) Equal Opportunity, Affirmative Action. To establish  
16 Equal Opportunity and Affirmative Action as the policies of  
17 this State in all of its decisions, programs and activities,  
18 and to assure that all State departments, boards, commissions  
19 and instrumentalities rigorously take affirmative action to  
20 provide equality of opportunity and eliminate the effects of  
21 past discrimination in the internal affairs of State government  
22 and in their relations with the public.

23 (H) Unfounded Charges. To protect citizens of this State  
24 against unfounded charges of unlawful discrimination, sexual  
25 harassment in employment and sexual harassment in elementary,  
26 secondary, and higher education, and discrimination based on

1 citizenship status in employment.

2 (Source: P.A. 98-1050, eff. 1-1-15.)

3 (775 ILCS 5/2-102) (from Ch. 68, par. 2-102)

4 Sec. 2-102. Civil Rights Violations - Employment. It is a  
5 civil rights violation:

6 (A) Employers. For any employer to refuse to hire, to  
7 segregate, or to act with respect to recruitment, hiring,  
8 promotion, renewal of employment, selection for training or  
9 apprenticeship, discharge, discipline, tenure or terms,  
10 privileges or conditions of employment on the basis of unlawful  
11 discrimination or citizenship status.

12 (A-5) Language. For an employer to impose a restriction  
13 that has the effect of prohibiting a language from being spoken  
14 by an employee in communications that are unrelated to the  
15 employee's duties.

16 For the purposes of this subdivision (A-5), "language"  
17 means a person's native tongue, such as Polish, Spanish, or  
18 Chinese. "Language" does not include such things as slang,  
19 jargon, profanity, or vulgarity.

20 (B) Employment Agency. For any employment agency to fail or  
21 refuse to classify properly, accept applications and register  
22 for employment referral or apprenticeship referral, refer for  
23 employment, or refer for apprenticeship on the basis of  
24 unlawful discrimination or citizenship status or to accept from  
25 any person any job order, requisition or request for referral

1 of applicants for employment or apprenticeship which makes or  
2 has the effect of making unlawful discrimination or  
3 discrimination on the basis of citizenship status a condition  
4 of referral.

5 (C) Labor Organization. For any labor organization to  
6 limit, segregate or classify its membership, or to limit  
7 employment opportunities, selection and training for  
8 apprenticeship in any trade or craft, or otherwise to take, or  
9 fail to take, any action which affects adversely any person's  
10 status as an employee or as an applicant for employment or as  
11 an apprentice, or as an applicant for apprenticeships, or  
12 wages, tenure, hours of employment or apprenticeship  
13 conditions on the basis of unlawful discrimination or  
14 citizenship status.

15 (D) Sexual Harassment. For any employer, employee, agent of  
16 any employer, employment agency or labor organization to engage  
17 in sexual harassment; provided, that an employer shall be  
18 responsible for sexual harassment of the employer's employees  
19 by nonemployees or nonmanagerial and nonsupervisory employees  
20 only if the employer becomes aware of the conduct and fails to  
21 take reasonable corrective measures.

22 (E) Public Employers. For any public employer to refuse to  
23 permit a public employee under its jurisdiction who takes time  
24 off from work in order to practice his or her religious beliefs  
25 to engage in work, during hours other than such employee's  
26 regular working hours, consistent with the operational needs of

1 the employer and in order to compensate for work time lost for  
2 such religious reasons. Any employee who elects such deferred  
3 work shall be compensated at the wage rate which he or she  
4 would have earned during the originally scheduled work period.  
5 The employer may require that an employee who plans to take  
6 time off from work in order to practice his or her religious  
7 beliefs provide the employer with a notice of his or her  
8 intention to be absent from work not exceeding 5 days prior to  
9 the date of absence.

10 (F) Training and Apprenticeship Programs. For any  
11 employer, employment agency or labor organization to  
12 discriminate against a person on the basis of age in the  
13 selection, referral for or conduct of apprenticeship or  
14 training programs.

15 (G) Immigration-Related Practices.

16 (1) for an employer to request for purposes of  
17 satisfying the requirements of Section 1324a(b) of Title 8  
18 of the United States Code, as now or hereafter amended,  
19 more or different documents than are required under such  
20 Section or to refuse to honor documents tendered that on  
21 their face reasonably appear to be genuine; or

22 (2) for an employer participating in the E-Verify  
23 Program, as authorized by 8 U.S.C. 1324a, Notes, Pilot  
24 Programs for Employment Eligibility Confirmation (enacted  
25 by PL 104-208, div. C title IV, subtitle A) to refuse to  
26 hire, to segregate, or to act with respect to recruitment,

1 hiring, promotion, renewal of employment, selection for  
2 training or apprenticeship, discharge, discipline, tenure  
3 or terms, privileges or conditions of employment without  
4 following the procedures under the E-Verify Program.

5 (H) (Blank).

6 (I) Pregnancy. For an employer to refuse to hire, to  
7 segregate, or to act with respect to recruitment, hiring,  
8 promotion, renewal of employment, selection for training or  
9 apprenticeship, discharge, discipline, tenure or terms,  
10 privileges or conditions of employment on the basis of  
11 pregnancy, childbirth, or medical or common conditions related  
12 to pregnancy or childbirth. Women affected by pregnancy,  
13 childbirth, or medical or common conditions related to  
14 pregnancy or childbirth shall be treated the same for all  
15 employment-related purposes, including receipt of benefits  
16 under fringe benefit programs, as other persons not so affected  
17 but similar in their ability or inability to work, regardless  
18 of the source of the inability to work or employment  
19 classification or status.

20 (J) Pregnancy; reasonable accommodations.

21 (1) If after a job applicant or employee, including a  
22 part-time, full-time, or probationary employee, requests a  
23 reasonable accommodation, for an employer to not make  
24 reasonable accommodations for any medical or common  
25 condition of a job applicant or employee related to  
26 pregnancy or childbirth, unless the employer can

1 demonstrate that the accommodation would impose an undue  
2 hardship on the ordinary operation of the business of the  
3 employer. The employer may request documentation from the  
4 employee's health care provider concerning the need for the  
5 requested reasonable accommodation or accommodations to  
6 the same extent documentation is requested for conditions  
7 related to disability if the employer's request for  
8 documentation is job-related and consistent with business  
9 necessity. The employer may require only the medical  
10 justification for the requested accommodation or  
11 accommodations, a description of the reasonable  
12 accommodation or accommodations medically advisable, the  
13 date the reasonable accommodation or accommodations became  
14 medically advisable, and the probable duration of the  
15 reasonable accommodation or accommodations. It is the duty  
16 of the individual seeking a reasonable accommodation or  
17 accommodations to submit to the employer any documentation  
18 that is requested in accordance with this paragraph.  
19 Notwithstanding the provisions of this paragraph, the  
20 employer may require documentation by the employee's  
21 health care provider to determine compliance with other  
22 laws. The employee and employer shall engage in a timely,  
23 good faith, and meaningful exchange to determine effective  
24 reasonable accommodations.

25 (2) For an employer to deny employment opportunities or  
26 benefits to or take adverse action against an otherwise



1 qualified job applicant or employee, including a  
2 part-time, full-time, or probationary employee, if the  
3 denial or adverse action is based on the need of the  
4 employer to make reasonable accommodations to the known  
5 medical or common conditions related to the pregnancy or  
6 childbirth of the applicant or employee.

7 (3) For an employer to require a job applicant or  
8 employee, including a part-time, full-time, or  
9 probationary employee, affected by pregnancy, childbirth,  
10 or medical or common conditions related to pregnancy or  
11 childbirth to accept an accommodation when the applicant or  
12 employee did not request an accommodation and the applicant  
13 or employee chooses not to accept the employer's  
14 accommodation.

15 (4) For an employer to require an employee, including a  
16 part-time, full-time, or probationary employee, to take  
17 leave under any leave law or policy of the employer if  
18 another reasonable accommodation can be provided to the  
19 known medical or common conditions related to the pregnancy  
20 or childbirth of an employee. No employer shall fail or  
21 refuse to reinstate the employee affected by pregnancy,  
22 childbirth, or medical or common conditions related to  
23 pregnancy or childbirth to her original job or to an  
24 equivalent position with equivalent pay and accumulated  
25 seniority, retirement, fringe benefits, and other  
26 applicable service credits upon her signifying her intent

1 to return or when her need for reasonable accommodation  
2 ceases, unless the employer can demonstrate that the  
3 accommodation would impose an undue hardship on the  
4 ordinary operation of the business of the employer.

5 For the purposes of this subdivision (J), "reasonable  
6 accommodations" means reasonable modifications or adjustments  
7 to the job application process or work environment, or to the  
8 manner or circumstances under which the position desired or  
9 held is customarily performed, that enable an applicant or  
10 employee affected by pregnancy, childbirth, or medical or  
11 common conditions related to pregnancy or childbirth to be  
12 considered for the position the applicant desires or to perform  
13 the essential functions of that position, and may include, but  
14 is not limited to: more frequent or longer bathroom breaks,  
15 breaks for increased water intake, and breaks for periodic  
16 rest; private non-bathroom space for expressing breast milk and  
17 breastfeeding; seating; assistance with manual labor; light  
18 duty; temporary transfer to a less strenuous or hazardous  
19 position; the provision of an accessible worksite; acquisition  
20 or modification of equipment; job restructuring; a part-time or  
21 modified work schedule; appropriate adjustment or  
22 modifications of examinations, training materials, or  
23 policies; reassignment to a vacant position; time off to  
24 recover from conditions related to childbirth; and leave  
25 necessitated by pregnancy, childbirth, or medical or common  
26 conditions resulting from pregnancy or childbirth.

1           For the purposes of this subdivision (J), "undue hardship"  
2 means an action that is prohibitively expensive or disruptive  
3 when considered in light of the following factors: (i) the  
4 nature and cost of the accommodation needed; (ii) the overall  
5 financial resources of the facility or facilities involved in  
6 the provision of the reasonable accommodation, the number of  
7 persons employed at the facility, the effect on expenses and  
8 resources, or the impact otherwise of the accommodation upon  
9 the operation of the facility; (iii) the overall financial  
10 resources of the employer, the overall size of the business of  
11 the employer with respect to the number of its employees, and  
12 the number, type, and location of its facilities; and (iv) the  
13 type of operation or operations of the employer, including the  
14 composition, structure, and functions of the workforce of the  
15 employer, the geographic separateness, administrative, or  
16 fiscal relationship of the facility or facilities in question  
17 to the employer. The employer has the burden of proving undue  
18 hardship. The fact that the employer provides or would be  
19 required to provide a similar accommodation to similarly  
20 situated employees creates a rebuttable presumption that the  
21 accommodation does not impose an undue hardship on the  
22 employer.

23           No employer is required by this subdivision (J) to create  
24 additional employment that the employer would not otherwise  
25 have created, unless the employer does so or would do so for  
26 other classes of employees who need accommodation. The employer

1 is not required to discharge any employee, transfer any  
2 employee with more seniority, or promote any employee who is  
3 not qualified to perform the job, unless the employer does so  
4 or would do so to accommodate other classes of employees who  
5 need it.

6 (K) Notice.

7 (1) For an employer to fail to post or keep posted in a  
8 conspicuous location on the premises of the employer where  
9 notices to employees are customarily posted, or fail to  
10 include in any employee handbook information concerning an  
11 employee's rights under this Article, a notice, to be  
12 prepared or approved by the Department, summarizing the  
13 requirements of this Article and information pertaining to  
14 the filing of a charge, including the right to be free from  
15 unlawful discrimination and the right to certain  
16 reasonable accommodations. The Department shall make the  
17 documents required under this paragraph available for  
18 retrieval from the Department's website.

19 (2) Upon notification of a violation of paragraph (1)  
20 of this subdivision (K), the Department may launch a  
21 preliminary investigation. If the Department finds a  
22 violation, the Department may issue a notice to show cause  
23 giving the employer 30 days to correct the violation. If  
24 the violation is not corrected, the Department may initiate  
25 a charge of a civil rights violation.

26 (L) Familial Status. For an employer, employment agency, or

1 labor organization to discriminate against any person on the  
2 basis of the person's familial status. As used in this  
3 subsection (L), "familial status" has the meaning provided in  
4 subsection (E) of Section 3-101 of this Act.

5 (Source: P.A. 97-596, eff. 8-26-11; 98-212, eff. 8-9-13;  
6 98-1050, eff. 1-1-15.)