

AN ACT concerning civil law.

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

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

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

Sec. 7A-102. Procedures.

(A) Charge.

(1) Within 2 years ~~300 calendar days~~ after the date that a civil rights violation allegedly has been committed, a charge in writing under oath or affirmation may be filed with the Department by an aggrieved party or issued by the Department itself under the signature of the Director.

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

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

(A-1) Equal Employment Opportunity Commission Charges.

(1) If a charge is filed with the Equal Employment

Opportunity Commission (EEOC) within 300 calendar days after the date of the alleged civil rights violation, the charge shall be deemed filed with the Department on the date filed with the EEOC. If the EEOC is the governmental agency designated to investigate the charge first, the Department shall take no action until the EEOC makes a determination on the charge and after the complainant notifies the Department of the EEOC's determination. In such cases, after receiving notice from the EEOC that a charge was filed, the Department shall notify the parties that (i) a charge has been received by the EEOC and has been sent to the Department for dual filing purposes; (ii) the EEOC is the governmental agency responsible for investigating the charge and that the investigation shall be conducted pursuant to the rules and procedures adopted by the EEOC; (iii) it will take no action on the charge until the EEOC issues its determination; (iv) the complainant must submit a copy of the EEOC's determination within 30 days after service of the determination by the EEOC on the complainant; and (v) that the time period to investigate the charge contained in subsection (G) of this Section is tolled from the date on which the charge is filed with the EEOC until the EEOC issues its determination.

(2) If the EEOC finds reasonable cause to believe that there has been a violation of federal law and if the

Department is timely notified of the EEOC's findings by the complainant, the Department shall notify the complainant that the Department has adopted the EEOC's determination of reasonable cause and that the complainant has the right, within 90 days after receipt of the Department's notice, to either file the complainant's own complaint with the Illinois Human Rights Commission or commence a civil action in the appropriate circuit court or other appropriate court of competent jurisdiction. This notice shall be provided to the complainant within 10 business days after the Department's receipt of the EEOC's determination. The Department's notice to the complainant that the Department has adopted the EEOC's determination of reasonable cause shall constitute the Department's Report for purposes of subparagraph (D) of this Section.

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

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

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

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

during its investigation. If, after reviewing the EEOC's determination and any evidence obtained by the EEOC, the Department determines there is no need for further investigation of the charge, the Department shall issue a report and the Director shall determine whether there is substantial evidence that the alleged civil rights violation has been committed pursuant to subsection (D) of this Section. If, after reviewing the EEOC's determination and any evidence obtained by the EEOC, the Department determines there is a need for further investigation of the charge, the Department may conduct any further investigation it deems necessary. After reviewing the EEOC's determination, the evidence obtained by the EEOC, and any additional investigation conducted by the Department, the Department shall issue a report and the Director shall determine whether there is substantial evidence that the alleged civil rights violation has been committed pursuant to subsection (D) of this Section.

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

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

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

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

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

contained in the charge. Upon the Department's request, the respondent shall file a response to the charge within 60 days and shall serve a copy of its response on the complainant or the complainant's representative. Notwithstanding any request from the Department, the respondent may elect to file a response to the charge within 60 days of receipt of notice of the charge, provided the respondent serves a copy of its response on the complainant or the complainant's representative. All allegations contained in the charge not denied by the respondent within 60 days of the Department's request for a response may be deemed admitted, unless the respondent states that it is without sufficient information to form a belief with respect to such allegation. The Department may issue a notice of default directed to any respondent who fails to file a response to a charge within 60 days of receipt of the Department's request, unless the respondent can demonstrate good cause as to why such notice should not issue. The term "good cause" shall be defined by rule promulgated by the Department. Within 30 days of receipt of the respondent's response, the complainant may file a reply to said response and shall serve a copy of said reply on the respondent or the respondent's representative. A party shall have the right to supplement the party's response or reply at any time that the investigation of the charge is pending. The Department shall, within 10 days of the date on which the charge was filed, and again no later than 335 days thereafter, send by certified or

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

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

(C) Investigation.

(1) The Department shall conduct an investigation sufficient to determine whether the allegations set forth

in the charge are supported by substantial evidence unless the complainant elects to opt out of an investigation pursuant to subsection (C-1).

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

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

(4) Upon reasonable notice to the complainant and the respondent, the Department shall conduct a fact finding conference, unless prior to 365 days after the date on which the charge was filed the Director has determined whether there is substantial evidence that the alleged civil rights violation has been committed, the charge has been dismissed for lack of jurisdiction, or the parties voluntarily and in writing agree to waive the fact finding conference. Any party's failure to attend the conference without good cause shall result in dismissal or default.

The term "good cause" shall be defined by rule promulgated by the Department. A notice of dismissal or default shall be issued by the Director. The notice of default issued by the Director shall notify the respondent that a request for review may be filed in writing with the Commission within 30 days of receipt of notice of default. The notice of dismissal issued by the Director shall give the complainant notice of the complainant's right to seek review of the dismissal before the Human Rights Commission or commence a civil action in the appropriate circuit court. If the complainant chooses to have the Human Rights Commission review the dismissal order, the complainant shall file a request for review with the Commission within 90 days after receipt of the Director's notice. If the complainant chooses to file a request for review with the Commission, the complainant may not later commence a civil action in a circuit court. If the complainant chooses to commence a civil action in a circuit court, the complainant must do so within 90 days after receipt of the Director's notice.

(C-1) Opt out of Department's investigation. At any time within 60 days after receipt of notice of the right to opt out, a complainant may submit a written request seeking notice from the Director indicating that the complainant has opted out of the investigation and may commence a civil action in the appropriate circuit court or other appropriate court of

competent jurisdiction. Within 10 business days of receipt of the complainant's request to opt out of the investigation, the Director shall issue a notice to the parties stating that: (i) the complainant has exercised the right to opt out of the investigation; (ii) the complainant has 90 days after receipt of the Director's notice to commence an action in the appropriate circuit court or other appropriate court of competent jurisdiction; and (iii) the Department has ceased its investigation and is administratively closing the charge. The complainant shall notify the Department that a complaint has been filed with the appropriate circuit court by serving a copy of the complaint on the chief legal counsel of the Department within 21 days from the date that the complaint is filed with the appropriate circuit court. This 21-day period for service on the chief legal counsel shall not be construed to be jurisdictional. Once a complainant has opted out of the investigation under this subsection, the complainant may not file or refile a substantially similar charge with the Department arising from the same incident of unlawful discrimination or harassment.

(D) Report.

(1) Each charge investigated under subsection (C) shall be the subject of a report to the Director. The report shall be a confidential document subject to review by the Director, authorized Department employees, the parties, and, where indicated by this Act, members of the

Commission or their designated hearing officers.

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

(3) If the Director determines that there is no substantial evidence, the charge shall be dismissed by the Director and the Director shall give the complainant notice of the complainant's right to seek review of the notice of dismissal before the Commission or commence a civil action in the appropriate circuit court. If the complainant chooses to have the Human Rights Commission review the notice of dismissal, the complainant shall file a request for review with the Commission within 90 days after receipt of the Director's notice. If the complainant chooses to file a request for review with the Commission, the complainant may not later commence a civil action in a circuit court. If the complainant chooses to commence a

civil action in a circuit court, the complainant must do so within 90 days after receipt of the Director's notice. The complainant shall notify the Department that a complaint has been filed by serving a copy of the complaint on the chief legal counsel of the Department within 21 days from the date that the complaint is filed in circuit court. This 21-day period for service on the chief legal counsel shall not be construed to be jurisdictional.

(4) If the Director determines that there is substantial evidence, the Director shall notify the complainant and respondent of that determination. The Director shall also notify the parties that the complainant has the right to either commence a civil action in the appropriate circuit court or request that the Department of Human Rights file a complaint with the Human Rights Commission on the complainant's behalf. Any such complaint shall be filed within 90 days after receipt of the Director's notice. If the complainant chooses to have the Department file a complaint with the Human Rights Commission on the complainant's behalf, the complainant must, within 30 days after receipt of the Director's notice, request in writing that the Department file the complaint. If the complainant timely requests that the Department file the complaint, the Department shall file the complaint on the complainant's behalf. If the complainant fails to timely request that the Department

file the complaint, the complainant may file the complainant's complaint with the Commission or commence a civil action in the appropriate circuit court. If the complainant files a complaint with the Human Rights Commission, the complainant shall notify the Department that a complaint has been filed by serving a copy of the complaint on the chief legal counsel of the Department within 21 days from the date that the complaint is filed with the Human Rights Commission. This 21-day period for service on the chief legal counsel shall not be construed to be jurisdictional.

(E) Conciliation.

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

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

(3) The place fixed for the conference shall be within 35 miles of the place where the civil rights violation is

alleged to have been committed.

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

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

(F) Complaint.

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

(1.5) If the complainant chooses to file a complaint with the Commission without the Department's assistance, the complainant shall notify the Department that a complaint has been filed by serving a copy of the complaint on the chief legal counsel of the Department within 21 days from the date that the complaint is filed with the Human Rights Commission. This 21-day period for service on the chief legal counsel shall not be construed to be jurisdictional.

(2) If the complainant chooses to commence a civil

action in a circuit court:

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

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

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

(G) Time Limit.

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

(2) If the Department has not issued its report within 365 days after the charge is filed, or any such longer period agreed to in writing by all the parties, the complainant shall have 90 days to either file the complainant's own complaint with the Human Rights

Commission or commence a civil action in the appropriate circuit court. If the complainant files a complaint with the Commission, the form of the complaint shall be in accordance with the provisions of paragraph (F)(1). If the complainant commences a civil action in a circuit court, the form of the complaint shall be in accordance with the Code of Civil Procedure. The aggrieved party shall notify the Department that a complaint has been filed by serving a copy of the complaint on the chief legal counsel of the Department with 21 days from the date that the complaint is filed with the Commission or in circuit court. This 21-day period for service on the chief legal counsel shall not be construed to be jurisdictional. If the complainant files a complaint with the Commission, the complainant may not later commence a civil action in circuit court.

(3) If an aggrieved party files a complaint with the Human Rights Commission or commences a civil action in circuit court pursuant to paragraph (2) of this subsection, or if the time period for filing a complaint has expired, the Department shall immediately cease its investigation and dismiss the charge of civil rights violation. Any final order entered by the Commission under this Section is appealable in accordance with paragraph (B)(1) of Section 8-111. Failure to immediately cease an investigation and dismiss the charge of civil rights violation as provided in this paragraph (3) constitutes

grounds for entry of an order by the circuit court permanently enjoining the investigation. The Department may also be liable for any costs and other damages incurred by the respondent as a result of the action of the Department.

(4) (Blank).

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

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

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

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

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

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