

1 AN ACT in relation to 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 8A-102 and 8B-102 as follows:

6 (775 ILCS 5/8A-102) (from Ch. 68, par. 8A-102)

7 Sec. 8A-102. Hearing on Complaint.

8 (A) Services. Within five days after a complaint is  
9 filed by the Department, or the aggrieved party, as the case  
10 may be, the Commission shall cause it to be served on the  
11 respondent together with a notice of hearing before a hearing  
12 officer of the Commission at a place therein fixed.

13 (B) Time and Location of Hearing. An initial hearing  
14 date shall be scheduled for not less than thirty nor more  
15 than ninety days after service of the complaint at a place  
16 that is within one hundred miles of the place at which the  
17 civil rights violation is alleged to have occurred. The  
18 hearing officer may, for good cause shown, extend the date of  
19 the hearing.

20 (C) Amendment.

21 (1) A complaint may be amended under oath by leave  
22 of the presiding hearing officer, for good cause shown,  
23 upon timely written motion and reasonable notice to all  
24 interested parties at any time prior to the issuance of a  
25 recommended order pursuant to Section 8A-102(I) or  
26 8B-102(J). The amended complaint shall be served upon  
27 all parties of record and the Department of Human Rights  
28 by the complainant, or by the Department if it prepared  
29 and filed the amended complaint, within 7 days of the  
30 date of the order permitting its filing or such  
31 additional time as the hearing officer may order.

1 Amendments to the complaint may encompass any unlawful  
2 discrimination which is like or reasonably related to the  
3 charge and growing out of the allegations in such charge,  
4 including, but not limited to, allegations of  
5 retaliation.

6 (2) A motion that the complaint be amended to  
7 conform to the evidence, made prior to the close of the  
8 public hearing, may be addressed orally on the record to  
9 the hearing officer, and shall be granted for good and  
10 sufficient cause.

11 (D) Answer.

12 (1) The respondent shall file an answer under oath  
13 or affirmation to the original or amended complaint  
14 within 30 days of the date of service thereof, but the  
15 hearing officer may, for good cause shown, grant further  
16 time for the filing of an answer.

17 (2) When the respondent files a motion to dismiss  
18 the complaint within 30 days and the motion is denied by  
19 the hearing officer, the time for filing the answer shall  
20 be within 15 days of the date of denial of the motion.

21 (3) Any allegation in the complaint which is not  
22 denied or admitted in the answer is deemed admitted  
23 unless the respondent states in the answer that he is  
24 without sufficient knowledge or information to form a  
25 belief with respect to such allegation.

26 (4) The failure to file an answer is deemed to  
27 constitute an admission of the allegations contained in  
28 the complaint.

29 (5) The respondent has the right to amend his  
30 answer, upon leave of the hearing officer, for good cause  
31 shown.

32 (E) Proceedings In Forma Pauperis.

33 (1) If the hearing officer is satisfied that the  
34 complainant or respondent is a poor person, and unable to

1 prosecute or defend the complaint and pay the costs and  
2 expenses thereof, the hearing officer may permit the  
3 party to commence and prosecute or defend the action as a  
4 poor person. Such party shall have all the necessary  
5 subpoenas, appearances, and proceedings without  
6 prepayment of witness fees or charges. Witnesses shall  
7 attend as in other cases under this Act and the same  
8 remedies shall be available for failure or refusal to  
9 obey the subpoena as are provided for in Section 8-104 of  
10 this Act.

11 (2) A person desiring to proceed without payment of  
12 fees or charges shall file with the hearing officer an  
13 affidavit stating that he is a poor person and unable to  
14 pay costs, and that the action is meritorious.

15 (F) Discovery. The procedure for obtaining discovery of  
16 information from parties and witnesses shall be specified by  
17 the Commission in rules. If no rule has been promulgated by  
18 the Commission on a particular type of discovery, the Code of  
19 Civil Procedure may be considered persuasive authority. The  
20 types of discovery shall be the same as in civil cases in the  
21 circuit courts of this State, provided, however, that a party  
22 may take discovery depositions only upon leave of the hearing  
23 officer and for good cause shown.

24 (G) Hearing.

25 (1) Both the complainant and the respondent may  
26 appear at the hearing and examine and cross-examine  
27 witnesses.

28 (2) The testimony taken at the hearing shall be  
29 under oath or affirmation and a transcript shall be made  
30 and filed in the office of the Commission.

31 (3) The testimony taken at the hearing is subject  
32 to the same rules of evidence that apply in courts of  
33 this State in civil cases.

34 (H) Compelling Appearance of Parties at Hearing. The

1 appearance at the hearing of a party or a person who at the  
2 time of the hearing is an officer, director, or employee of a  
3 party may be required by serving the party with a notice  
4 designating the person who is required to appear. The notice  
5 also may require the production at the hearing of documents  
6 or tangible things. If the party or person is a nonresident  
7 of the county, the hearing officer may order any terms and  
8 conditions in connection with his appearance at the hearing  
9 that are just, including payment of his reasonable expenses.  
10 Upon a failure to comply with the notice, the hearing officer  
11 may enter any order that is just.

12 (I) Decision.

13 (1) When all the testimony has been taken, the  
14 hearing officer shall determine whether the respondent  
15 has engaged in or is engaging in the civil rights  
16 violation with respect to the person aggrieved as charged  
17 in the complaint. A determination sustaining a complaint  
18 shall be based upon a preponderance of the evidence.

19 (2) The hearing officer shall make findings of fact  
20 in writing and, if the finding is against the respondent,  
21 shall issue and cause to be served on the parties and the  
22 Department a recommended order for appropriate relief as  
23 provided by this Act.

24 (3) If, upon all the evidence, the hearing officer  
25 finds that a respondent has not engaged in the  
26 discriminatory practice charged in the complaint or that  
27 a preponderance of the evidence does not sustain the  
28 complaint, he shall state his findings of fact and shall  
29 issue and cause to be served on the parties and the  
30 Department a recommended order dismissing the complaint.

31 (4) The findings and recommended order of the  
32 hearing officer shall be filed with the Commission. The  
33 findings and recommended order may ~~need-not~~ be authored  
34 by a hearing officer other than the hearing officer who

1 presides at the public hearing if:

2 (a) the hearing officer who presides at the  
3 public hearing is unable to author the findings and  
4 recommended order by reason of death, disability, or  
5 separation from employment; and

6 (b) (a) all parties to a complaint file a  
7 joint motion agreeing agree to have the findings and  
8 recommended order decision written by a hearing  
9 officer who did not preside at the public hearing.;

10 ~~(b) the presiding hearing officer transmits~~  
11 ~~his or her impression of witness credibility to the~~  
12 ~~hearing officer who authors the findings and~~  
13 ~~recommended order; and~~

14 ~~(c) there are no questions of witness~~  
15 ~~credibility presented by the record as found by the~~  
16 ~~presiding officer.~~

17 (5) A recommended order dismissing a complaint may  
18 include an award of reasonable attorneys fees in favor of  
19 the respondent against the complainant or the  
20 complainant's attorney, or both, if the hearing officer  
21 concludes that the complaint was frivolous, unreasonable  
22 or groundless or that the complainant continued to  
23 litigate after it became clearly so.

24 (6) The hearing officer may issue a recommended  
25 order of dismissal with prejudice or a recommended order  
26 of default as a sanction for the failure of a party to  
27 prosecute his or her case, file a required pleading,  
28 appear at a hearing, or otherwise comply with this Act,  
29 the rules of the Commission, or a previous order of the  
30 hearing officer.

31 (Source: P.A. 89-370, eff. 8-18-95.)

32 (775 ILCS 5/8B-102) (from Ch. 68, par. 8B-102)  
33 Sec. 8B-102. Hearing on complaint.

1           (A) Election of Judicial Determination. When a  
2 complaint is filed under Section 7B-102(F) a complainant, a  
3 respondent, or an aggrieved party on whose behalf the  
4 complaint was filed, may elect to have the claims asserted in  
5 that complaint decided in a civil action in a circuit court  
6 of Illinois, in which case the Illinois Code of Civil  
7 Procedure shall apply. The election must be made not later  
8 than 20 days after the receipt by the electing person of  
9 service of the complaint by the Commission. The person  
10 making such election shall file it with the Commission and  
11 shall give notice of doing so to the Department and to all  
12 other complainants and respondents to whom the charge  
13 relates. If an election is made, the Commission shall act no  
14 further on the complaint and shall administratively close the  
15 file on the complaint. If an election is not made, the  
16 Commission shall continue proceedings on the complaint in  
17 accordance with this Act and the hearing shall be before a  
18 hearing officer.

19           (B) Services. Within 5 days after a complaint is filed  
20 by the Department, the Commission shall cause it to be served  
21 on the respondent and complainant together with a notice of  
22 hearing before a hearing officer of the Commission at a place  
23 therein fixed and with information as to how to make an  
24 election under subsection (A) and the effect of such an  
25 election.

26           (C) Time and Location of Hearing. An initial hearing  
27 date shall be scheduled for not less than 30 nor more than 90  
28 days after service of the complaint at a place that is within  
29 100 miles of the place at which the civil rights violation is  
30 alleged to have occurred. The hearing officer may, for good  
31 cause shown, extend the date of the hearing.

32           (D) Amendment.

33           (1) A complaint may be amended under oath by leave  
34 of the presiding hearing officer, for good cause shown,

1 upon timely written motion and reasonable notice to all  
2 interested parties at any time prior to the issuance of a  
3 recommended order pursuant to Section 8A-102(I) or  
4 8B-102(J). The amended complaint shall be served upon  
5 all parties of record by the Department within 7 days of  
6 the date of the order permitting its filing or such  
7 additional time as the hearing officer may order.  
8 Amendments to the complaint may encompass any unlawful  
9 discrimination which is like or reasonably related to the  
10 charge and growing out of the allegations in such charge,  
11 including, but not limited to, allegations of  
12 retaliation.

13 (2) A motion that the complaint be amended to  
14 conform to the evidence, made prior to the close of the  
15 public hearing, may be addressed orally on the record to  
16 the hearing officer, and shall be granted for good and  
17 sufficient cause.

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20 or affirmation to the original or amended complaint  
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26 the hearing officer, the time for filing the answer shall  
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29 denied or admitted in the answer is deemed admitted  
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32 belief with respect to such allegation.

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34 constitute an admission of the allegations contained in

1 the complaint.

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3 answer, upon leave of the hearing officer, for good cause  
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7 complainant or respondent is a poor person, and unable to  
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9 expenses thereof, the hearing officer may permit the  
10 party to commence and prosecute or defend the action as a  
11 poor person. Such party shall have all the necessary  
12 subpoenas, appearances, and proceedings without  
13 prepayment of witness fees or charges. Witnesses shall  
14 attend as in other cases under this Act and the same  
15 remedies shall be available for failure or refusal to  
16 obey the subpoena as are provided for in Section 8-104 of  
17 this Act.

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19 fees or charges shall file with the hearing officer an  
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21 pay costs, and that the action is meritorious.

22 (G) Discovery. The procedures for obtaining discovery  
23 of information from parties and witnesses shall be specified  
24 by the Commission in rules. If no rule has been promulgated  
25 by the Commission on a particular type of discovery, the Code  
26 of Civil Procedure may be considered persuasive authority.  
27 The types of discovery shall be the same as in civil cases in  
28 the circuit courts of this State, provided, however, that a  
29 party may take discovery depositions only upon leave of the  
30 hearing officer and for good cause shown.

31 (H) Hearing.

32 (1) The Department and the respondent shall be  
33 parties in hearings under this Article. The Department  
34 shall seek appropriate relief for the complainant and



1 vindication of the public interest. Any complainant may  
2 intervene as a party. All parties have the right to  
3 examine and cross examine witnesses.

4 (2) The testimony taken at the hearing shall be  
5 under oath or affirmation and a transcript shall be made  
6 and filed in the office of the Commission.

7 (3) The testimony taken at the hearing is subject  
8 to the same rules of evidence that apply in courts of  
9 this State in civil cases.

10 (I) Compelling Appearance of Parties at Hearing. The  
11 appearance at the hearing of a party or a person who at the  
12 time of the hearing is an officer, director, or employee of a  
13 party may be required by serving the party with a notice  
14 designating the person who is required to appear. The notice  
15 also may require the production at the hearing of documents  
16 or tangible things. If the party or person is a nonresident  
17 of the county, the hearing officer may order any terms and  
18 conditions in connection with his appearance at the hearing  
19 that are just, including payment of his reasonable expenses.  
20 Upon a failure to comply with the notice, the hearing officer  
21 may enter any order that is just.

22 (J) Decision.

23 (1) When all the testimony has been taken, the  
24 hearing officer shall determine whether the respondent  
25 has engaged in or is engaging in the civil rights  
26 violation with respect to the aggrieved party as charged  
27 in the complaint. A determination sustaining a complaint  
28 shall be based upon a preponderance of the evidence.

29 (2) The hearing officer shall make findings of fact  
30 in writing and, if the finding is against the respondent,  
31 shall issue and cause to be served on the parties and the  
32 Department a recommended order for appropriate relief as  
33 provided by this Act.

34 (3) If, upon all the evidence, the hearing officer

1 finds that a respondent has not engaged in the civil  
 2 rights violation charged in the complaint or that a  
 3 preponderance of the evidence does not sustain the  
 4 complaint, he shall state his findings of fact and shall  
 5 issue and cause to be served on the parties and the  
 6 Department a recommended order dismissing the complaint.

7 (4) The findings and recommended order of the  
 8 hearing officer shall be filed with the Commission. The  
 9 findings and recommended order may need-not be authored  
 10 by a hearing officer other than the hearing officer who  
 11 presides at the public hearing if:

12 (a) the hearing officer who presides at the  
 13 public hearing is unable to author the findings and  
 14 recommended order by reason of death, disability, or  
 15 separation from employment; and

16 (b) (a) all parties to a complaint file a  
 17 joint motion agreeing agree to have the findings and  
 18 recommended order decision written by a hearing  
 19 officer who did not preside at the public hearing.;

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27 (5) The hearing officer may issue a recommended  
 28 order of dismissal with prejudice or a recommended order  
 29 of default as a sanction for the failure of a party to  
 30 prosecute his or her case, file a required pleading,  
 31 appear at a hearing, or otherwise comply with this Act,  
 32 the rules of the Commission, or a previous order of the  
 33 hearing officer.

34 (K) Effect of Trial of Civil Action on Administrative

1 Proceedings. A hearing officer shall not proceed with any  
2 administrative proceedings under this Section after the  
3 filing of a civil action by or on behalf of the aggrieved  
4 party under federal or State law seeking relief with respect  
5 to the alleged civil rights violation.

6 (Source: P.A. 89-370, eff. 8-18-95.)