

# Recent Employee-Friendly Amendments to the Illinois Human Rights Act Include Updated Posting and Handbook Requirements

November 20, 2018



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The amendments are found in Public Acts [100-0588](#) and [100-1066](#), which Governor Bruce Rauner signed on June 8 and August 24, 2018, respectively, and took effect upon their enactment. Employers may want to take note of the following key changes:

*A longer time period for employees and applicants to file charges*

Historically, complainants have had up to 180 days after experiencing unlawful discrimination or harassment to file a complaint with the Illinois Department of Human Rights (IDHR). Under the 2018

amendments, complainants now have up to 300 days to file a charge with the IDHR. This change mirrors the filing period provided under federal law for filing discrimination charges with the Equal Employment Opportunity Commission. It effectively closes a limitations period loophole for complainants seeking to bring certain kinds of claims that are covered by the IHRA but not by federal antidiscrimination laws, including sexual harassment claims against managers and supervisors and retaliation and disability discrimination claims against employers with just one employee. The new language is incorporated into 775 ILCS 5/7A-102(A).

#### *An employee's right to opt out of IDHR's investigation process*

Historically, employees and applicants have filed administrative charges with the IDHR, and the agency then assigns the charge to an investigator who conducts a factual investigation. Under the amendments, a complainant may opt out of the IDHR's investigative process, bypassing the administrative agency to bring suit in state court. To opt out, the complainant must submit a written request to opt out to the IDHR within 60 days after receiving notice from the IDHR of his or her right to opt out, and the IDHR has 10 business days thereafter to issue a notice of right to sue, allowing the complainant to file suit in state court. Similar to the processes under the federal antidiscrimination laws, the employer must be copied on the IDHR's issuance of the notice of right to sue, and a complainant with an IDHR notice of right to sue must bring suit within 90 days of receiving the notice. The new language is incorporated into 775 ILCS 5/7A-102(B).

#### *Updated posting and handbook requirements*

The amendments update the posting and notice requirements of the IHRA to include specific information about employee rights to be free from sexual harassment. Public Act 100-0588 amends the IHRA at 775 ILCS 5/2-102(K) and directs that employers must post the notice issued by IDHR and, importantly, include the same content covered in the notice in their employee handbooks. The new notice became available in September 2018 and is titled [“You Have the Right to Be Free From Job Discrimination and Sexual Harassment.”](#)

Because the IHRA applies to employers with one or more employees in cases involving allegations of sexual harassment, disability discrimination, pregnancy discrimination, and retaliation, the new posting and handbook requirements extend to all employers operating in the state of Illinois.

Illinois employers may want to review their discrimination and harassment policies to ensure that they are compliant with the updated requirements and immediately post the new notice.

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