

The Illinois Human Rights Act is Amended: Increased Filing Timeframes, Opt-Out Provisions, and a Restructured Commission. Oh, My!

Labor & Employment Law Update

By Julie Proscia on August 29, 2018

On August 24, 2018 Governor Rauner signed PA 100-1066 into law thereby amending the Illinois Human Rights Act which revamps, and sometimes streamlines, discrimination complaints on the state level. This legislation, effective immediately, comes after months of hearings and recommendations from both the Senate and House Task Forces on Sexual Misconduct. I have had the privilege of sitting on the Illinois Task Force on Sexual Misconduct and take this opportunity to report on these amendments. During the course of the hearings, the Task Force heard testimony from business organizations, individual plaintiffs, and stakeholders regarding their concerns related to the current administrative system. The core discussions focused on changes that would give individuals the right to opt out of the administrative process, create parity between the filing of claims at the EEOC and the Illinois Department of Human Rights, and reduce the backlog of cases before the Illinois Human Rights Commission. The most significant amendments are:

- The Illinois Human Rights Act is amended to increase the time frame that individuals have to file a charge, from 180 to 300 calendar days, from the date of the alleged civil rights violation;
- Sets forth opt out provisions in which an individual may, within 60 days of filing a complaint with the Illinois Department of Human Rights, opt out of an investigation at the Illinois Department of Human Rights and proceed to circuit court; and
- Restructures the Illinois Human Rights Commission in order to decrease the backlog of cases and theoretically prevent a backlog from occurring in the future. Effective January 2019, the Commission will, amongst other initiatives, be comprised of 7 full time members, as opposed to 13 part-time members, with dedicated staff attorneys and training for newly appointed commissioners.

So what does this mean for employers? Some good, some bad, and some neutral. The change from 180 to 300 calendar days is not a significant change, although on the surface it appears to be. In the State of Illinois, an individual currently has, even before the new legislation, 300 calendar days from the date of alleged harm to file a charge with the EEOC. As such, the new legislation creates parity in deadlines for filing between the state and its federal administrative counterpart. The inclusion of opt out provisions can potentially increase the flow of discrimination litigation away from the administrative system, while the restructuring of the Commission is designed to decrease congestion. In either scenario or design, prevention prior to this level of escalation is paramount. Good policies, procedures, and annual training can reduce the likelihood of having to test the new amendments.

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