

AN ACT concerning employment.

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

Article 1.

Section 1-5. The Illinois Human Rights Act is amended by changing Section 1-103 and by adding Section 2-103.1 as follows:

(775 ILCS 5/1-103) (from Ch. 68, par. 1-103)

Sec. 1-103. General definitions. When used in this Act, unless the context requires otherwise, the term:

(A) Age. "Age" means the chronological age of a person who is at least 40 years old, except with regard to any practice described in Section 2-102, insofar as that practice concerns training or apprenticeship programs. In the case of training or apprenticeship programs, for the purposes of Section 2-102, "age" means the chronological age of a person who is 18 but not yet 40 years old.

(B) Aggrieved party. "Aggrieved party" means a person who is alleged or proved to have been injured by a civil rights violation or believes he or she will be injured by a civil rights violation under Article 3 that is about to occur.

(B-5) Arrest record. "Arrest record" means:

- (1) an arrest not leading to a conviction;
- (2) a juvenile record; or
- (3) criminal history record information ordered expunged, sealed, or impounded under Section 5.2 of the Criminal Identification Act.

(C) Charge. "Charge" means an allegation filed with the Department by an aggrieved party or initiated by the Department under its authority.

(D) Civil rights violation. "Civil rights violation" includes and shall be limited to only those specific acts set forth in Sections 2-102, 2-103, 2-105, 3-102, 3-102.1, 3-103, 3-104, 3-104.1, 3-105, 3-105.1, 4-102, 4-103, 5-102, 5A-102, 6-101, and 6-102 of this Act.

(E) Commission. "Commission" means the Human Rights Commission created by this Act.

(F) Complaint. "Complaint" means the formal pleading filed by the Department with the Commission following an investigation and finding of substantial evidence of a civil rights violation.

(G) Complainant. "Complainant" means a person including the Department who files a charge of civil rights violation with the Department or the Commission.

(G-5) Conviction record. "Conviction record" means information indicating that a person has been convicted of a felony, misdemeanor or other criminal offense, placed on probation, fined, imprisoned, or paroled pursuant to any law

enforcement or military authority.

(H) Department. "Department" means the Department of Human Rights created by this Act.

(I) Disability. "Disability" means a determinable physical or mental characteristic of a person, including, but not limited to, a determinable physical characteristic which necessitates the person's use of a guide, hearing or support dog, the history of such characteristic, or the perception of such characteristic by the person complained against, which may result from disease, injury, congenital condition of birth or functional disorder and which characteristic:

(1) For purposes of Article 2, is unrelated to the person's ability to perform the duties of a particular job or position and, pursuant to Section 2-104 of this Act, a person's illegal use of drugs or alcohol is not a disability;

(2) For purposes of Article 3, is unrelated to the person's ability to acquire, rent, or maintain a housing accommodation;

(3) For purposes of Article 4, is unrelated to a person's ability to repay;

(4) For purposes of Article 5, is unrelated to a person's ability to utilize and benefit from a place of public accommodation;

(5) For purposes of Article 5, also includes any mental, psychological, or developmental disability,

including autism spectrum disorders.

(J) Marital status. "Marital status" means the legal status of being married, single, separated, divorced, or widowed.

(J-1) Military status. "Military status" means a person's status on active duty in or status as a veteran of the armed forces of the United States, status as a current member or veteran of any reserve component of the armed forces of the United States, including the United States Army Reserve, United States Marine Corps Reserve, United States Navy Reserve, United States Air Force Reserve, and United States Coast Guard Reserve, or status as a current member or veteran of the Illinois Army National Guard or Illinois Air National Guard.

(K) National origin. "National origin" means the place in which a person or one of his or her ancestors was born.

(K-5) "Order of protection status" means a person's status as being a person protected under an order of protection issued pursuant to the Illinois Domestic Violence Act of 1986, Article 112A of the Code of Criminal Procedure of 1963, the Stalking No Contact Order Act, or the Civil No Contact Order Act, or an order of protection issued by a court of another state.

(L) Person. "Person" includes one or more individuals, partnerships, associations or organizations, labor organizations, labor unions, joint apprenticeship committees, or union labor associations, corporations, the State of Illinois and its instrumentalities, political subdivisions, units of local government, legal representatives, trustees in

bankruptcy or receivers.

(L-5) Pregnancy. "Pregnancy" means pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth.

(M) Public contract. "Public contract" includes every contract to which the State, any of its political subdivisions, or any municipal corporation is a party.

(N) Religion. "Religion" includes all aspects of religious observance and practice, as well as belief, except that with respect to employers, for the purposes of Article 2, "religion" has the meaning ascribed to it in paragraph (F) of Section 2-101.

(O) Sex. "Sex" means the status of being male or female.

(O-1) Sexual orientation. "Sexual orientation" means actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity, whether or not traditionally associated with the person's designated sex at birth. "Sexual orientation" does not include a physical or sexual attraction to a minor by an adult.

(P) Unfavorable military discharge. "Unfavorable military discharge" includes discharges from the Armed Forces of the United States, their Reserve components, or any National Guard or Naval Militia which are classified as RE-3 or the equivalent thereof, but does not include those characterized as RE-4 or "Dishonorable".

(Q) Unlawful discrimination. "Unlawful discrimination"

means discrimination against a person because of his or her actual or perceived: race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service as those terms are defined in this Section.

(Source: P.A. 100-714, eff. 1-1-19; 101-81, eff. 7-12-19; 101-221, eff. 1-1-20; 101-565, eff. 1-1-20; revised 9-18-19.)

(775 ILCS 5/2-103.1 new)

Sec. 2-103.1. Conviction record.

(A) Unless otherwise authorized by law, it is a civil rights violation for any employer, employment agency or labor organization to use a conviction record, as defined under subsection (G-5) of Section 1-103, as a basis to refuse to hire, to segregate, or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges or conditions of employment (whether "disqualification" or "adverse action"), unless:

(1) there is a substantial relationship between one or more of the previous criminal offenses and the employment sought or held; or

(2) the granting or continuation of the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general

public.

For the purposes of this subsection (A), "substantial relationship" means a consideration of whether the employment position offers the opportunity for the same or a similar offense to occur and whether the circumstances leading to the conduct for which the person was convicted will recur in the employment position.

(B) Factors considered. In making a determination pursuant to subsection (A), the employer shall consider the following factors:

(1) the length of time since the conviction;

(2) the number of convictions that appear on the conviction record;

(3) the nature and severity of the conviction and its relationship to the safety and security of others;

(4) the facts or circumstances surrounding the conviction;

(5) the age of the employee at the time of the conviction; and

(6) evidence of rehabilitation efforts.

(C) Interactive assessment required for disqualifying conviction. If, after considering the mitigating factors in subsection (B), the employer makes a preliminary decision that the employee's conviction record disqualifies the employee, the employer shall notify the employee of this preliminary decision in writing.

(1) Notification. The notification shall contain all of the following:

(a) notice of the disqualifying conviction or convictions that are the basis for the preliminary decision and the employer's reasoning for the disqualification;

(b) a copy of the conviction history report, if any; and

(c) an explanation of the employee's right to respond to the notice of the employer's preliminary decision before that decision becomes final. The explanation shall inform the employee that the response may include, but is not limited to, submission of evidence challenging the accuracy of the conviction record that is the basis for the disqualification, or evidence in mitigation, such as rehabilitation.

(2) Employee response. The employee shall have at least 5 business days to respond to the notification provided to the employee before the employer may make a final decision.

(3) Final decision. The employer shall consider information submitted by the employee before making a final decision. If an employer makes a final decision to disqualify or take an adverse action solely or in part because of the employee's conviction record, the employer shall notify the employee in writing of the following:

(a) notice of the disqualifying conviction or

convictions that are the basis for the final decision and the employer's reasoning for the disqualification;

(b) any existing procedure the employer has for the employee to challenge the decision or request reconsideration; and

(c) the right to file a charge with the Department.

Article 5.

Section 5-5. The Business Corporation Act of 1983 is amended by changing Section 14.05 as follows:

(805 ILCS 5/14.05) (from Ch. 32, par. 14.05)

Sec. 14.05. Annual report of domestic or foreign corporation. Each domestic corporation organized under any general law or special act of this State authorizing the corporation to issue shares, other than homestead associations, building and loan associations, banks and insurance companies (which includes a syndicate or limited syndicate regulated under Article V 1/2 of the Illinois Insurance Code or member of a group of underwriters regulated under Article V of that Code), and each foreign corporation (except members of a group of underwriters regulated under Article V of the Illinois Insurance Code) authorized to transact business in this State, shall file, within the time prescribed by this Act, an annual report setting forth:

(a) The name of the corporation.

(b) The address, including street and number, or rural route number, of its registered office in this State, and the name of its registered agent at that address.

(c) The address, including street and number, or rural route number, of its principal office.

(d) The names and respective addresses, including street and number, or rural route number, of its directors and officers.

(e) A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes and series, if any, within a class.

(f) A statement of the aggregate number of issued shares, itemized by classes, and series, if any, within a class.

(g) A statement, expressed in dollars, of the amount of paid-in capital of the corporation as defined in this Act.

(h) Either a statement that (1) all the property of the corporation is located in this State and all of its business is transacted at or from places of business in this State, or the corporation elects to pay the annual franchise tax on the basis of its entire paid-in capital, or (2) a statement, expressed in dollars, of the value of all the property owned by the corporation, wherever located, and the value of the property located within this State, and a statement, expressed in dollars, of the gross

amount of business transacted by the corporation and the gross amount thereof transacted by the corporation at or from places of business in this State as of the close of its fiscal year on or immediately preceding the last day of the third month prior to the anniversary month or in the case of a corporation which has established an extended filing month, as of the close of its fiscal year on or immediately preceding the last day of the third month prior to the extended filing month; however, in the case of a domestic corporation that has not completed its first fiscal year, the statement with respect to property owned shall be as of the last day of the third month preceding the anniversary month and the statement with respect to business transacted shall be furnished for the period between the date of incorporation and the last day of the third month preceding the anniversary month. In the case of a foreign corporation that has not been authorized to transact business in this State for a period of 12 months and has not commenced transacting business prior to obtaining authority, the statement with respect to property owned shall be as of the last day of the third month preceding the anniversary month and the statement with respect to business transacted shall be furnished for the period between the date of its authorization to transact business in this State and the last day of the third month preceding the anniversary month. If the data

referenced in item (2) of this subsection is not completed, the franchise tax provided for in this Act shall be computed on the basis of the entire paid-in capital.

(i) A statement, including the basis therefor, of status as a "minority-owned business" or as a "women-owned business" as those terms are defined in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act.

(j) Additional information as may be necessary or appropriate in order to enable the Secretary of State to administer this Act and to verify the proper amount of fees and franchise taxes payable by the corporation.

(k) A statement of whether the corporation or foreign corporation has outstanding shares listed on a major United States stock exchange and is thereby subject to the reporting requirements of Section 8.12.

(l) For those corporations subject to Section 8.12, a statement providing the information required under Section 8.12.

(m) For those corporations required to file an Employer Information Report EEO-1 with the Equal Employment Opportunity Commission, information that is substantially similar to the employment data reported under Section D of the corporation's EEO-1 in a format approved by the Secretary of State. For each corporation that submits data under this paragraph, the Secretary of State shall publish

the data on the gender, race, and ethnicity of each corporation's employees on the Secretary of State's official website. The Secretary of State shall publish such information within 90 days of receipt of a properly filed annual report or as soon thereafter as practicable.

The annual report shall be made on forms prescribed and furnished by the Secretary of State, and the information therein required by paragraphs (a) through (d), both inclusive, of this Section, shall be given as of the date of the execution of the annual report and the information therein required by paragraphs (e), (f), and (g) of this Section shall be given as of the last day of the third month preceding the anniversary month, except that the information required by paragraphs (e), (f), and (g) shall, in the case of a corporation which has established an extended filing month, be given in its final transition annual report and each subsequent annual report as of the close of its fiscal year on or immediately preceding the last day of the third month prior to its extended filing month. The information required by paragraph (m) shall be included in the corporation's annual report filed on and after January 1, 2023. It shall be executed by the corporation by its president, a vice-president, secretary, assistant secretary, treasurer or other officer duly authorized by the board of directors of the corporation to execute those reports, and verified by him or her, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation and

verified by the receiver or trustee.

(Source: P.A. 100-391, eff. 8-25-17; 100-486, eff. 1-1-18; 100-863, eff. 8-14-18; 101-589, eff. 8-27-19.)

Article 10.

Section 10-1. The Freedom of Information Act is amended by changing Section 7.5 as follows:

(5 ILCS 140/7.5)

Sec. 7.5. Statutory exemptions. To the extent provided for by the statutes referenced below, the following shall be exempt from inspection and copying:

(a) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.

(b) Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act.

(c) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(d) Information and records held by the Department of

Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(e) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(f) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(g) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.

(h) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act, and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.

(i) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(j) Information and data concerning the distribution of surcharge moneys collected and remitted by carriers under the Emergency Telephone System Act.

(k) Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(l) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.

(m) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.

(n) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act. This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

(o) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.

(p) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of

the Regional Transportation Authority Act or the St. Clair County Transit District under the Bi-State Transit Safety Act.

(q) Information prohibited from being disclosed by the Personnel Record Review Act.

(r) Information prohibited from being disclosed by the Illinois School Student Records Act.

(s) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

(t) All identified or deidentified health information in the form of health data or medical records contained in, stored in, submitted to, transferred by, or released from the Illinois Health Information Exchange, and identified or deidentified health information in the form of health data and medical records of the Illinois Health Information Exchange in the possession of the Illinois Health Information Exchange Office due to its administration of the Illinois Health Information Exchange. The terms "identified" and "deidentified" shall be given the same meaning as in the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, or any subsequent amendments thereto, and any regulations promulgated thereunder.

(u) Records and information provided to an independent team of experts under the Developmental Disability and Mental Health Safety Act (also known as Brian's Law).

(v) Names and information of people who have applied for or received Firearm Owner's Identification Cards under the Firearm Owners Identification Card Act or applied for or received a concealed carry license under the Firearm Concealed Carry Act, unless otherwise authorized by the Firearm Concealed Carry Act; and databases under the Firearm Concealed Carry Act, records of the Concealed Carry Licensing Review Board under the Firearm Concealed Carry Act, and law enforcement agency objections under the Firearm Concealed Carry Act.

(w) Personally identifiable information which is exempted from disclosure under subsection (g) of Section 19.1 of the Toll Highway Act.

(x) Information which is exempted from disclosure under Section 5-1014.3 of the Counties Code or Section 8-11-21 of the Illinois Municipal Code.

(y) Confidential information under the Adult Protective Services Act and its predecessor enabling statute, the Elder Abuse and Neglect Act, including information about the identity and administrative finding against any caregiver of a verified and substantiated decision of abuse, neglect, or financial exploitation of an eligible adult maintained in the Registry established under Section 7.5 of the Adult Protective Services Act.

(z) Records and information provided to a fatality review team or the Illinois Fatality Review Team Advisory

Council under Section 15 of the Adult Protective Services Act.

(aa) Information which is exempted from disclosure under Section 2.37 of the Wildlife Code.

(bb) Information which is or was prohibited from disclosure by the Juvenile Court Act of 1987.

(cc) Recordings made under the Law Enforcement Officer-Worn Body Camera Act, except to the extent authorized under that Act.

(dd) Information that is prohibited from being disclosed under Section 45 of the Condominium and Common Interest Community Ombudsperson Act.

(ee) Information that is exempted from disclosure under Section 30.1 of the Pharmacy Practice Act.

(ff) Information that is exempted from disclosure under the Revised Uniform Unclaimed Property Act.

(gg) Information that is prohibited from being disclosed under Section 7-603.5 of the Illinois Vehicle Code.

(hh) Records that are exempt from disclosure under Section 1A-16.7 of the Election Code.

(ii) Information which is exempted from disclosure under Section 2505-800 of the Department of Revenue Law of the Civil Administrative Code of Illinois.

(jj) Information and reports that are required to be submitted to the Department of Labor by registering day and

temporary labor service agencies but are exempt from disclosure under subsection (a-1) of Section 45 of the Day and Temporary Labor Services Act.

(kk) Information prohibited from disclosure under the Seizure and Forfeiture Reporting Act.

(ll) Information the disclosure of which is restricted and exempted under Section 5-30.8 of the Illinois Public Aid Code.

(mm) Records that are exempt from disclosure under Section 4.2 of the Crime Victims Compensation Act.

(nn) Information that is exempt from disclosure under Section 70 of the Higher Education Student Assistance Act.

(oo) Communications, notes, records, and reports arising out of a peer support counseling session prohibited from disclosure under the First Responders Suicide Prevention Act.

(pp) Names and all identifying information relating to an employee of an emergency services provider or law enforcement agency under the First Responders Suicide Prevention Act.

(qq) Information and records held by the Department of Public Health and its authorized representatives collected under the Reproductive Health Act.

(rr) Information that is exempt from disclosure under the Cannabis Regulation and Tax Act.

(ss) Data reported by an employer to the Department of

Human Rights pursuant to Section 2-108 of the Illinois Human Rights Act.

(tt) Recordings made under the Children's Advocacy Center Act, except to the extent authorized under that Act.

(uu) Information that is exempt from disclosure under Section 50 of the Sexual Assault Evidence Submission Act.

(vv) Information that is exempt from disclosure under subsections (f) and (j) of Section 5-36 of the Illinois Public Aid Code.

(ww) Information that is exempt from disclosure under Section 16.8 of the State Treasurer Act.

(xx) Information that is exempt from disclosure or information that shall not be made public under the Illinois Insurance Code.

(yy) Information prohibited from being disclosed under the Illinois Educational Labor Relations Act.

(zz) Information prohibited from being disclosed under the Illinois Public Labor Relations Act.

(aaa) Information prohibited from being disclosed under Section 1-167 of the Illinois Pension Code.

(bbb) Information that is exempt from disclosure under subsection (k) of Section 11 of the Equal Pay Act of 2003.

(Source: P.A. 100-20, eff. 7-1-17; 100-22, eff. 1-1-18; 100-201, eff. 8-18-17; 100-373, eff. 1-1-18; 100-464, eff. 8-28-17; 100-465, eff. 8-31-17; 100-512, eff. 7-1-18; 100-517, eff. 6-1-18; 100-646, eff. 7-27-18; 100-690, eff. 1-1-19;

100-863, eff. 8-14-18; 100-887, eff. 8-14-18; 101-13, eff. 6-12-19; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19; 101-221, eff. 1-1-20; 101-236, eff. 1-1-20; 101-375, eff. 8-16-19; 101-377, eff. 8-16-19; 101-452, eff. 1-1-20; 101-466, eff. 1-1-20; 101-600, eff. 12-6-19; 101-620, eff. 12-20-19; 101-649, eff. 7-7-20.)

Section 10-5. The State Finance Act is amended by adding Section 5.935 as follows:

(30 ILCS 105/5.935 new)

Sec. 5.935. The Equal Pay Registration Fund.

Section 10-10. The Equal Pay Act of 2003 is amended by adding Section 11 as follows:

(820 ILCS 112/11 new)

Sec. 11. Equal pay registration certificate requirements; application.

For the purposes of this Section 11 only, "business" means any private employer who has more than 100 employees in the State of Illinois, and does not include the State of Illinois or any political subdivision, municipal corporation, or other governmental unit or agency.

(a) A business must obtain an equal pay registration certificate from the Department or certify in writing that it

is exempt.

(b) Any business subject to the requirements of this Section that is authorized to transact business in this State on the effective date of this amendatory Act of the 101st General Assembly must obtain an equal pay registration certificate within 3 years after the effective date of this amendatory Act of the 101st General Assembly and must recertify every 2 years thereafter. Any business subject to the requirements of this Section that is authorized to transact business in this State after the effective date of this amendatory Act of the 101st General Assembly must obtain an equal pay registration certificate within 3 years of commencing business operations and must recertify every 2 years thereafter.

(c) Application.

(1) A business shall apply for an equal pay registration certificate by paying a \$150 filing fee and submitting an equal pay compliance statement to the Director. Any business that is required to file an annual Employer Information Report EEO-1 with the Equal Employment Opportunity Commission must also submit to the Director a copy of the business's most recently filed Employer Information Report EEO-1 for each county in which the business has a facility or employees. The business shall also compile, from records maintained and available, a list of all employees during the past calendar year,

separated by gender and the race and ethnicity categories as reported in the business's most recently filed Employer Information Report EEO-1, and report the total wages as defined by Section 2 of the Illinois Wage Payment and Collection Act paid to each employee during the past calendar year, rounded to the nearest hundred dollar, to the Director. The proceeds from the fees collected under this Section shall be deposited into the Equal Pay Registration Fund, a special fund created in the State treasury. Moneys in the Fund shall be appropriated to the Department for the purposes of this Section. The Director shall issue an equal pay registration certificate to a business that submits to the Director a statement signed by a corporate officer, legal counsel, or authorized agent of the business:

(A) that the business is in compliance with Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, the Illinois Human Rights Act, the Equal Wage Act, and the Equal Pay Act of 2003;

(B) that the average compensation for its female and minority employees is not consistently below the average compensation, as determined by rule by the United States Department of Labor, for its male and non-minority employees within each of the major job categories in the Employer Information Report EEO-1 for which an employee is expected to perform work under

the contract, taking into account factors such as length of service, requirements of specific jobs, experience, skill, effort, responsibility, working conditions of the job, or other mitigating factors; as used in this subparagraph, "minority" has the meaning ascribed to that term in paragraph (1) of subsection (A) of Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act;

(C) that the business does not restrict employees of one sex to certain job classifications and makes retention and promotion decisions without regard to sex;

(D) that wage and benefit disparities are corrected when identified to ensure compliance with the Acts cited in subparagraph (A) and with subparagraph (B); and

(E) how often wages and benefits are evaluated to ensure compliance with the Acts cited in subparagraph (A) and with subparagraph (B).

(2) The equal pay compliance statement shall also indicate whether the business, in setting compensation and benefits, utilizes:

(A) a market pricing approach;

(B) State prevailing wage or union contract requirements;

(C) a performance pay system;

(D) an internal analysis; or

(E) an alternative approach to determine what level of wages and benefits to pay its employees. If the business uses an alternative approach, the business must provide a description of its approach.

(3) Receipt of the equal pay compliance statement by the Director does not establish compliance with the Acts set forth in subparagraph (A).

A business that has employees in multiple locations or facilities in Illinois shall submit a single application to the Department regarding all of its operations in Illinois.

(d) Issuance or rejection of registration certificate. The Director must issue an equal pay registration certificate, or a statement of why the application was rejected, within 45 calendar days of receipt of the application. An application may be rejected only if it does not comply with the requirements of subsection (c). The receipt of an application by the Department, or the issuance of a registration certificate by the Department, shall not establish compliance of the Equal Pay Act of 2003 as to all Sections except Section 11. The issuance of a registration certificate shall not be a defense against any Equal Pay Act violation found by the Department, nor a basis for mitigation of damages.

(e) Revocation of registration certificate. An equal pay registration certificate for a business may be suspended or revoked by the Director when the business fails to make a good

faith effort to comply with the Acts identified in subparagraph (A) of paragraph (1) of subsection (c), fails to make a good faith effort to comply with this Section, or has multiple violations of this Section or the Acts identified in subparagraph (A) of paragraph (1) of subsection (c). Prior to suspending or revoking a registration certificate, the Director must first have sought to conciliate with the business regarding wages and benefits due to employees.

The Director, or his or her authorized representative, may interview workers, administer oaths, take or cause to be taken the depositions of witnesses, and require by subpoena the attendance and testimony of witnesses, and the production of all books, records, and other evidence relative to the matter under investigation or hearing. Such subpoena shall be signed and issued by the Director or his or her authorized representative.

Upon request by the Director or his or her deputies or agents, records shall be copied and submitted for evidence at no cost to the Department. Every employer upon request shall furnish to the Director or his or her authorized representative, on demand, a sworn statement of the accuracy of the records. Any employer who refuses to furnish a sworn statement of the records is in violation of this Act.

In case of failure of any person to comply with any subpoena lawfully issued under this Section or on the refusal of any witness to produce evidence or to testify to any matter

regarding which he or she may be lawfully interrogated, it is the duty of any circuit court, upon application of the Director or his or her authorized representative, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by such court or a refusal to testify therein. The Director may certify to official acts.

Neither the Department nor the Director shall be held liable for good faith errors in issuing, denying, suspending or revoking certificates.

(f) Administrative review.

(1) A business may obtain an administrative hearing in accordance with the Illinois Administrative Procedure Act before the suspension or revocation of its certificate is effective by filing a written request for hearing within 20 calendar days after service of notice by the Director.

(2) A business may obtain an administrative hearing in accordance with the Illinois Administrative Procedure Act before the contract award entity's abridgement or termination of a contract is effective by filing a written request for a hearing 20 calendar days after service of notice by the contract award entity.

(g) Technical assistance. The Director must provide technical assistance to any business that requests assistance regarding this Section.

(h) Audit. The Director may audit the business's compliance with this Section. As part of an audit, upon request, a

business must provide the Director the following information with respect to employees expected to perform work under the contract in each of the major job categories in the Employer Information Report EEO-1:

(1) number of male employees;

(2) number of female employees;

(3) average annualized salaries paid to male employees and to female employees, in the manner most consistent with the employer's compensation system, within each major job category;

(4) information on performance payments, benefits, or other elements of compensation, in the manner most consistent with the employer's compensation system, if requested by the Director as part of a determination as to whether these elements of compensation are different for male and female employees;

(5) average length of service for male and female employees in each major job category; and

(6) other information identified by the business or by the Director, as needed, to determine compliance with items specified in paragraph (1) of subsection (c).

(i) Access to data. Data submitted to the Director related to equal pay registration certificates or otherwise provided by an employer in its equal pay compliance statement under subsection (c) are private data on individuals or nonpublic data with respect to persons other than Department employees.

The Director's decision to issue, not issue, revoke, or suspend an equal pay registration certificate is public data.

(j) Penalty. The Department shall impose on any business that does not obtain an equal pay registration certificate as required under this Section, or whose equal pay registration certificate is suspended or revoked after a Department investigation, a civil penalty in an amount equal to 1% of the business's gross profits.

Falsification or misrepresentation of information on an application submitted to the Department shall constitute a violation of this Act.

(k) Whistleblower protection. As used in this subsection, "retaliatory action" means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms and conditions of employment of any employee of a business that is taken in retaliation for the employee's involvement in a protected activity.

(1) A business shall not take any retaliatory action against an employee of the business because the employee does any of the following:

(A) Discloses or threatens to disclose to a supervisor or to a public body an activity, inaction, policy, or practice implemented by a business that the employee reasonably believes is in violation of a law, rule, or regulation.

(B) Provides information to or testifies before

any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by a nursing home administrator.

(C) Assists or participates in a proceeding to enforce the provisions of this Act.

(2) A violation of this subsection (k) may be established only upon a finding that (i) the employee of the business engaged in conduct described in paragraph (1) of this subsection and (ii) this conduct was a contributing factor in the retaliatory action alleged by the employee. There is no violation of this Section, however, if the business demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of that conduct.

(3) The employee of the business may be awarded all remedies necessary to make the employee whole and to prevent future violations of this Section. Remedies imposed by the court may include, but are not limited to, all of the following:

(A) Reinstatement of the employee to either the same position held before the retaliatory action or to an equivalent position.

(B) Two times the amount of back pay.

(C) Interest on the back pay.

(D) Reinstatement of full fringe benefits and seniority rights.

(E) Payment of reasonable costs and attorney's fees.

(4) Nothing in this Section shall be deemed to diminish the rights, privileges, or remedies of an employee of a business under any other federal or State law, rule, or regulation or under any employment contract.

Article 99.

Section 99-99. Effective date. This Act takes effect upon becoming law.