



## Don't Forget: New Procedures For Illinois Charges Of Discrimination

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On Aug. 24, the [Illinois Human Rights Act \(IHRA\)](#) was amended to increase filing timeframes, allow for employee opt-out provisions, and modify the structure of the Illinois Human Rights Commission. These amendments significantly altered the charge-filing process for employees on the state level.

### More Time to File

Employees now have 300 calendar days from the date of the alleged discriminatory act to file a charge of discrimination with the Illinois Department of Human Rights (IDHR) under the IHRA, as opposed to 180 days.

This amendment mirrors the timeframe that employees within the state of Illinois have to file a charge with the IDHR's federal counterpart, the Equal Employment Opportunity Commission (EEOC). Note that if a charge is filed with the EEOC within 300 days of the date of the alleged discriminatory acts, the charge will be considered filed with the IDHR on the same date.

### Opportunity to Opt Out

Employees who have filed a charge now have the opportunity to opt out of the IDHR's investigation procedures, and proceed directly into Illinois state circuit courts. Pursuant to the new amendments, keep the following timetable in mind:

- **10 days:** Within 10 days of the employee's filed charge, the IDHR must send an employee notice of his or her right to opt out of the investigation and commence a civil action in state court.

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- **60 days:** Within 60 days of this notice, the employee may submit a written request to opt out of the IDHR's investigation process.
- **10 days:** Within 10 business days, the IDHR must respond to the employee's opt-out request, and notify the employer that the employee has opted out.
- **90 days:** Within 90 days of the IDHR's response, the employee must commence an action in circuit court.

## Fewer Commission Members

To manage the backlog of charges and increase the efficiency of the administrative process, the Illinois Human Rights Commission will now be comprised of seven full-time members, instead of 13 part-time members. The members will be appointed by the governor, with no more than four members from any one party. Note that the current members will remain in their positions until January 1, 2019.

So what does this mean for employers?

Employees in Illinois now have the convenience of bypassing the IDHR's prolonged investigation procedures and quickly filing claims in state court, which can be more costly and time-consuming for employers.

In addition, the extended charge-filing deadlines may result in more claims that are covered under the IHRA and not federal law; and may significantly increase the charges that are filed with the IDHR, as opposed to the EEOC, resulting in increased state court litigation. [See the full text of the amendments.](#)