

FINAL REPORT

Civil Rights Laws in Iowa Study Committee

January 1991

AUTHORIZATION AND APPOINTMENT

The Civil Rights Laws in Iowa Study Committee was established by the Legislative Council and directed to study the ability of existing agencies across the state to resolve civil rights complaints initiated under current laws and recommend ways to expedite case resolution. In addition, the Study Committee was instructed to examine the possibility of improving cooperation among local, state, and federal agencies, and recommend legislation to conform to new federal enactments such as the federal Fair Housing Act of 1988. The Study Committee was granted three meetings which were held on July 31, September 28, and December 10, 1990.

The members of the Study Committee were:

Senator Al Sturgeon, Co-chairperson
Representative Jane Teaford, Co-chairperson
Senator Linn Fuhrman
Senator Tom Mann
Senator Elaine Szymoniak
Senator Maggie Tinsman
Representative Marvin Diemer
Representative Jack Hatch
Representative Pat Murphy
Representative Don Shoring

COMMITTEE PROCEEDINGS

At its first meeting on July 31, 1990, the Study Committee received invited testimony from state and local civil rights agency staff, members of civil or human rights commissions, and a representative of the League of Iowa Municipalities.

Ms. Inga Bumbarly-Langston, Director of the State Civil Rights Commission, presented the Study Committee with concerns of the State Commission relating to the education and enforcement efforts of the local civil or human rights agencies and the impact of federal legislation which has been enacted or is pending. She stated that the federal legislation includes the federal Fair Housing Act Amendments of

1988, the Americans with Disabilities Act of 1990, and the federal Civil Rights Act of 1990.

Concerning the status of local civil or human rights agencies, she noted that some problems and myths remain. One myth is that the local agencies are revenue-generating, which is untrue in the sense of the agencies or commission receiving fees for services to clients. However, the local agencies provide victims of civil rights violations with the structure and procedures within which to obtain monetary remedies. A second myth, she noted, is that civil and human rights agencies only serve a small segment of society while statistics show that white females file the largest number of claims with the local agencies.

In addition to the myths and misunderstandings, the local agencies continue to experience financial problems which adversely affect their ability to investigate and resolve complaints and to carry out their educational role in the community. Ms. Bumbary-Langston also observed that some cities are considering the placement of local agencies under the direction of another local department which can result in a conflict of interest and may send a negative signal to the community as to the status of human or civil rights if the commission and local agency is eliminated as a separate entity.

Concerning the status of the State Commission, Ms. Bumbary-Langston stated that the backlog of complaints (pre-1989 cases) has been reduced from 700 cases a few years ago to 250 cases currently. She added that a large part of the backlog consists of 1986 cases, a year in which a large number of cases were filed. Ms. Bumbary-Langston noted that the State Commission assists local agencies where possible, but that the State Commission does not have formal agreements any longer with local agencies. Local agencies without staff engage in educational activities, some mediation, and some intake of complaints which are forwarded to the State Commission. She noted that normally a complaint will be filed both with the local agency and the State Committee to insure the complainant reserves full rights under the local ordinance and state law. If a complainant wishes to initiate legal action with regard to a civil rights complaint, state law requires the complaint to be filed first with the State Commission. She also stated that if the state civil rights law is not amended to be substantially similar with the federal Fair Housing Act of 1988, the United States Department of Housing and Urban Development may discontinue its contract with the State Commission to investigate unfair housing practices. If the changes are not made by 1992, she stated that the effect would be the loss of federal funds to the State Commission, loss of some jobs, and perhaps the duplication of enforcement efforts in cases where both state and federal authorities have jurisdiction to investigate.

Mr. Larry Curtis, representing the League of Iowa Municipalities, stated the League's Executive Board believes that if the General Assembly mandates local enforcement of civil rights laws, the state should commit to a uniform, equitable,

and vigorous education and enforcement effort statewide. He added that the state should encourage voluntary, cooperative agreements between the State Commission and political subdivisions of the state and suggested the establishment of regional or multicounty agencies by local agreements. He added that the League recommends the development of a statewide uniform process of dispute resolution which relies on local agencies for investigation, factfinding, and mediation of complaints, except in the case of a conflict of interest. He stated that appeals from the local decisions could be heard by the State Commission. He further recommended joint, state-local financing of the administration and enforcement of civil rights laws.

Mr. Adin Davis, representing the Human Rights Coalition, commented about the lack of financial support for civil or human rights programs and recommended that the relationship between the state and local human rights agencies be formalized by the General Assembly.

Ms. Diane Dillon-Ridgley, a member of the Burlington Human Rights Commission, urged the Study Committee to examine methods by which the state can move forward in the area of civil and human rights without dismantling or defunding local agencies. She recommended that all local agencies be given basic legal authority or power and a minimum level of professional staff to administer and enforce civil rights laws and ordinances.

Ms. Lee Haupt, Chairperson, Marshalltown Human Rights Commission, supported Ms. Dillon-Ridgley's comments and urged support for the continued use of local agencies to solve human rights problems in their communities which the commission members and staff, if any, know well.

Mr. Lionel Foster, President of the Iowa Association of Human Rights Agencies and Director of the Mason City Human Rights Commission, stated that the primary problems with civil rights enforcement at the local level are inadequate funding, lack of political support, and diminished public education. He urged the Study Committee to develop and recommend a statewide program of civil rights enforcement to include each city and county in the state. Mr. Foster also credited the enactment of House File 2154 in 1990 with providing support for additional funding from the Mason City Council.

Mr. Rudy Sims, representing the National Conference of Christians and Jews, urged the Study Committee to revitalize the enforcement efforts regarding civil rights laws to provide timely resolution of complaints and recommended that community colleges be charged to develop training programs for civil rights staff.

Mr. Dick Wade, Council Bluffs City Attorney, testified that his office serves as the staff for the enforcement of civil rights in Council Bluffs. He stated that he has an in-house agreement not to interfere with the investigating procedures of the staff assigned to civil rights complaints. He stated that this arrangement allows for

the "independence" required to have a credible enforcement program. He further recommended that the state allow sufficient flexibility for local commissions and agencies.

At its September 28 meeting, Mr. Kent Sovern, Director of Legislative Services, League of Iowa Municipalities, presented the Study Committee with a League proposal for a new structure for carrying out civil rights education and enforcement with uniformity and equity. He stated that the new structure emphasizes education and enforcement at the local level, the use of administrative law judges for hearings, and appeals to the State Commission. For funding, Mr. Sovern recommended using a small percentage of trust funds available to the Department of Employment Services for complaints relating to unfair employment practices, the Department of Commerce for complaints relating to unfair credit practices, the Iowa Housing Finance Authority for complaints relating to unfair housing practices, and the Department of Education for unfair education opportunities. He stated that there are many details to be considered in the proposal, but the general concept will emphasize local initiative with support from regional and state sources.

The Study Committee also received testimony from Mr. Mark Bennett and Ms. Victoria Herring, representing the Iowa Trial Lawyers Association. Mr. Bennett and Ms. Herring urged the Study Committee to recommend legislation which will authorize jury trials for civil rights cases. The Iowa Supreme Court ruled in May 1990 that there is no right to a jury trial for civil rights cases. Furthermore, he stated that punitive damages should also be allowed in civil rights cases to serve as an appropriate deterrent and, in some cases, to justify the costs of litigating the case. Ms. Herring also emphasized the need for jury trials, allowing punitive damages, and authorizing the award of reasonable attorney fees and expenses to attract more specialists to the field of civil rights law.

Mr. Thomas A. Anderson, Civil Rights Consultant, Department of Education, informed the Study Committee on the current status of desegregation policy and plans in Iowa. He reported that there are 12 school districts which report annually on their school desegregation plans. Mr. Anderson noted that the federal funding level for implementation of the federal Civil Rights Act of 1964 has remained the same since 1975. He noted the need for sensitivity training for supervisors and personnel specialists and that there is a need to encourage minority teachers to become administrators in the public school system in Iowa.

At its third and final meeting on December 10, the Study Committee considered a number of proposals which had been proposed at the previous meetings or presented by the members at this meeting. The first proposal considered was a draft bill (LSB 1096IC) relating to the administration and enforcement of civil rights laws in Iowa. The proposal included recommendations from the Iowa Civil Rights Commission, the League of Iowa Municipalities, and the

local civil or human rights agencies. The proposal was designed to expand civil rights laws enforcement across the state; provide a regional support level for local agencies; coordinate local, regional, and state efforts; and provide additional funding sources. After discussion, the Committee concluded that the effectiveness and cost of the proposal should be tried through a pilot project with volunteer local governments.

As an alternative, Senator Szymoniak suggested that the civil rights laws enforcement could be strengthened by transferring these duties to the Department of Justice and strengthening the Department of Human Rights to provide more emphasis on education and awareness of human rights problems in the state. Co-chairperson Sturgeon commented that the perception of increased enforcement may be increased by transferring the duties to the Department of Justice, but he doubted that the enforcement would actually be improved. He also doubted the ability of the Department of Human Rights to improve human rights awareness or education efforts because of recent personnel problems and lack of departmental identity and definition. No action was taken on this proposal.

Representative Hatch recommended that the "sunset" provision in House File 2154 be stricken to maintain some financial support for local human rights agencies and include some type of regional project. He further suggested that the recommendations include findings that duplication exists and the system operates too slowly. He stated that these recommendations could be drafted into bill form for the next legislative session with the assistance of the Iowa Civil Rights Commission, the League of Iowa Municipalities, and the Iowa Association of Human Rights Agencies. No action was taken on this recommendation.

Co-chairperson Sturgeon moved that the Study Committee recommend that the Department of Education develop required curriculum related to sensitivity training for grades K-12. Representative Hatch offered an amendment that the various school districts develop plans to address the problems of discrimination which would be approved by the Department of Education. The proposal was to include the use of Phase III funds where possible and the involvement of the local community would be encouraged. The amendment was adopted to the motion, but the motion as amended was defeated for lack of a Senate majority vote.

Co-chairperson Sturgeon next moved to strike the "sunset" provision in House File 2154, 1990 Session (1991 Iowa Acts, chapter 1166). The Act requires cities having a population of more than 29,000 to maintain an independent local civil rights agency or commission and to allow the agency or commission to maintain control over its staff, if any. The Act also provided for additional cooperation and coordination of effort to expedite the resolution of claims. The motion was also defeated for lack of a Senate majority vote.

The study committee also discussed draft bill LSB 1207IC relating to unfair practices in the employment of persons with disabilities. The bill draft addresses only the employment aspects of the federal Americans with Disabilities Act of 1990. After noting the delayed effective date of July 26, 1994, and other parts of the federal Act to be addressed, the Study Committee failed to recommend further action on the proposed drafts.

RECOMMENDATIONS

After further discussion, the Study Committee made the following recommendations:

1. That the Iowa Civil Rights Commission work with the League of Iowa Municipalities in developing a pilot project concerning regional enforcement of civil rights laws. The project is to involve local communities which voluntarily agree to participate.
2. That the Legislative Council appoint a task force to make recommendations to strengthen civil rights laws enforcement and enhance advocacy and education in human rights.
3. The enactment of the bill draft (LSB 1080IC), a bill for an Act relating to unfair or discriminatory practices in housing and real estate, providing civil remedies, and a criminal penalty.

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SENATE/HOUSE FILE _____
BY (RECOMMENDED BY CIVIL RIGHTS
LAWS IN IOWA STUDY COMMITTEE
BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to unfair or discriminatory practices in housing
2 and real estate, providing civil remedies, and a criminal
3 penalty.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 601A.5, Code 1991, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 13. To issue subpoenas and order
4 discovery as provided by this section in aid of investigations
5 and hearings of alleged unfair or discriminatory housing or
6 real property practices. The subpoenas and discovery may be
7 ordered to the same extent and are subject to the same
8 limitations as subpoenas and discovery in a civil action in
9 district court.

10 NEW SUBSECTION. 14. To defer proceedings and refer a
11 complaint to a local commission that has been recognized by
12 the United States department of housing and urban development
13 as having adopted ordinances providing fair housing rights and
14 remedies that are substantially equivalent to those granted
15 under federal law.

16 Sec. 2. NEW SECTION. 601A.5A FAIR HOUSING FUND CREATED -
17 - USE.

18 1. A fair housing fund is created in the state treasury.
19 Moneys credited to the fair housing fund shall be used only
20 for administrative costs related to the resolution of unfair
21 housing practices.

22 2. Gifts and grants related to the resolution of unfair
23 housing practices received as authorized under section 601A.5
24 shall be credited to the fair housing fund.

25 Sec. 3. NEW SECTION. 601A.8A ADDITIONAL UNFAIR OR
26 DISCRIMINATORY PRACTICES -- HOUSING.

27 1. A person shall not, for profit, induce or attempt to
28 induce another person to sell or rent a dwelling by
29 representations regarding the entry or prospective entry into
30 a neighborhood of a person of a particular race, color, creed,
31 sex, religion, national origin, disability, or familial
32 status.

33 2. A person shall not represent to another person because
34 of race, color, creed, sex, religion, national origin,
35 disability, or familial status that a dwelling is not

1 available for inspection, sale, or rental when the dwelling is
2 available for inspection, sale, or rental.

3 3. a. A person shall not discriminate in the sale or
4 rental or otherwise make unavailable or deny a dwelling to a
5 buyer or renter because of a disability of any of the
6 following persons:

7 (1) That buyer or renter.

8 (2) A person residing in or intending to reside in that
9 dwelling after it is sold, rented, or made available.

10 (3) A person associated with that buyer or renter.

11 b. A person shall not discriminate against another person
12 in the terms, conditions, or privileges of sale or rental of a
13 dwelling or in the provision of services or facilities in
14 connection with the dwelling because of a disability of any of
15 the following persons:

16 (1) That person.

17 (2) A person residing in or intending to reside in that
18 dwelling after it is sold, rented, or made available.

19 (3) A person associated with that person.

20 c. For the purposes of this subsection only,
21 discrimination includes any of the following circumstances:

22 (1) A refusal to permit, at the expense of the disabled
23 person, reasonable modifications of existing premises occupied
24 or to be occupied by the person if the modifications are
25 necessary to afford the person full enjoyment of the premises.

26 (2) A refusal to make reasonable accommodations in rules,
27 policies, practices, or services, when the accommodations be
28 necessary to afford the person equal opportunity to use and
29 enjoy a dwelling.

30 (3) In connection with the design and construction of
31 covered multifamily dwellings for first occupancy after March
32 12, 1991, a failure to design and construct those dwellings in
33 a manner that meets the following requirements:

34 (a) The public use and common use portions of the
35 dwellings are readily accessible to and usable by disabled

1 persons.

2 (b) All doors designed to allow passage into and within
3 all premises within the dwellings are sufficiently wide to
4 allow passage by disabled persons in wheelchairs.

5 (c) All premises within the dwellings contain the
6 following features of adaptive design:

7 (i) An accessible route into and through the dwelling.

8 (ii) Light switches, electrical outlets, thermostats, and
9 other environmental controls in accessible locations.

10 (iii) Reinforcements in bathroom walls to allow later
11 installation of grab bars.

12 (iv) Usable kitchens and bathrooms so that a person in a
13 wheelchair can maneuver about the space.

14 d. Compliance with the appropriate requirements of the
15 American national standard for buildings and facilities pro-
16 viding accessibility and usability for physically handicapped
17 people, commonly cited as "ANSI A 117.1", satisfies the
18 requirements of paragraph "c", subparagraph (3), subparagraph
19 subdivision (c).

20 e. Nothing in this subsection requires that a dwelling be
21 made available to a person whose tenancy would constitute a
22 direct threat to the health or safety of other persons or
23 whose tenancy would result in substantial physical damage to
24 the property of others.

25 4. a. A person whose business includes engaging in resi-
26 dential real estate related transactions shall not
27 discriminate against a person in making a residential real
28 estate related transaction available or in terms or conditions
29 of a residential real estate related transaction because of
30 race, color, creed, sex, religion, national origin,
31 disability, or familial status.

32 b. For the purpose of this subsection, "residential real
33 estate related transaction" means any of the following:

34 (1) To make or purchase loans or provide other financial
35 assistance to purchase, construct, improve, repair, or

1 maintain a dwelling, or to secure residential real estate.

2 (2) To sell, broker, or appraise residential real estate.

3 5. A person shall not deny another person access to, or
4 membership or participation in, a multiple-listing service,
5 real estate brokers' organization or other service,
6 organization, or facility relating to the business of selling
7 or renting dwellings, or discriminate against a person in
8 terms or conditions of access, membership, or participation in
9 such organization because of race, color, creed, sex,
10 religion, national origin, disability, or familial status.

11 Sec. 4. NEW SECTION. 601A.11A HOUSING DISCRIMINATION,
12 THREAT OF FORCE OR INTIMIDATION -- PENALTY.

13 1. A person commits a public offense if the person,
14 whether or not acting under color of law, by force or threat
15 of force, intentionally intimidates or interferes with or
16 attempts to interfere with a person under any of the following
17 circumstances:

18 a. Because of the person's race, color, creed, sex,
19 religion, national origin, disability, or familial status, and
20 because the person is or has been selling, purchasing,
21 renting, occupying, or financing, contracting for, or
22 negotiating for the sale, purchase, rental, or occupation of
23 any dwelling, or applying for or participating in a service,
24 organization, or facility relating to the business of selling
25 or renting dwellings.

26 b. Because the person is or has been doing any of the
27 following:

28 (1) Participating, without discrimination because of race,
29 color, creed, sex, religion, national origin, disability, or
30 familial status, in an activity, service, organization, or
31 facility described in paragraph "a".

32 (2) Affording another person the opportunity or protection
33 to so participate.

34 (3) Lawfully aiding or encouraging other persons to
35 participate, without discrimination because of race, color,

S.F. _____ H.F. _____

1 creed, sex, religion, national origin, disability, or familial
2 status, in an activity, service, organization, or facility
3 described in paragraph "a".

4 2. A person violating this section is guilty of a serious
5 misdemeanor.

6 Sec. 5. NEW SECTION. 601A.12A ADDITIONAL HOUSING
7 EXCEPTIONS.

8 1. Section 601A.8A does not prohibit discrimination
9 against a person because the person has been convicted under
10 federal law or the law of any state of the illegal manufacture
11 or distribution of a controlled substance.

12 2. Section 601A.8A does not prohibit a person engaged in
13 the business of furnishing appraisals of real estate from
14 taking into consideration factors other than race, color,
15 creed, sex, religion, national origin, disability, or familial
16 status in appraising real estate.

17 Sec. 6. NEW SECTION. 601A.15A ADDITIONAL PROCEEDINGS --
18 HOUSING DISCRIMINATION

19 1. a. The commission may join a person not named in the
20 complaint as an additional or substitute respondent if in the
21 course of the investigation, the commission determines that
22 the person should be alleged to have committed a
23 discriminatory housing or real estate practice.

24 b. In addition to the information required in the notice,
25 the commission shall include in a notice to a respondent
26 joined under this subsection an explanation of the basis for
27 the determination under this subsection that the person is
28 properly joined as a respondent.

29 2. a. The commission shall, during the period beginning
30 with the filing of a complaint and ending with the filing of a
31 charge or a dismissal by the commission, to the extent
32 feasible, engage in mediation with respect to the complaint.

33 b. A mediation agreement is an agreement between a
34 respondent and the complainant and is subject to commission
35 approval.

1 c. A mediation agreement may provide for binding
2 arbitration or other method of dispute resolution. Dispute
3 resolution that results from a mediation agreement may
4 authorize appropriate relief, including monetary relief.

5 d. A mediation agreement shall be made public unless the
6 complainant and respondent agree otherwise, and the commission
7 determines that disclosure is not necessary to further the
8 purposes of this chapter relating to unfair or discrimination
9 in housing or real estate.

10 e. The proceedings or results of mediation shall not be
11 made public or used as evidence in a subsequent proceeding
12 under this chapter without the written consent of the persons
13 who are party to the mediation.

14 f. After the completion of the commission's investigation,
15 the commission shall make available to the aggrieved person
16 and the respondent information derived from the investigation
17 and the final investigation report relating to that
18 investigation.

19 3. a. If the commission concludes, following the filing
20 of a complaint, that prompt judicial action is necessary to
21 carry out the purposes of this chapter relating to unfair or
22 discriminatory housing or real estate practices, the
23 commission may authorize a civil action for appropriate
24 temporary or preliminary relief pending final disposition of
25 the complaint.

26 b. On receipt of the commission's authorization, the
27 attorney general shall promptly file the action.

28 c. A temporary restraining order or other order granting
29 preliminary or temporary relief under this section is governed
30 by the applicable Iowa rules of civil procedure.

31 d. The filing of a civil action under this section does
32 not affect the initiation or continuation of administrative
33 proceedings in regard to an administrative hearing.

34 4. a. The commission shall prepare a final investigative
35 report.

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1 b. A final report under this section may be amended by the
2 commission if additional evidence is discovered.

3 5. a. The commission shall determine based on the facts
4 whether probable cause exists to believe that a discriminatory
5 housing or real estate practice has occurred or is about to
6 occur.

7 b. The commission shall make its determination under
8 paragraph "a" not later than one hundred days after a
9 complaint is filed unless any of the following applies:

10 (1) It is impracticable to make the determination within
11 that time period.

12 (2) The commission has approved a mediation agreement
13 relating to the complaint.

14 c. If it is impracticable to make the determination within
15 the time period provided by paragraph "b", the commission
16 shall notify the complainant and respondent in writing of the
17 reasons for the delay.

18 d. If the commission determines that probable cause exists
19 to believe that a discriminatory housing or real estate
20 practice has occurred or is about to occur, the commission
21 shall immediately issue a determination unless the commission
22 determines that the legality of a zoning or land use law or
23 ordinance is involved as provided in subsection 7.

24 6. a. A determination issued under subsection 5 must
25 include all of the following:

26 (1) Must consist of a short and plain statement of the
27 facts on which the commission has found probable cause to
28 believe that a discriminatory housing or real estate practice
29 has occurred or is about to occur.

30 (2) Must be based on the final investigative report.

31 (3) Need not be limited to the facts or grounds alleged in
32 the complaint.

33 b. Not later than twenty days after the commission issues
34 a determination, the commission shall send a copy of the
35 determination with information concerning the election under

1 section 601A.16A to all of the following persons:

2 (1) Each respondent, together with a notice of the
3 opportunity for a hearing as provided under subsection 10.

4 (2) Each aggrieved person on whose behalf the complaint
5 was filed.

6 7. If the commission determines that the matter involves
7 the legality of a state or local zoning or other land use
8 ordinance, the commission shall not issue a determination and
9 shall immediately refer the matter to the attorney general for
10 appropriate action.

11 8. a. If the commission determines that no probable cause
12 exists to believe that a discriminatory housing or real estate
13 practice has occurred or is about to occur, the commission
14 shall promptly dismiss the complaint.

15 b. The commission shall make public disclosure of each
16 dismissal under this section.

17 9. The commission shall not issue a determination under
18 this section regarding an alleged discriminatory housing or
19 real estate practice after the beginning of the trial of a
20 civil action commenced by the aggrieved party under federal or
21 state law seeking relief with respect to that discriminatory
22 housing or real estate practice.

23 10. a. If a timely election is not made under section
24 601A.16A, the commission shall provide for a hearing on the
25 charges in the complaint.

26 b. Except as provided by paragraph "c", the hearing shall
27 be conducted in accordance with chapter 17A for contested
28 cases.

29 c. A hearing under this section shall not be continued
30 regarding an alleged discriminatory housing or real estate
31 practice after the beginning of the trial of a civil action
32 commenced by the aggrieved person under federal or state law
33 seeking relief with respect to that discriminatory housing or
34 real estate practice.

35 11. a. If the commission determines at a hearing under

1 subsection 10 that a respondent has engaged or is about to
2 engage in a discriminatory housing or real estate practice,
3 the commission may order the appropriate relief, including
4 actual damages, reasonable attorney's fees, court costs, and
5 other injunctive or equitable relief.

6 b. To vindicate the public interest, the commission may
7 assess a civil penalty against the respondent in an amount
8 that does not exceed the following applicable amount:

9 (1) Ten thousand dollars if the respondent has been
10 adjudged by the order of the commission or a court to have
11 committed a prior discriminatory housing or real estate
12 practice.

13 (2) Except as provided by paragraph "c", twenty-five
14 thousand dollars if the respondent has been adjudged by order
15 of the commission or a court to have committed one other
16 discriminatory housing or real estate practice during the
17 five-year period ending on the date of the filing of the
18 complaint.

19 (3) Except as provided by paragraph "c", fifty thousand
20 dollars if the respondent has been adjudged by order of the
21 commission or a court to have committed two or more
22 discriminatory housing or real estate practices during the
23 seven-year period ending on the date of the filing of the
24 complaint.

25 c. If the acts constituting the discriminatory housing or
26 real estate practice that is the object of the complaint are
27 committed by the same person who has been previously adjudged
28 to have committed acts constituting a discriminatory housing
29 or real estate practice, the civil penalties in paragraph "b",
30 subparagraphs (2) and (3) may be imposed without regard to the
31 period of time within which any other discriminatory housing
32 or real estate practice occurred.

33 d. At the request of the commission, the attorney general
34 shall initiate legal proceedings to recover a civil penalty
35 due under this section. Funds collected under this section

1 shall be paid to the treasurer of state for deposit in the
2 state treasury to the credit of the fair housing fund.

3 Sec. 7. NEW SECTION. 601A.16A CIVIL ACTION ELECTED --
4 HOUSING.

5 1. a. A complainant, a respondent, or an aggrieved person
6 on whose behalf the complaint was filed may elect to have the
7 charges asserted in the complaint decided in a civil action as
8 provided by section 601A.17A.

9 b. The election must be made not later than twenty days
10 after the date of receipt by the electing person of service
11 under section 601A.15, subsection 5, or in the case of the
12 commission, not later than twenty days after the date the
13 charge was issued.

14 c. The person making the election shall give notice to the
15 commission and to all other complainants and respondents to
16 whom the election relates.

17 2. a. An aggrieved person may file a civil action in
18 district court not later than two years after the occurrence
19 of the termination of an alleged discriminatory housing or
20 real estate practice, or the breach of a mediation agreement
21 entered into under this chapter, whichever occurs last, to
22 obtain appropriate relief with respect to the discriminatory
23 housing or real estate practice or breach.

24 b. The two-year period does not include any time during
25 which an administrative hearing under this chapter is pending
26 with respect to a complaint or charge based on the
27 discriminatory housing or real estate practice. This
28 subsection does not apply to actions arising from a breach of
29 a mediation agreement.

30 c. An aggrieved person may file an action under this
31 section whether or not a discriminatory housing or real estate
32 complaint has been filed under section 601A.15A, and without
33 regard to the status of any discriminatory housing or real
34 estate complaint filed under that section.

35 d. If the commission has obtained a mediation agreement

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1 with the consent of an aggrieved person, the aggrieved person
2 shall not file an action under this section with respect to
3 the alleged discriminatory practice that forms the basis for
4 the complaint except to enforce the terms of the agreement.

5 e. An aggrieved person shall not file an action under this
6 section with respect to an alleged discriminatory housing or
7 real estate practice that forms the basis of a charge issued
8 by the commission if the commission has begun a hearing on the
9 record under this chapter with respect to the charge.

10 Sec. 8. NEW SECTION. 601A.17A CIVIL PROCEEDINGS --
11 HOUSING.

12 1. a. If timely election is made under section 601A.16A,
13 subsection 1, the commission shall authorize, and not later
14 than thirty days after the election is made, the attorney
15 general shall file a civil action on behalf of the aggrieved
16 person in a district court seeking relief.

17 b. Venue for an action under this section is in the county
18 in which the alleged discriminatory housing or real estate
19 practice occurred.

20 c. An aggrieved person may intervene in the action.

21 d. If the district court finds that a discriminatory
22 housing or real estate practice has occurred or is about to
23 occur, the district court may grant as relief any relief that
24 a court may grant in a civil action under subsection 6.

25 e. If monetary relief is sought for the benefit of an
26 aggrieved person who does not intervene in the civil action,
27 the district court shall not award the monetary relief if that
28 aggrieved person has not complied with discovery orders
29 entered by the district court.

30 2. A commission order under section 601A.15A, subsection
31 11, does not affect a contract, sale, encumbrance, or lease
32 that was consummated before the commission issued the order
33 and involved a bona fide purchaser, encumbrancer, or tenant
34 who did not have actual notice of the charge issued under this
35 chapter.

1 3. If the commission issues an order with respect to a
2 discriminatory housing practice that occurred in the course of
3 a business subject to a licensing or regulation by a
4 governmental agency, the commission, not later than thirty
5 days after the date of issuance of the order, shall do all of
6 the following:

7 a. Send copies of the findings and the order to the
8 governmental agency.

9 b. Recommend to the governmental agency appropriate
10 disciplinary action.

11 4. If the commission issues an order against a respondent
12 against whom another order was issued within the preceding
13 five years under section 601A.15A, subsection 11, the
14 commission shall send a copy of each order issued under that
15 section to the attorney general.

16 5. On application by a person alleging a discriminatory
17 housing practice or by a person against whom a discriminatory
18 practice is alleged, the district court may appoint an
19 attorney for the person.

20 6. In an action under this section, if the district court
21 finds that a discriminatory housing or real estate practice
22 has occurred or is about to occur, the district court may
23 award or issue to the plaintiff one or more of the following:

24 a. Actual and punitive damages.

25 b. Reasonable attorney's fees.

26 c. Court costs.

27 d. Subject to subsection 7, any permanent or temporary
28 injunction, temporary restraining order, or other order,
29 including an order enjoining the defendant from engaging in
30 the practice or ordering appropriate affirmative action.

31 7. Relief granted under this section does not affect a
32 contract, sale, encumbrance, or lease that was consummated
33 before the granting of the relief and involved a bona fide
34 purchaser, encumbrancer, or tenant who did not have actual
35 notice of the filing of a complaint under this chapter or a

S.F. _____ H.F. _____

1 civil action under this section.

2 8. a. On the request of the commission, the attorney
3 general may intervene in an action under this section if the
4 commission certifies that the case is of general public
5 importance.

6 b. The attorney general may obtain the same relief
7 available to the attorney general under subsection 9.

8 9. a. On the request of the commission, the attorney
9 general may file a civil action in district court for
10 appropriate relief if the commission has reasonable cause to
11 believe that any of the following applies:

12 (1) A person is engaged in a pattern or practice of
13 resistance to the full enjoyment of any housing right granted
14 by this chapter.

15 (2) A person has been denied any housing right granted by
16 this chapter and that denial raises an issue of general public
17 importance.

18 b. In an action under this section, the district court may
19 do any of the following:

20 (1) Order preventive relief, including a permanent or
21 temporary injunction, restraining order, or other order
22 against the person responsible for a violation of housing
23 rights as necessary to assure the full enjoyment of the
24 housing rights granted by this chapter.

25 (2) Order another appropriate relief, including the
26 awarding of monetary damages, reasonable attorney's fees, and
27 court costs.

28 (3) To vindicate the public interest, assess a civil
29 penalty against the respondent in an amount that does not
30 exceed any of the following:

31 (a) Fifty thousand dollars for a first violation.

32 (b) One hundred thousand dollars for a second or
33 subsequent violation.

34 c. A person may intervene in an action under this section
35 if the person is any of the following:

1 (1) An aggrieved person to the discriminatory housing or
2 real estate practice.

3 (2) A party to a mediation agreement concerning the
4 discriminatory housing or real estate practice.

5 10. The attorney general, on behalf of the commission or
6 other party at whose request a subpoena is issued, may enforce
7 the subpoena in appropriate proceedings in district court.

8 11. A court in a civil action brought under this section
9 or the commission in an administrative hearing under section
10 601A.15A, subsection 11, may award reasonable attorney's fees
11 to the prevailing party and assess court costs against the
12 nonprevailing party.

13 Sec. 9. NEW SECTION. 601A.20 EFFECT ON OTHER LAW.

14 1. This chapter does not affect a reasonable local or
15 state restriction on the maximum number of occupants permitted
16 to occupy a dwelling or restriction relating to health or
17 safety standards.

18 2. This chapter does not affect a requirement of
19 nondiscrimination in other state or federal law.

20 EXPLANATION

21 This bill provides additional procedures, civil remedies,
22 and a criminal penalty for unfair or discriminatory housing or
23 real estate practices. The Iowa civil rights commission may
24 issue subpoenas and order discovery in support of
25 investigations and hearings related to unfair or
26 discriminatory housing or real estate practices. The
27 commission may refer complaints to local agencies who are
28 recognized by the United States department of housing and
29 urban development as having ordinances enforcing fair housing
30 rights.

31 The bill also creates a fair housing fund in the state
32 treasury, the proceeds from which are dedicated to
33 administrative costs relating to the resolution of unfair or
34 discriminatory housing or real estate practices.

35 Under this bill, persons are prohibited from discriminating

S.F. _____ H.F. _____

1 on the basis of race, color, creed, sex, religion, national
2 origin, disability, or familial status with regard to
3 inspection, sale, or rental of dwellings. Discrimination also
4 includes refusal to permit reasonable modification of property
5 for disabled persons who will pay for the modification,
6 refusal to make reasonable accommodations in rules, policies,
7 practices, or services, and failure to include design and
8 construction standards to assist disabled persons in
9 multifamily dwellings constructed for first occupancy after
10 March 12, 1991.

11 A person who intentionally intimidates or uses force or a
12 threat of force to interfere with another person's housing
13 rights or business dealings relating to housing, is guilty of
14 a serious misdemeanor.

15 The commission may join a person as an additional
16 respondent to a housing discrimination complaint if during
17 investigation, evidence shows the person should be alleged to
18 have committed a discriminatory housing practice. Additional
19 procedures are provided to provide for mediation of
20 discrimination complaints. The commission may authorize civil
21 action for temporary or preliminary relief pending final
22 disposition of a complaint.

23 If the commission finds at a hearing that a respondent to a
24 complaint has engaged in a discriminatory housing or real
25 estate practice or is about to engage in a discriminatory
26 practice, the commission may order appropriate relief
27 including actual damages, reasonable attorney's fees, court
28 costs, and other injunctive or equitable relief. To vindicate
29 the public interest, the commission may also assess a civil
30 penalty up to \$50,000 depending on the respondent's prior
31 record of committed discriminatory practices. At the request,
32 of the commission, the attorney general shall institute legal
33 proceedings to recover a civil penalty due from a respondent.
34 Moneys collected are to be credited to the fair housing fund.
35 Under the bill, a complainant, a respondent, or an

1 aggrieved person on whose behalf a complaint was filed may
2 elect to resolve the complaint by filing a civil action in the
3 district court. The election must take place within 20 days
4 after receipt of notice by the person or, in case of the
5 commission, within 20 days after the date the charge was
6 issued. An aggrieved person may file civil action within two
7 years after the termination of an alleged unfair housing
8 practice or breach of a mediation agreement. An aggrieved
9 person may also file a civil action for an unfair housing
10 practice without having filed a complaint with the commission
11 or without regard to status of the complaint. The bill also
12 provides that the attorney general shall represent an
13 aggrieved person if the person makes a timely election with
14 the commission. The district court may award monetary damages
15 in the same manner as the commission including actual damages,
16 reasonable attorney's fees, court costs, and civil penalties
17 to vindicate the public interest for persons with previous
18 records of committed discriminatory practices.

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