

H- 3/31/95 Judiciary
H 4-10-95 Amended/100 Days w/ H-3821

FILED MAR 21 1995
H 4/13/95 unfinished Business
Colorado

SENATE FILE 457
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 110)

Passed Senate, Date ^(p.981) 3-30-95 Passed House, Date 4/18/95 (p.1690)
Vote: Ayes 49 Nays 0 Vote: Ayes 91 Nays 0
Re-passed Senate
Ayes 48 Nays 0
4/14/95 (p.1308)
Approved May 1, 1995

A BILL FOR

1 An Act relating to the civil rights commission concerning the
2 enforcement of civil rights laws, and the promotion and
3 transfer of employed disabled persons.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5

SENATE FILE 457

H-3821

1 Amend Senate File 457, as passed by the Senate, as
2 follows:
3 1. Page 6, by striking line 13.
4 2. Title page, lines 2 and 3, by striking the
5 words ", and the promotion and transfer of employed
6 disabled persons".

By COMMITTEE ON JUDICIARY
HURLEY of Fayette, Chairperson

H-3821 FILED APRIL 10, 1995

Adopted 4/18/95 (p.1690)

14

HOUSE AMENDMENT TO
SENATE FILE 457

S-3480

1 Amend Senate File 457, as passed by the Senate, as
2 follows:
3 1. Page 6, by striking line 13.
4 2. Title page, lines 2 and 3, by striking the
5 words ", and the promotion and transfer of employed
6 disabled persons".

RECEIVED FROM THE HOUSE

S-3480 FILED APRIL 18, 1995
Senate concurred 4/14/95 (p.1308)

S.F. 457

1 Section 1. Section 22.7, subsection 32, Code 1995, is
2 amended to read as follows:

3 32. Memoranda, work products, and case files of a mediator
4 and all other confidential communications in the possession of
5 a mediator, as provided in ~~chapter~~ chapters 86 and 216.
6 Information in these confidential communications is subject to
7 disclosure only as provided in ~~section~~ sections 86.44 and
8 216.15B, notwithstanding any other contrary provision of this
9 chapter.

10 Sec. 2. Section 216.2, subsection 3, Code 1995, is amended
11 to read as follows:

12 3. "Court" means the district court in and for ~~the~~ any
13 judicial district of the state of Iowa ~~in-which-the-alleged~~
14 ~~unfair-or-discriminatory-practice-occurred~~ or any judge of
15 ~~said~~ the court if the court is not in session at that time.

16 Sec. 3. Section 216.5, subsection 2, Code 1995, is amended
17 to read as follows:

18 2. To receive, investigate, mediate, and finally determine
19 the merits of complaints alleging unfair or discriminatory
20 practices.

21 Sec. 4. Section 216.5, Code 1995, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 15. To utilize volunteers to aid in the
24 conduct of the commission's business including case processing
25 functions such as intake, screening, investigation, and
26 mediation.

27 Sec. 5. Section 216.12, subsection 4, unnumbered paragraph
28 1, Code 1995, is amended to read as follows:

29 Dwellings Discrimination on the basis of familial status
30 involving dwellings provided under any state or federal
31 program specifically designed and operated to assist elderly
32 persons, as defined in the state or federal program that the
33 commission determines to be consistent with determinations
34 made by the United States secretary of housing and urban
35 development, and housing for older persons. As used in this

1 subsection, "housing for older persons" means housing
2 communities consisting of dwellings intended for either of the
3 following:

4 Sec. 6. Section 216.12, Code 1995, is amended by adding
5 the following new subsection:

6 NEW SUBSECTION. 6. Discrimination on the basis of sex
7 involving the rental, leasing, or subleasing of a dwelling
8 within which residents of both sexes would be forced to share
9 a living area.

10 Sec. 7. Section 216.12, unnumbered paragraph 2, Code 1995,
11 is amended to read as follows:

12 The exceptions to the requirements of sections 216.8 and
13 216.8A provided for dwellings specified in subsection
14 subsections 2, 3, and 5 do not apply to advertising related to
15 those dwellings.

16 Sec. 8. Section 216.15, subsection 1, Code 1995, is
17 amended to read as follows:

18 1. Any person claiming to be aggrieved by a discriminatory
19 or unfair practice may, in person or by an attorney, make,
20 sign, and file with the commission a verified, written
21 complaint ~~in-triplicate~~ which shall state the name and address
22 of the person, employer, employment agency, or labor
23 organization alleged to have committed the discriminatory or
24 unfair practice of which complained, shall set forth the
25 particulars thereof, and shall contain such other information
26 as may be required by the commission. The commission, a
27 commissioner, or the attorney general may in like manner make,
28 sign, and file such complaint.

29 Sec. 9. Section 216.15, subsection 4, Code 1995, is
30 amended to read as follows:

31 4. The members of the commission and its staff shall not
32 disclose the filing of a complaint, the information gathered
33 during the investigation, or the endeavors to eliminate such
34 discriminatory or unfair practice by mediation, conference,
35 conciliation, and persuasion, unless such disclosure is made

1 in connection with the conduct of such investigation.

2 Sec. 10. Section 216.15, subsection 9, Code 1995, is
3 amended to read as follows:

4 9. The terms of a conciliation or mediation agreement
5 reached with the respondent may require the respondent to
6 refrain in the future from committing discriminatory or unfair
7 practices of the type stated in the agreement, to take
8 remedial action as in the judgment of the commission will
9 carry out the purposes of this chapter, and to consent to the
10 entry in an appropriate district court of a consent decree
11 embodying the terms of the conciliation or mediation
12 agreement. Violation of such a consent decree may be punished
13 as contempt by the court in which it is filed, upon a showing
14 by the commission of the violation at any time within six
15 months of its occurrence. ~~In all cases where a conciliation~~
16 ~~agreement is entered into, the commission shall issue an order~~
17 ~~stating its terms and furnish a copy of the order to the~~
18 ~~complainant, the respondent, and such other persons as the~~
19 ~~commission deems proper.~~ At any time in its discretion, the
20 commission may investigate whether the terms of the agreement
21 are being complied with by the respondent.

22 Upon a finding that the terms of the conciliation or
23 mediation agreement are not being complied with by the
24 respondent, the commission shall take appropriate action to
25 assure compliance.

26 Sec. 11. Section 216.15, Code 1995, is amended by adding
27 the following new subsection:

28 NEW SUBSECTION. 13. The commission or a party to a
29 complaint may request mediation of the complaint at any time
30 during the commission's processing of the complaint. If the
31 complainant and respondent participate in mediation, any
32 mediation agreement may be enforced pursuant to this section.
33 Mediation may be discontinued at the request of any party or
34 the commission.

35 Sec. 12. NEW SECTION. 216.15B MEDIATION --

1 CONFIDENTIALITY.

2 1. For the purposes of this section, "mediator" shall be
3 the person designated in writing by the commission to conduct
4 mediation of a complaint filed under this chapter. The
5 written designation must specifically refer to this section.

6 2. All verbal or written information relating to the
7 subject matter of a mediation agreement and transmitted
8 between either the complainant or the respondent and a
9 mediator to resolve a complaint filed under this chapter,
10 whether reflected in notes, memoranda, or other work products,
11 is a confidential communication except as otherwise expressly
12 provided in this chapter. Mediators involved in a mediation
13 under this section shall not be examined in any judicial or
14 administrative proceeding regarding the confidential
15 communications and are not subject to judicial or
16 administrative process requiring the disclosure of the
17 confidential communications. If a written confidential
18 communication is kept by the mediator it must be kept in a
19 mediation file which is maintained separately from the case
20 file. The confidential communications may not be included in
21 the commission's case file unless the person providing the
22 information consents to its inclusion in the case file. The
23 mediation file is not part of the file made available to the
24 parties upon the commission's receipt of a right to sue
25 letter. Information maintained in the mediation file and not
26 included in the case file shall not be considered when making
27 a recommendation or decision regarding screening, probable
28 cause, or any issue in a contested case.

29 3. A mediator who has reason to believe that a complainant
30 or respondent has given perjured evidence concerning a
31 confidential communication is not barred by this section from
32 disclosing the basis for this belief to any party to a cause
33 in which the alleged perjury occurs or to the appropriate
34 authorities, including testifying concerning the relevant
35 confidential communications. If a dispute regarding the

1 existence of a mediation agreement exists, the terms of the
2 mediation agreement, or the conduct of the mediation process
3 itself, the mediator may be examined regarding relevant
4 confidential communications.

5 Sec. 13. Section 216.16A, subsection 2, paragraphs c, d,
6 and e, Code 1995, are amended to read as follows:

7 c. An aggrieved person may file an action under this
8 ~~section~~ subsection whether or not a discriminatory housing or
9 real estate complaint has been filed under section ~~216.15A~~
10 216.15, and without regard to the status of any discriminatory
11 housing or real estate complaint filed under that section.

12 d. If the commission has obtained a mediation agreement
13 with the consent of an aggrieved person, the aggrieved person
14 shall not file an action under this ~~section~~ subsection with
15 respect to the alleged discriminatory practice that forms the
16 basis for the complaint except to enforce the terms of the
17 agreement.

18 e. An aggrieved person shall not file an action under this
19 ~~section~~ subsection with respect to an alleged discriminatory
20 housing or real estate practice that forms the basis of a
21 charge issued by the commission if the commission has begun a
22 hearing on the record under this chapter with respect to the
23 charge.

24 Sec. 14. Section 216.16A, subsection 2, Code 1995, is
25 amended by adding the following new paragraph:

26 NEW PARAGRAPH. f. In an action filed in district court
27 under this subsection, the court may, upon a finding of
28 discrimination, order any of the remedies provided for in
29 section 216.17A, subsection 6.

30 Sec. 15. Section 216.17A, subsection 6, unnumbered
31 paragraph 1, Code 1995, is amended to read as follows:

32 In an action under ~~this-section~~ subsection 1 and section
33 216.16A, subsection 2, if the district court finds that a
34 discriminatory housing or real estate practice has occurred or
35 is about to occur, the district court may award or issue to

1 the plaintiff one or more of the following:

2 Sec. 16. Section 216.17A, subsection 8, paragraph a, Code
3 1995, is amended to read as follows:

4 a. On the request of the commission, the attorney general
5 may intervene in an action under ~~this~~ section 216.16A,
6 subsection 2, if the commission certifies that the case is of
7 general public importance.

8 Sec. 17. Section 216.17A, subsection 9, paragraph b,
9 unnumbered paragraph 1, Code 1995, is amended to read as
10 follows:

11 In an action under this ~~section~~ subsection and subsection
12 8, the district court may do any of the following:

13 Sec. 18. REPEAL. Section 216.14, Code 1995, is repealed.

14 EXPLANATION

15 The amendment to section 216.2 defines "court" for purposes
16 of the civil rights commission chapter as including all
17 district courts in any judicial district in Iowa. Currently,
18 court is defined as the judicial district where the alleged
19 unfair or discriminatory act occurred. The venue provisions
20 of section 216.16, subsection 4, remain unchanged so that a
21 respondent can still move a case filed in Iowa to the county
22 where the unfair act occurred or where the respondent resides
23 or has its business.

24 The changes to section 216.12 provide an exception to the
25 housing discrimination provisions of chapter 216 for
26 discrimination on the basis of familial status concerning
27 dwellings for the elderly and discrimination on the basis of
28 sex where residents of both sexes would share a living area of
29 a dwelling. These changes provide that the exceptions to
30 housing discrimination do not apply to advertising for certain
31 rental or leased dwellings which are for two families or which
32 contain less than four rooms.

33 The change to section 216.15, subsection 1, eliminates the
34 requirement to file a discriminatory complaint in triplicate.

35 The bill also adds mediation to the complaint process and

1 provides for the procedure involved and for the
2 confidentiality of the information obtained.

3 The bill also provides that the remedies for a civil action
4 alleging housing discrimination filed on behalf of the civil
5 rights commission apply to an action filed by the aggrieved
6 person.

7 The bill also repeals the section of the Code providing
8 that an employer is not required to promote or transfer a
9 handicapped individual unless the individual is otherwise
10 qualified for such promotion or transfer.

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SSB-110

Succeeded By Judiciary
SF/HF _____

SENATE/HOUSE FILE 457
BY (PROPOSED CIVIL RIGHTS
COMMISSION BILL)

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

A BILL FOR

1 An Act relating to the civil rights commission concerning the
2 enforcement of civil rights laws, and the promotion and
3 transfer of employed disabled persons.

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

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1 Section 1. Section 22.7, subsection 32, Code 1995, is
2 amended to read as follows:

3 32. Memoranda, work products, and case files of a mediator
4 and all other confidential communications in the possession of
5 a mediator, as provided in ~~chapter~~ chapters 86 and 216.
6 Information in these confidential communications is subject to
7 disclosure only as provided in ~~section~~ sections 86.44 and
8 216.15B, notwithstanding any other contrary provision of this
9 chapter.

10 Sec. 2. Section 216.2, subsection 3, Code 1995, is amended
11 to read as follows:

12 3. "Court" means the district court in and for the any
13 judicial district of the state of Iowa ~~in which the alleged~~
14 ~~unfair or discriminatory practice occurred~~ or any judge of
15 said the court if the court is not in session at that time.

16 Sec. 3. Section 216.5, subsection 2, Code 1995, is amended
17 to read as follows:

18 2. To receive, investigate, mediate, and finally determine
19 the merits of complaints alleging unfair or discriminatory
20 practices.

21 Sec. 4. Section 216.5, Code 1995, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 15. To utilize volunteers to aid in the
24 conduct of the commission's business including case processing
25 functions such as intake, screening, investigation, and
26 mediation.

27 Sec. 5. Section 216.12, subsection 4, unnumbered paragraph
28 1, Code 1995, is amended to read as follows:

29 Dwellings Discrimination on the basis of familial status
30 involving dwellings provided under any state or federal
31 program specifically designed and operated to assist elderly
32 persons, as defined in the state or federal program that the
33 commission determines to be consistent with determinations
34 made by the United States secretary of housing and urban
35 development, and housing for older persons. As used in this

1 subsection, "housing for older persons" means housing
2 communities consisting of dwellings intended for either of the
3 following:

4 Sec. 6. Section 216.12, Code 1995, is amended by adding
5 the following new subsection:

6 NEW SUBSECTION. 6. Discrimination on the basis of sex
7 involving the rental, leasing, or subleasing of a dwelling
8 within which residents of both sexes would be forced to share
9 a living area.

10 Sec. 7. Section 216.12, unnumbered paragraph 2, Code 1995,
11 is amended to read as follows:

12 The exceptions to the requirements of sections 216.8 and
13 216.8A provided for dwellings specified in subsection
14 subsections 2, 3, and 5 do not apply to advertising related to
15 those dwellings.

16 Sec. 8. Section 216.15, subsection 1, Code 1995, is
17 amended to read as follows:

18 1. Any person claiming to be aggrieved by a discriminatory
19 or unfair practice may, in person or by an attorney, make,
20 sign, and file with the commission a verified, written
21 complaint ~~in-triplicate~~ which shall state the name and address
22 of the person, employer, employment agency, or labor
23 organization alleged to have committed the discriminatory or
24 unfair practice of which complained, shall set forth the
25 particulars thereof, and shall contain such other information
26 as may be required by the commission. The commission, a
27 commissioner, or the attorney general may in like manner make,
28 sign, and file such complaint.

29 Sec. 9. Section 216.15, subsection 4, Code 1995, is
30 amended to read as follows:

31 4. The members of the commission and its staff shall not
32 disclose the filing of a complaint, the information gathered
33 during the investigation, or the endeavors to eliminate such
34 discriminatory or unfair practice by mediation, conference,
35 conciliation, and persuasion, unless such disclosure is made

1 in connection with the conduct of such investigation.

2 Sec. 10. Section 216.15, subsection 9, Code 1995, is
3 amended to read as follows:

4 9. The terms of a conciliation or mediation agreement
5 reached with the respondent may require the respondent to
6 refrain in the future from committing discriminatory or unfair
7 practices of the type stated in the agreement, to take
8 remedial action as in the judgment of the commission will
9 carry out the purposes of this chapter, and to consent to the
10 entry in an appropriate district court of a consent decree
11 embodying the terms of the conciliation or mediation
12 agreement. Violation of such a consent decree may be punished
13 as contempt by the court in which it is filed, upon a showing
14 by the commission of the violation at any time within six
15 months of its occurrence. ~~In all cases where a conciliation~~
16 ~~agreement is entered into, the commission shall issue an order~~
17 ~~stating its terms and furnish a copy of the order to the~~
18 ~~complainant, the respondent, and such other persons as the~~
19 ~~commission deems proper.~~ At any time in its discretion, the
20 commission may investigate whether the terms of the agreement
21 are being complied with by the respondent.

22 Upon a finding that the terms of the conciliation or
23 mediation agreement are not being complied with by the
24 respondent, the commission shall take appropriate action to
25 assure compliance.

26 Sec. 11. Section 216.15, Code 1995, is amended by adding
27 the following new subsection:

28 NEW SUBSECTION. 13. The commission or a party to a
29 complaint may request mediation of the complaint at any time
30 during the commission's processing of the complaint. If the
31 complainant and respondent participate in mediation, any
32 mediation agreement may be enforced pursuant to this section.
33 Mediation may be discontinued at the request of any party or
34 the commission.

35 Sec. 12. NEW SECTION. 216.15B MEDIATION --

1 CONFIDENTIALITY.

2 1. For the purposes of this section, "mediator" shall be
3 the person designated in writing by the commission to conduct
4 mediation of a complaint filed under this chapter. The
5 written designation must specifically refer to this section.

6 2. All verbal or written information relating to the
7 subject matter of a mediation agreement and transmitted
8 between either the complainant or the respondent and a
9 mediator to resolve a complaint filed under this chapter,
10 whether reflected in notes, memoranda, or other work products,
11 is a confidential communication except as otherwise expressly
12 provided in this chapter. Mediators involved in a mediation
13 under this section shall not be examined in any judicial or
14 administrative proceeding regarding the confidential
15 communications and are not subject to judicial or
16 administrative process requiring the disclosure of the
17 confidential communications. If a written confidential
18 communication is kept by the mediator it must be kept in a
19 mediation file which is maintained separately from the case
20 file. The confidential communications may not be included in
21 the commission's case file unless the person providing the
22 information consents to its inclusion in the case file. The
23 mediation file is not part of the file made available to the
24 parties upon the commission's receipt of a right to sue
25 letter. Information maintained in the mediation file and not
26 included in the case file shall not be considered when making
27 a recommendation or decision regarding screening, probable
28 cause, or any issue in a contested case.

29 3. A mediator who has reason to believe that a complainant
30 or respondent has given perjured evidence concerning a
31 confidential communication is not barred by this section from
32 disclosing the basis for this belief to any party to a cause
33 in which the alleged perjury occurs or to the appropriate
34 authorities, including testifying concerning the relevant
35 confidential communications. If a dispute regarding the

1 existence of a mediation agreement exists, the terms of the
2 mediation agreement, or the conduct of the mediation process
3 itself, the mediator may be examined regarding relevant
4 confidential communications.

5 Sec. 13. Section 216.16A, subsection 2, paragraphs c, d,
6 and e, Code 1995, are amended to read as follows:

7 c. An aggrieved person may file an action under this
8 ~~section~~ subsection whether or not a discriminatory housing or
9 real estate complaint has been filed under section ~~216-15A~~
10 216.15, and without regard to the status of any discriminatory
11 housing or real estate complaint filed under that section.

12 d. If the commission has obtained a mediation agreement
13 with the consent of an aggrieved person, the aggrieved person
14 shall not file an action under this ~~section~~ subsection with
15 respect to the alleged discriminatory practice that forms the
16 basis for the complaint except to enforce the terms of the
17 agreement.

18 e. An aggrieved person shall not file an action under this
19 ~~section~~ subsection with respect to an alleged discriminatory
20 housing or real estate practice that forms the basis of a
21 charge issued by the commission if the commission has begun a
22 hearing on the record under this chapter with respect to the
23 charge.

24 Sec. 14. Section 216.16A, subsection 2, Code 1995, is
25 amended by adding the following new paragraph:

26 NEW PARAGRAPH. f. In an action filed in district court
27 under this subsection, the court may, upon a finding of
28 discrimination, order any of the remedies provided for in
29 section 216.17A, subsection 6.

30 Sec. 15. Section 216.17A, subsection 6, Code 1995, is
31 amended to read as follows:

32 6. In an action under ~~this-section~~ subsection 1 and
33 section 216.16A, subsection 2, if the district court finds
34 that a discriminatory housing or real estate practice has
35 occurred or is about to occur, the district court may award or

1 issue to the plaintiff one or more of the following:

2 Sec. 16. Section 216.17A, subsection 8, paragraph a, Code
3 1995, is amended to read as follows:

4 a. On the request of the commission, the attorney general
5 may intervene in an action under this section 216.16A,
6 subsection 2, if the commission certifies that the case is of
7 general public importance.

8 Sec. 17. Section 216.17A, subsection 9, paragraph b,
9 unnumbered paragraph 1, Code 1995, is amended to read as
10 follows:

11 In an action under this ~~section~~ subsection and subsection
12 8, the district court may do any of the following:

13 Sec. 18. REPEAL. Section 216.14, Code 1995, is repealed.

14 EXPLANATION

15 The amendment to section 216.2 defines "court" for purposes
16 of the civil rights commission chapter as including all
17 district courts in any judicial district in Iowa. Currently,
18 court is defined as the judicial district where the alleged
19 unfair or discriminatory act occurred. The venue provisions
20 of section 216.16, subsection 4, remain unchanged so that a
21 respondent can still move a case filed in Iowa to the county
22 where the unfair act occurred or where the respondent resides
23 or has its business.

24 The changes to section 216.12 provide an exception to the
25 housing discrimination provisions of chapter 216 for
26 discrimination on the basis of familial status concerning
27 dwellings for the elderly and discrimination on the basis of
28 sex where residents of both sexes would share a living area of
29 a dwelling. These changes provide that the exceptions to
30 housing discrimination do not apply to advertising for certain
31 rental or leased dwellings which are for two families or which
32 contain less than four rooms.

33 The change to section 216.15, subsection 1, eliminates the
34 requirement to file a discriminatory complaint in triplicate.

35 The bill also adds mediation to the complaint process and

1 provides for the procedure involved and for the
2 confidentiality of the information obtained.

3 The bill also provides that the remedies for a civil action
4 alleging housing discrimination filed on behalf of the civil
5 rights commission apply to an action filed by the aggrieved
6 person.

7 The bill also repeals the section of the Code providing
8 that an employer is not required to promote or transfer a
9 handicapped individual unless the individual is otherwise
10 qualified for such promotion or transfer.

11 BACKGROUND STATEMENT

12 SUBMITTED BY THE AGENCY

13 The bill modifies the definition of court and changes the
14 housing and mediation sections of chapter 216. The bill also
15 removes a requirement that complaints be filed in triplicate.

16 The changes in the definition of court are being proposed
17 to make it easier to file actions in the correct judicial
18 district. The changes in the housing sections add an
19 exception for discrimination on the basis of sex involving the
20 rental, leasing, or subleasing of a dwelling within which
21 residents of both sexes would be forced to share a living area
22 and makes some technical corrections to other housing
23 sections. Mediation is formally added as a step in complaint
24 processing, and the mediation process is outlined.

25 The intent of the changes in the bill are to make the
26 requirements for filing an action in court clearer, improve
27 the language in the housing discrimination portion of chapter
28 216, and place increased emphasis on utilizing mediation in
29 complaint processing.

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SENATE FILE 457

AN ACT
RELATING TO THE CIVIL RIGHTS COMMISSION CONCERNING THE
ENFORCEMENT OF CIVIL RIGHTS LAWS.

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

Section 1. Section 22.7, subsection 32, Code 1995, is amended to read as follows:

32. Memoranda, work products, and case files of a mediator and all other confidential communications in the possession of a mediator, as provided in ~~chapter~~ chapters 86 and 216. Information in these confidential communications is subject to disclosure only as provided in ~~section~~ sections 86.44 and 216.15B, notwithstanding any other contrary provision of this chapter.

Sec. 2. Section 216.2, subsection 3, Code 1995, is amended to read as follows:

3. "Court" means the district court in and for the any judicial district of the state of Iowa ~~in which the alleged unfair or discriminatory practice occurred~~ or any judge of ~~said~~ the court if the court is not in session at that time.

Sec. 3. Section 216.5, subsection 2, Code 1995, is amended to read as follows:

2. To receive, investigate, mediate, and finally determine the merits of complaints alleging unfair or discriminatory practices.

Sec. 4. Section 216.5, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 15. To utilize volunteers to aid in the conduct of the commission's business including case processing functions such as intake, screening, investigation, and mediation.

Sec. 5. Section 216.12, subsection 4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Dwellings Discrimination on the basis of familial status involving dwellings provided under any state or federal program specifically designed and operated to assist elderly persons, as defined in the state or federal program that the commission determines to be consistent with determinations made by the United States secretary of housing and urban development, and housing for older persons. As used in this subsection, "housing for older persons" means housing communities consisting of dwellings intended for either of the following:

Sec. 6. Section 216.12, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Discrimination on the basis of sex involving the rental, leasing, or subleasing of a dwelling within which residents of both sexes would be forced to share a living area.

Sec. 7. Section 216.12, unnumbered paragraph 2, Code 1995, is amended to read as follows:

The exceptions to the requirements of sections 216.8 and 216.8A provided for dwellings specified in ~~subsection~~ subsections 2, 3, and 5 do not apply to advertising related to those dwellings.

Sec. 8. Section 216.15, subsection 1, Code 1995, is amended to read as follows:

1. Any person claiming to be aggrieved by a discriminatory or unfair practice may, in person or by an attorney, make, sign, and file with the commission a verified, written complaint ~~in triplicate~~ which shall state the name and address of the person, employer, employment agency, or labor organization alleged to have committed the discriminatory or unfair practice of which complained, shall set forth the particulars thereof, and shall contain such other information as may be required by the commission. The commission, a commissioner, or the attorney general may in like manner make, sign, and file such complaint.

Sec. 9. Section 216.15, subsection 4, Code 1995, is amended to read as follows:

4. The members of the commission and its staff shall not disclose the filing of a complaint, the information gathered during the investigation, or the endeavors to eliminate such discriminatory or unfair practice by mediation, conference, conciliation, and persuasion, unless such disclosure is made in connection with the conduct of such investigation.

Sec. 10. Section 216.15, subsection 9, Code 1995, is amended to read as follows:

9. The terms of a conciliation or mediation agreement reached with the respondent may require the respondent to refrain in the future from committing discriminatory or unfair practices of the type stated in the agreement, to take remedial action as in the judgment of the commission will carry out the purposes of this chapter, and to consent to the entry in an appropriate district court of a consent decree embodying the terms of the conciliation or mediation agreement. Violation of such a consent decree may be punished as contempt by the court in which it is filed, upon a showing by the commission of the violation at any time within six months of its occurrence. ~~In all cases where a conciliation agreement is entered into, the commission shall issue an order stating its terms and furnish a copy of the order to the complainant, the respondent, and such other persons as the commission deems proper.~~ At any time in its discretion, the commission may investigate whether the terms of the agreement are being complied with by the respondent.

Upon a finding that the terms of the conciliation or mediation agreement are not being complied with by the respondent, the commission shall take appropriate action to assure compliance.

Sec. 11. Section 216.15, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 13. The commission or a party to a complaint may request mediation of the complaint at any time during the commission's processing of the complaint. If the complainant and respondent participate in mediation, any mediation agreement may be enforced pursuant to this section.

Mediation may be discontinued at the request of any party or the commission.

Sec. 12. NEW SECTION. 216.15B MEDIATION -- CONFIDENTIALITY.

1. For the purposes of this section, "mediator" shall be the person designated in writing by the commission to conduct mediation of a complaint filed under this chapter. The written designation must specifically refer to this section.

2. All verbal or written information relating to the subject matter of a mediation agreement and transmitted between either the complainant or the respondent and a mediator to resolve a complaint filed under this chapter, whether reflected in notes, memoranda, or other work products, is a confidential communication except as otherwise expressly provided in this chapter. Mediators involved in a mediation under this section shall not be examined in any judicial or administrative proceeding regarding the confidential communications and are not subject to judicial or administrative process requiring the disclosure of the confidential communications. If a written confidential communication is kept by the mediator it must be kept in a mediation file which is maintained separately from the case file. The confidential communications may not be included in the commission's case file unless the person providing the information consents to its inclusion in the case file. The mediation file is not part of the file made available to the parties upon the commission's receipt of a right to sue letter. Information maintained in the mediation file and not included in the case file shall not be considered when making a recommendation or decision regarding screening, probable cause, or any issue in a contested case.

3. A mediator who has reason to believe that a complainant or respondent has given perjured evidence concerning a confidential communication is not barred by this section from disclosing the basis for this belief to any party to a cause in which the alleged perjury occurs or to the appropriate authorities, including testifying concerning the relevant

confidential communications. If a dispute regarding the existence of a mediation agreement exists, the terms of the mediation agreement, or the conduct of the mediation process itself, the mediator may be examined regarding relevant confidential communications.

Sec. 13. Section 216.16A, subsection 2, paragraphs c, d, and e, Code 1995, are amended to read as follows:

c. An aggrieved person may file an action under this section subsection whether or not a discriminatory housing or real estate complaint has been filed under section ~~216-15A~~ 216.15, and without regard to the status of any discriminatory housing or real estate complaint filed under that section.

d. If the commission has obtained a mediation agreement with the consent of an aggrieved person, the aggrieved person shall not file an action under this section subsection with respect to the alleged discriminatory practice that forms the basis for the complaint except to enforce the terms of the agreement.

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

Sec. 14. Section 216.16A, subsection 2, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. In an action filed in district court under this subsection, the court may, upon a finding of discrimination, order any of the remedies provided for in section 216.17A, subsection 6.

Sec. 15. Section 216.17A, subsection 6, unnumbered paragraph 1, Code 1995, is amended to read as follows:

In an action under this section subsection 1 and section 216.16A, subsection 2, if the district court finds that a discriminatory housing or real estate practice has occurred or is about to occur, the district court may award or issue to the plaintiff one or more of the following:

Sec. 16. Section 216.17A, subsection 8, paragraph a, Code 1995, is amended to read as follows:

a. On the request of the commission, the attorney general may intervene in an action under this section 216.16A, subsection 2, if the commission certifies that the case is of general public importance.

Sec. 17. Section 216.17A, subsection 9, paragraph b, unnumbered paragraph 1, Code 1995, is amended to read as follows:

In an action under this section subsection and subsection 8, the district court may do any of the following:

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 457, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved  1995

TERRY E. BRANSTAD
Governor