

Senate Study Bill 110

Conference Committee Text

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1 1 Section 1. Section [22.7](#), subsection 32, Code 1995, is
1 2 amended to read as follows:
1 3 32. Memoranda, work products, and case files of a mediator
1 4 and all other confidential communications in the possession of
1 5 a mediator, as provided in

~~chapter~~

- ~~chapters 86 and 216.~~

1 6 Information in these confidential communications is subject to
1 7 disclosure only as provided in

~~section~~

- ~~sections 86.44 and~~

1 8 [216.15B](#), notwithstanding any other contrary provision of this
1 9 chapter.

1 10 Sec. 2. Section [216.2](#), subsection 3, Code 1995, is amended
1 11 to read as follows:

1 12 3. "Court" means the district court in and for

~~the~~

- ~~any~~

1 13 judicial district of the state of Iowa

~~in which the alleged~~

-

1 14

~~unfair or discriminatory practice occurred~~

- or any judge of

1 15

~~said~~

- ~~the~~ court if the court is not in session at that time.

1 16 Sec. 3. Section [216.5](#), subsection 2, Code 1995, is amended
1 17 to read as follows:

1 18 2. To receive, investigate, mediate, and finally determine
1 19 the merits of complaints alleging unfair or discriminatory
1 20 practices.

1 21 Sec. 4. Section [216.5](#), Code 1995, is amended by adding the
1 22 following new subsection:

1 23 NEW SUBSECTION. 15. To utilize volunteers to aid in the
1 24 conduct of the commission's business including case processing
1 25 functions such as intake, screening, investigation, and
1 26 mediation.

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

1 29

~~Dwellings~~

- Discrimination on the basis of familial status

1 30 involving dwellings provided under any state or federal
1 31 program specifically designed and operated to assist elderly
1 32 persons, as defined in the state or federal program that the
1 33 commission determines to be consistent with determinations
1 34 made by the United States secretary of housing and urban
1 35 development, and housing for older persons. As used in this

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

2 4 Sec. 6. Section [216.12](#), Code 1995, is amended by adding
2 5 the following new subsection:

2 6 NEW SUBSECTION. 6. Discrimination on the basis of sex
2 7 involving the rental, leasing, or subleasing of a dwelling
2 8 within which residents of both sexes would be forced to share
2 9 a living area.

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

2 12 The exceptions to the requirements of sections 216.8 and
2 13 216.8A provided for dwellings specified in

~~subsection~~

2 14 subsections 2, 3, and 5 do not apply to advertising related to
2 15 those dwellings.

2 16 Sec. 8. Section [216.15](#), subsection 1, Code 1995, is
2 17 amended to read as follows:

2 18 1. Any person claiming to be aggrieved by a discriminatory
2 19 or unfair practice may, in person or by an attorney, make,
2 20 sign, and file with the commission a verified, written
2 21 complaint

~~in triplicate~~

- which shall state the name and address

2 22 of the person, employer, employment agency, or labor
2 23 organization alleged to have committed the discriminatory or
2 24 unfair practice of which complained, shall set forth the
2 25 particulars thereof, and shall contain such other information
2 26 as may be required by the commission. The commission, a
2 27 commissioner, or the attorney general may in like manner make,
2 28 sign, and file such complaint.

2 29 Sec. 9. Section [216.15](#), subsection 4, Code 1995, is
2 30 amended to read as follows:

2 31 4. The members of the commission and its staff shall not
2 32 disclose the filing of a complaint, the information gathered
2 33 during the investigation, or the endeavors to eliminate such
2 34 discriminatory or unfair practice by mediation, conference,
2 35 conciliation, and persuasion, unless such disclosure is made
3 1 in connection with the conduct of such investigation.

3 2 Sec. 10. Section [216.15](#), subsection 9, Code 1995, is
3 3 amended to read as follows:

3 4 9. The terms of a conciliation or mediation agreement
3 5 reached with the respondent may require the respondent to
3 6 refrain in the future from committing discriminatory or unfair
3 7 practices of the type stated in the agreement, to take
3 8 remedial action as in the judgment of the commission will
3 9 carry out the purposes of this chapter, and to consent to the
3 10 entry in an appropriate district court of a consent decree
3 11 embodying the terms of the conciliation or mediation
3 12 agreement. Violation of such a consent decree may be punished
3 13 as contempt by the court in which it is filed, upon a showing
3 14 by the commission of the violation at any time within six
3 15 months of its occurrence.

~~In all cases where a conciliation~~

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3 16

~~agreement is entered into, the commission shall issue an order~~

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3 17

~~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
3 20 commission may investigate whether the terms of the agreement
3 21 are being complied with by the respondent.

3 22 Upon a finding that the terms of the conciliation or
3 23 mediation agreement are not being complied with by the
3 24 respondent, the commission shall take appropriate action to
3 25 assure compliance.

3 26 Sec. 11. Section [216.15](#), Code 1995, is amended by adding
3 27 the following new subsection:

3 28 NEW SUBSECTION. 13. The commission or a party to a
3 29 complaint may request mediation of the complaint at any time
3 30 during the commission's processing of the complaint. If the
3 31 complainant and respondent participate in mediation, any
3 32 mediation agreement may be enforced pursuant to this section.
3 33 Mediation may be discontinued at the request of any party or
3 34 the commission.

3 35 Sec. 12. NEW SECTION. 216.15B MEDIATION ‐
4 1 CONFIDENTIALITY.

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

4 6 2. All verbal or written information relating to the
4 7 subject matter of a mediation agreement and transmitted
4 8 between either the complainant or the respondent and a
4 9 mediator to resolve a complaint filed under this chapter,
4 10 whether reflected in notes, memoranda, or other work products,
4 11 is a confidential communication except as otherwise expressly
4 12 provided in this chapter. Mediators involved in a mediation
4 13 under this section shall not be examined in any judicial or
4 14 administrative proceeding regarding the confidential
4 15 communications and are not subject to judicial or
4 16 administrative process requiring the disclosure of the
4 17 confidential communications. If a written confidential
4 18 communication is kept by the mediator it must be kept in a
4 19 mediation file which is maintained separately from the case
4 20 file. The confidential communications may not be included in
4 21 the commission's case file unless the person providing the
4 22 information consents to its inclusion in the case file. The
4 23 mediation file is not part of the file made available to the
4 24 parties upon the commission's receipt of a right to sue
4 25 letter. Information maintained in the mediation file and not
4 26 included in the case file shall not be considered when making
4 27 a recommendation or decision regarding screening, probable
4 28 cause, or any issue in a contested case.

4 29 3. A mediator who has reason to believe that a complainant
4 30 or respondent has given perjured evidence concerning a
4 31 confidential communication is not barred by this section from
4 32 disclosing the basis for this belief to any party to a cause
4 33 in which the alleged perjury occurs or to the appropriate
4 34 authorities, including testifying concerning the relevant
4 35 confidential communications. If a dispute regarding the
5 1 existence of a mediation agreement exists, the terms of the
5 2 mediation agreement, or the conduct of the mediation process
5 3 itself, the mediator may be examined regarding relevant
5 4 confidential communications.

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

5 7 c. An aggrieved person may file an action under this

~~section~~

- subsection whether or not a discriminatory housing or
5 9 real estate complaint has been filed under section

~~216.15A~~

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5 10 216.15, and without regard to the status of any discriminatory
5 11 housing or real estate complaint filed under that section.
5 12 d. If the commission has obtained a mediation agreement
5 13 with the consent of an aggrieved person, the aggrieved person
5 14 shall not file an action under this

~~section~~

- subsection with
5 15 respect to the alleged discriminatory practice that forms the
5 16 basis for the complaint except to enforce the terms of the
5 17 agreement.
5 18 e. An aggrieved person shall not file an action under this
5 19

~~section~~

- subsection with respect to an alleged discriminatory
5 20 housing or real estate practice that forms the basis of a
5 21 charge issued by the commission if the commission has begun a
5 22 hearing on the record under this chapter with respect to the
5 23 charge.
5 24 Sec. 14. Section 216.16A, subsection 2, Code 1995, is
5 25 amended by adding the following new paragraph:
5 26 NEW PARAGRAPH. f. In an action filed in district court
5 27 under this subsection, the court may, upon a finding of
5 28 discrimination, order any of the remedies provided for in
5 29 section 216.17A, subsection 6.
5 30 Sec. 15. Section 216.17A, subsection 6, Code 1995, is
5 31 amended to read as follows:
5 32 6. In an action under

~~this section~~

- subsection 1 and
5 33 section 216.16A, subsection 2, if the district court finds
5 34 that a discriminatory housing or real estate practice has
5 35 occurred or is about to occur, the district court may award or
6 1 issue to the plaintiff one or more of the following:
6 2 Sec. 16. Section 216.17A, subsection 8, paragraph a, Code
6 3 1995, is amended to read as follows:
6 4 a. On the request of the commission, the attorney general
6 5 may intervene in an action under

~~this~~

- section 216.16A,
6 6 subsection 2, if the commission certifies that the case is of
6 7 general public importance.
6 8 Sec. 17. Section 216.17A, subsection 9, paragraph b,
6 9 unnumbered paragraph 1, Code 1995, is amended to read as
6 10 follows:
6 11 In an action under this

~~section~~

- subsection and subsection
6 12 8, the district court may do any of the following:
6 13 Sec. 18. REPEAL. Section 216.14, Code 1995, is repealed.
6 14 EXPLANATION
6 15 The amendment to section 216.2 defines "court" for purposes
6 16 of the civil rights commission chapter as including all
6 17 district courts in any judicial district in Iowa. Currently,
6 18 court is defined as the judicial district where the alleged
6 19 unfair or discriminatory act occurred. The venue provisions

6 20 of section 216.16, subsection 4, remain unchanged so that a
6 21 respondent can still move a case filed in Iowa to the county
6 22 where the unfair act occurred or where the respondent resides
6 23 or has its business.

6 24 The changes to section 216.12 provide an exception to the
6 25 housing discrimination provisions of chapter 216 for
6 26 discrimination on the basis of familial status concerning
6 27 dwellings for the elderly and discrimination on the basis of
6 28 sex where residents of both sexes would share a living area of
6 29 a dwelling. These changes provide that the exceptions to
6 30 housing discrimination do not apply to advertising for certain
6 31 rental or leased dwellings which are for two families or which
6 32 contain less than four rooms.

6 33 The change to section 216.15, subsection 1, eliminates the
6 34 requirement to file a discriminatory complaint in triplicate.

6 35 The bill also adds mediation to the complaint process and
7 1 provides for the procedure involved and for the
7 2 confidentiality of the information obtained.

7 3 The bill also provides that the remedies for a civil action
7 4 alleging housing discrimination filed on behalf of the civil
7 5 rights commission apply to an action filed by the aggrieved
7 6 person.

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

7 11 BACKGROUND STATEMENT
7 12 SUBMITTED BY THE AGENCY

7 13 The bill modifies the definition of court and changes the
7 14 housing and mediation sections of chapter 216. The bill also
7 15 removes a requirement that complaints be filed in triplicate.

7 16 The changes in the definition of court are being proposed
7 17 to make it easier to file actions in the correct judicial
7 18 district. The changes in the housing sections add an
7 19 exception for discrimination on the basis of sex involving the
7 20 rental, leasing, or subleasing of a dwelling within which
7 21 residents of both sexes would be forced to share a living area
7 22 and makes some technical corrections to other housing
7 23 sections. Mediation is formally added as a step in complaint
7 24 processing, and the mediation process is outlined.

7 25 The intent of the changes in the bill are to make the
7 26 requirements for filing an action in court clearer, improve
7 27 the language in the housing discrimination portion of chapter
7 28 216, and place increased emphasis on utilizing mediation in
7 29 complaint processing.

7 30 LSB 1237DP 76

7 31 ec/cf/24.1