

January 22, 1963.

House File 49

Industrial and Human
Relations.

By RILEY, CARSTENSEN, DIETZ, CAMP,
HAGEN, STANLEY, MESSERLY, DENMAN,
SWISHER, CARNAHAN, ELY and TABOR.

Indefinitely Postponed 3/20

Passed House, Date.....

Passed Senate, Date.....

Vote: Ayes..... Nays.....

Vote: Ayes..... Nays.....

Industrial & Human Relations 3/21

Approved.....

A BILL FOR

An Act prohibiting discriminatory employment practices and policies based upon race, color, religion, or country of ancestral origin; providing for a commission on human rights and providing for the enforcement of the provisions of this Act, and to make an appropriation therefor.

Be It Enacted by the General Assembly of the State of Iowa:

- 1 Section 1. This Act shall be known as the "Iowa Act
- 2 Against Discrimination." It shall be deemed an exercise of the
- 3 police power of the state for the protection of the public
- 4 welfare, safety, health, and peace of the people of this state.
- 5 The practice or policy of discrimination against individuals
- 6 in relation to employment by reason of their race, religion,
- 7 color, national origin, or ancestry is a matter of concern to
- 8 the state. Such discrimination threatens not only the rights
- 9 and privileges of the inhabitants of the state of Iowa but
- 10 menaces the institutions and foundations of a free democratic
- 11 state. It is hereby declared to be the policy of the state
- 12 of Iowa to eliminate discrimination in all employment relations.
- 13 It is also declared to be the policy of this state to assure
- 14 equal opportunities and encouragement to every citizen regard-
- 15 less of race, religion, color, national origin, or ancestry,
- 16 in securing and holding, without discrimination, employment in
- 17 any field of work or labor for which he is properly qualified.
- 18 It is further declared that the opportunity to secure and to hold

19 employment is a civil right of every citizen. To protect that
20 right, it is hereby declared to be the purpose of this Act to
21 establish and to provide a state commission having power to
22 eliminate discrimination in employment because of race, religion,
23 color, national origin, or ancestry, either by employers, labor
24 organizations, employment agencies, or other persons as provided
25 by this Act.

1 Sec. 2. When used in this Act:

2 1. The term "person" means one or more individuals, partner-
3 ships, associations, organizations, corporations, legal repre-
4 sentatives, trustees, trustees in bankruptcy, or receivers.

5 2. The term "employer" means any person in this state employ-
6 ing eight (8) or more persons, and any person acting directly or
7 indirectly for an employer as defined by this Act, and labor
8 organizations, nonsectarian corporations, and organizations
9 engaged in social service work, and the state of Iowa and all
10 political and municipal subdivisions thereof, but shall not in-
11 clude a nonprofit religious, charitable, fraternal, social, ed-
12 ucational, or sectarian association or corporation.

13 3. The term "employee" does not include any individual
14 employed by his parents, spouse or child, or in the domestic
15 service of any person.

16 4. The term "labor organization" means any organization
17 which exists for the purpose, in whole or in part, of collec-
18 tive bargaining or of dealing with employers concerning grievances,
19 terms or conditions of employment, or of other mutual aid or
20 protection in relation to employment.

21 5. The term "employment agency" means any person or govern-
22 mental agency undertaking with or without compensation to procure

23 opportunities to work, or to procure, recruit, refer, or place
24 employees.

25 6. The term "commission" means the commission on human rights
26 created and amended by this Act.

27 7. The term "unlawful employment practices" means only those
28 unlawful practices and acts specified in section five (5) of this
29 Act, and includes segregate or separate.

1 Sec. 3. There is hereby created a commission to be known as
2 the Commission on Human Rights. The commission shall consist of
3 not more than seven (7) members appointed by the governor without
4 regard to political affiliation from the entire state represent-
5 ing, so far as practical, the various segments of the population.
6 Members herein appointed shall be confirmed by the senate.
7 One (1) shall be designated by the governor as chairman who shall
8 preside at all meetings of the commission and perform all duties
9 and functions as the chairman thereof. The commission may desig-
10 nate one (1) of its members to act as chairman during the absence
11 or incapacity of the chairman and when so acting the member so
12 designated shall have and perform all the duties and functions of
13 the chairman of the commission. The term of office of each
14 member of the commission shall be four (4) years and until
15 his successor is qualified: Provided, that of the commissioners
16 first appointed, two (2) shall be appointed for a term of one (1)
17 year, two (2) for a term of two (2) years, two (2) for a term of
18 three (3) years, and one (1) for a term of four (4) years.
19 Any member chosen to fill a vacancy occurring otherwise than by
20 expiration of term, shall be appointed for the unexpired term
21 of the member whom he is to succeed. A majority of the then
22 members of the commission shall constitute a quorum for the

23 purpose of conducting the business thereof. Vacancies in the
24 commission shall not impair the right of the remaining members
25 of the commission to exercise all the powers of the commission.
26 Each member of the commission shall receive as compensation for
27 his services, the sum of fifteen (15) dollars per day for each
28 day actually spent in the discharge of his official duties: Pro-
29 vided, this limitation shall not apply to any expenses actually
30 incurred by any member in traveling to and from the sessions of
31 the commission or during the actual attendance of the same; nor
32 to the necessary and actual expense incurred by any such member
33 in the performance of his official duties as provided for by
34 this Act. The commission shall choose a director, who shall not
35 be a member of the commission, and shall fix the compensation
36 of such director, which shall be payable out of the funds of the
37 commission hereinafter appropriated. The director shall attend
38 the meetings of the commission, shall serve as its secretary,
39 and shall have general charge of the work of the commission sub-
40 ject to its orders and directions, and shall serve at the
41 pleasure of the commission.

1 Sec. 4. The commission shall have the following functions,
2 powers and duties:

3 1. To establish and maintain its principal office at the
4 seat of government in office space provided by the executive
5 council.

6 2. To meet and function at any place within the state.

7 3. To adopt, promulgate, amend, and rescind suitable rules
8 and regulations to carry out the provisions of this Act and
9 the policies and practices of the commission in connection
10 therewith.

11 4. To receive and investigate complaints alleging discrim-
12 ination in employment because of race, religion, color, national
13 origin, or ancestry.

14 5. To hold hearings, administer oaths, subpoena witnesses,
15 take the testimony of any person under oath, and, in connection
16 therewith, to require reproduction for examination any books or
17 papers relating to any matter under investigation or in question
18 before the commission. No person shall be prosecuted or subject-
19 ed to any penalty or forfeiture for or on account of any trans-
20 action, matter or thing concerning which he testifies or pro-
21 duces evidence, except that such person so testifying shall not
22 be exempt from prosecution and punishment for perjury committed
23 in so testifying. The immunity herein provided shall extend
24 only to natural persons.

25 6. To endeavor to eliminate prejudice among the various
26 ethnic groups in this state and to further good will among such
27 groups. The commission in cooperation with the state depart-
28 ment of education shall prepare a comprehensive educational
29 program designed for the students of the public schools of
30 this state and for all other residents thereof, calculated,
31 to emphasize the origin of prejudice against such groups, its
32 harmful effects, and its incompatibility with American prin-
33 ciples of equality and fair play.

34 7. To create such advisory agencies and conciliation
35 councils, local, regional, or statewide, as in its judgment
36 will aid in effectuating the purposes of this Act, to study the
37 problem of discrimination in all or specific fields or instances
38 of discrimination because of race, religion, color, national
39 origin, or ancestry; to foster, through community effort or

40 otherwise, good will, cooperation and conciliation among the
41 groups and elements of the population of this state, and to
42 make recommendations to the commission for the development of
43 policies and procedures, and for programs of formal and informal
44 education, which the commission may recommend to the appropriate
45 state agency. Such advisory agencies and conciliation councils
46 shall be composed of representative citizens serving without
47 pay. The commission may itself make the studies and perform the
48 acts authorized by this subsection. It may, by voluntary confer-
49 ences with parties in interest, endeavor by conciliation and
50 persuasion to eliminate discrimination in all the stated fields
51 and to foster good will and cooperation among all elements of
52 the population of the state.

53 8. To accept contributions from any person to assist in
54 the effectuation of this section and to seek and enlist the co-
55 operation of private, charitable, religious, labor, civic, and
56 benevolent organizations for the purposes of this section.

57 9. To issue such publications and such results of investi-
58 gation and research as in its judgment will tend to promote
59 good will and minimize or eliminate discrimination because of
60 race, religion, color, national origin, or ancestry.

61 10. To render each year to the governor and to the general
62 assembly a full written report of all its activities and of
63 its recommendations.

1 Sec. 5. It shall be an unlawful employment practice:

2 1. For an employer, because of the race, religion, color,
3 national origin, or ancestry of any individual, to refuse to
4 hire or employ, or to bar or to discharge from employment such
5 individual or to otherwise discriminate against such individual

6 in compensation or in terms, conditions, or privileges of
7 employment.

8 2. For a labor organization, because of the race, religion,
9 color, national origin, or ancestry of any individual, to ex-
10 clude or to expel from its membership such individual or to
11 discriminate in any way against any of its members or against
12 any employer or any individual employed by an employer.

13 3. For any employer, employment agency, or labor organization
14 to print or circulate or cause to be printed or circulated any
15 statement, advertisement or publication, or to use any form of
16 application for employment or membership or to make any inquiry
17 written or oral in connection with prospective employment or
18 membership, which expresses, directly or indirectly, any
19 limitation, specification or discrimination as to race, religion,
20 color, national origin, or ancestry, or any intent to make any
21 such limitation, specification or discrimination, unless based
22 on a bona fide occupational qualification.

23 4. For any employer, employment agency or labor organization
24 to discharge, expel or otherwise discriminate against any person
25 because he has opposed any practices or acts forbidden under
26 this Act or because he has filed a complaint, testified or as-
27 sisted in any proceeding under this Act.

28 5. For any person, whether an employer or an employee or not,
29 to aid, abet, incite, compel, or coerce the doing of any of the
30 acts forbidden under this Act, or to attempt to do so.

1 Sec. 6. Any person claiming to be aggrieved by an alleged
2 unlawful employment practice may, by himself or by his attorney-
3 at-law, make, sign, and file with the commission a verified
4 complaint in writing which shall state the name and address of

5 the person, employer, labor organization, or employment agency
6 alleged to have committed the unlawful employment practice com-
7 plained of, and which shall set forth the particulars thereof
8 and contain such other information as may be required by the
9 commission. The attorney general may, in like manner, make,
10 sign, and file such complaint. When one or more employees of
11 any employer, refuse or threaten to refuse to comply with the
12 provisions of this Act, the employer may file with the
13 commission a complaint in writing asking for assistance by con-
14 ciliation or other remedial action.

15 1. After the filing of any complaint by an aggrieved individ-
16 ual, or by the attorney general, the commission shall designate
17 one of the commissioners to make, with the assistance of the
18 commissioner's staff, prompt investigation of the alleged act
19 of discrimination. If such commissioner shall determine after
20 such investigation that no probable cause exists for crediting
21 the allegations of the complaint, he shall, within ten (10) days
22 from such determination, cause to be issued and served upon the
23 complainant written notice of such determination.

24 2. If such commissioner after such investigation, shall de-
25 termine that probable cause exists for crediting the allegations
26 for the complaint, the said commissioner or such other commission-
27 er as the commission may designate, shall immediately endeavor
28 to eliminate the unlawful employment practice complained of by
29 conference and conciliation. The members of the commission and
30 its staff shall not disclose what has transpired in the course
31 of such endeavors.

32 3. In case of failure so to eliminate such practice, or in
33 advance thereof, if in the judgment of the commissioner or the

34 commission circumstances so warrant, the said commissioner or
35 the commission shall cause to be issued and served in the name
36 of the commission, a written notice, together with a copy of
37 such complaint, as the same may have been amended, requiring
38 the person, employer, labor organization, or employment agency
39 named in such complaint, referred to in this Act as respondent,
40 to answer the charges of such complaint at a hearing before the
41 commission at a time not less than ten (10) days after the serv-
42 ice of said notice. The place of such hearing may be in the
43 county where respondent's residence or principal place of business
44 is located or where the acts complained of occurred.

45 4. The case in support of the complaint shall be presented
46 before the commission by one of its attorneys or agents, or by
47 private counsel, if any, of the complainant, and the commission-
48 er who shall have previously made the investigation shall not
49 participate in the hearing except as a witness, nor shall he
50 participate in the deliberations of the commission in such case;
51 and the aforesaid endeavors at conciliation shall not be re-
52 ceived in evidence.

53 5. The respondent may file a written verified answer to the
54 complaint and appear at such hearing in person or otherwise,
55 with or without counsel, and submit testimony. The complainant
56 shall appear at such hearing in person, with or without counsel,
57 and submit testimony. Any individual or individuals filing such
58 a complaint must appear in person at such hearing. The commis-
59 sion or the complainant shall provide by rule for timely
60 amendment of any complaint or answer. The commission shall
61 observe the rules of evidence prevailing in courts of law or
62 equity, and only relevant evidence of reasonable probative

63 value shall be received. Reasonable examination and cross-
64 examination shall be permitted. All parties shall be afforded
65 reasonable opportunity to submit briefs prior to adjudication.

66 The testimony taken at a hearing shall be under oath and
67 transcribed.

68 6. If, upon all the evidence in the hearing, the commission
69 shall find a respondent has engaged in or is engaging in any
70 unlawful employment practice as defined in this Act, the com-
71 mission shall state its findings of fact and shall issue and
72 cause to be served on such respondent an order requiring such
73 respondent to cease and desist from such unlawful employment
74 practice and to take such affirmative or other action, including
75 the hiring, reinstatement with or without back pay, or upgrading
76 of employees admission or restoration to membership in any re-
77 spondent labor organization, as, in the judgment of the commis-
78 sion, will effectuate the purpose of this Act, and including a
79 requirement for periodic report of the manner of compliance.

80 7. If, upon all the evidence, the commission shall find that
81 a respondent has not engaged in any such unlawful employment
82 practice, the commission shall state its findings of fact and
83 shall issue and cause to be served on the complainant an order
84 dismissing the said complaint as to such respondent.

85 8. A copy of its order shall be delivered in all cases by the
86 commission to the complainant, to the respondent, to the attor-
87 ney general, and to such other public officers as the commission
88 may deem proper.

89 9. The commission shall, except as otherwise provided by
90 this Act, establish rules of practice to govern, expedite, and
91 effectuate the foregoing procedure and its own actions thereunder.

92 Said rules shall be available, upon written request, within thirty
93 (30) days after the date of adoption.

94 10. Any complaint filed under this Act must be so filed
95 within six (6) months after the alleged unlawful employment
96 practice.

1 Sec. 7. Any party being dissatisfied with any order or
2 decision of the commission may, within ten (10) days from the
3 date of the service of such order or decision, apply for a re-
4 hearing in respect to any matter determined therein, the
5 application shall be granted or denied by the commission within
6 ten (10) days from the date same shall be filed, and if the re-
7 hearing be not granted within ten (10) days it shall be taken
8 as denied. If a rehearing be granted the matter shall be de-
9 termined by the commission within thirty (30) days after the
10 same shall be submitted. No cause of action arising out of any
11 order or decision of the commission shall accrue in any court
12 to any party unless such party shall make application for a re-
13 hearing as provided by this Act. Such application shall set forth
14 specifically the ground or grounds on which the applicant con-
15 siders such order or decision to be unlawful or unreasonable.
16 No party shall, in any court, urge or rely upon any ground not
17 set forth in said application. An order made after a rehearing
18 abrogating, changing or modifying the original order or decision
19 shall have the same force and effect as an original order or
20 decision.

1 Sec. 8. The attorney general or county attorney, at the re-
2 quest of the commission, may secure enforcement of the order of
3 the commission by the district court of the county where the un-
4 lawful employment practice shall have occurred or where any per-

5 son required in the order to cease and desist from an unlawful
6 employment practice or to take any affirmative action resides or
7 transacts business, through mandamus or injunction in appropriate
8 cases, or by action to compel the specific performance of the
9 order. Such proceeding shall be initiated by the filing of a
10 petition in such court, together with a transcript of the record
11 upon the hearing before the commission, and issuance and service
12 of a copy of said petition as in civil actions. The court shall
13 have power to grant such temporary relief or restraining order
14 as it deems just and proper, and to make and enter upon the
15 pleadings, testimony and proceedings an order or decree, enforce-
16 ing, modifying, and enforcing, as so modified, or setting aside in
17 whole or in part, the order of the commission.

18 The attorney general, county attorney, or any person aggrieved
19 by an order made by the commission may obtain judicial review
20 thereof in the said court by filing with the clerk of said court
21 with thirty (30) days from the date of service of the order, a
22 written appeal praying that such order be modified or set aside.
23 The appeal shall certify that notice in writing of the appeal,
24 with a copy of the appeal, has been given to all parties who
25 appeared before the commission at their last known address, and
26 to the commission by service at the office of the commission in
27 Des Moines. The evidence presented to the commission together
28 with its findings and the order issued thereon, shall be certi-
29 fied by the commission to said district court as its return. No
30 order of the commission shall be superseded or stayed during the
31 proceeding on the appeal unless the district court shall so
32 direct.
33 No objection that has not been urged before the commission

34 shall be considered by the court unless failure or neglect to
35 urge such objection shall be excused because of extraordinary
36 circumstances.
37 The court shall hear the appeal without a jury and the court
38 may, in its discretion, permit any party or the commission to
39 submit additional evidence on any issue. Said appeal shall be
40 heard and determined by the court as expeditiously as possible.
41 After hearing, the court may affirm the adjudication. If the
42 adjudication by the commission is not affirmed, the court may set
43 aside or modify it, in whole or in part, or may remand the pro-
44 ceedings to the commission for further disposition in accordance
45 with the order of the court.

46 The commission's copy of the testimony shall be available at
47 all reasonable times to all parties for examination without cost,
48 and for the purpose of judicial review of the order. The review
49 shall be heard on the record without requirement of printing.

50 The commission shall be deemed a party to the review of any
51 order of the court.

52 The jurisdiction of the district court of the proper county
53 as provided for by this Act shall be exclusive and its final order
54 or decree shall be subject to review by the supreme court as in
55 other cases upon appeal within thirty (30) days of the filing of
56 such decision.

1 Sec. 9. Every employer, employment agency, and labor union
2 subject to this Act, shall keep posted in a conspicuous place
3 or places on his premises a notice or notices to be prepared
4 or approved by the commission, which shall set forth excerpts of
5 this Act and such other relevant information which the commis-
6 sion shall deem necessary to explain the Act.

1 Sec. 10. Any person, employer, labor organization, or employ-
2 ment agency, who or which shall willfully resist, prevent, impede,
3 or interfere with the commission or any of its members, or rep-
4 resentatives in the performance of duty under this Act, or shall
5 willfully disobey any order of the commission, shall be guilty
6 of a misdemeanor and upon conviction shall be punished by im-
7 prisonment for not more than one (1) year, or by a fine of not
8 more than five hundred (500) dollars, or by both such fine and
9 imprisonment; but procedure for the review of the order shall
10 not be deemed to be such willful conduct.

1 Sec. 11. If any clause, sentence, paragraph or part of this
2 Act or the application thereof to any person or circumstances
3 shall for any reason be adjudged by a court of competent juris-
4 diction to be invalid such judgment shall not affect, impair
5 or invalidate the remainder of this Act and the application
6 thereof to other persons or circumstances but shall be confined
7 in its operation to the clause, sentence, paragraph or part
8 thereof directly involved in the controversy in which such judg-
9 ment shall have been rendered and the persons or circumstances
10 involved. It is hereby declared to be the legislative intent
11 that this Act would have been adopted had such provisions not
12 been included.

1 Sec. 12. There is hereby appropriated the sum of sixty
2 thousand (60,000) dollars for the purposes of this Act for the
3 ensuing biennium.

EXPLANATION OF HOUSE FILE 49

This act prohibits discriminatory employment practices and policies based upon race, color, religion, or country of ancestral origin; defines certain words and phrases; provides for a commission on human rights; and provides for the enforcement of the provisions of this act.