



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0458/P2
JAM:amn

DOA:.....Kirschbaum, BB0123 - Equal rights hearings

FOR 2021-2023 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

EMPLOYMENT

Changes to equal rights hearings

Under current law, when DWD holds a complaint hearing regarding an alleged open housing violation, alleged discrimination in a public place of accommodation or amusement, or alleged discrimination, unfair honesty testing, or unfair genetic testing, DWD is required to hold the hearing in the county in which the violation is alleged to have occurred. This bill removes the requirement that such hearings be held in the county in which the violation is alleged to have occurred, and requires DWD to designate the place of hearing, which may include a remote, web-based, or in-person hearing in a location accessible and in proximity to the parties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 106.50 (6) (f) 1. of the statutes is amended to read:

106.50 (6) (f) 1. After the department issues a charge under par. (c) 2., the department shall serve the charge, along with a written notice of hearing, specifying

the nature and acts of discrimination which appear to have been committed, and requiring the respondent to answer the charge at a hearing before an examiner. The notice shall specify a time of hearing, not less than 10 days after service of the charge, and a place of hearing ~~within the county in which the violation is alleged to have occurred.~~ The department shall designate the place of hearing, which may include a remote, web-based, or in-person hearing in a location accessible and in proximity to the parties.

****NOTE: Please note the amended language uses “shall” (not “will”). Please let me know if that is not consistent with your intent.

SECTION 2. 106.52 (4) (a) 4. of the statutes is amended to read:

106.52 (4) (a) 4. If the department finds probable cause to believe that any act prohibited under sub. (3) has been or is being committed, the department may endeavor to eliminate the act by conference, conciliation and persuasion. If the department determines that such conference, conciliation and persuasion has not eliminated the alleged act prohibited under sub. (3), the department shall issue and serve a written notice of hearing, specifying the nature and acts prohibited under sub. (3) which appear to have been committed, and requiring the person named, in this subsection called the “respondent”, to answer the complaint at a hearing before an examiner. The notice shall specify a time of hearing, not less than 10 days after service of the complaint, and a place of hearing ~~within the county in which the violation of sub. (3) is alleged to have occurred.~~ The department shall designate the place of hearing, which may include a remote, web-based, or in-person hearing in a location accessible and in proximity to the parties. The attorney of record for any party may issue a subpoena to compel the attendance of a witness or the production of evidence. A subpoena issued by an attorney must be in substantially the same

form as provided in s. 805.07 (4) and must be served in the manner provided in s. 805.07 (5). The attorney shall, at the time of issuance, send a copy of the subpoena to the appeal tribunal or other representative of the department responsible for conducting the proceeding. The testimony at the hearing shall be recorded by the department. In all hearings before an examiner, except those for determining probable cause, the burden of proof is on the party alleging an act prohibited under sub. (3). If, after the hearing, the examiner finds by a fair preponderance of the evidence that the respondent has violated sub. (3), the examiner shall make written findings and order such action by the respondent as will effectuate the purpose of this subsection and sub. (3). The department shall serve a certified copy of the examiner's findings and order on the respondent and complainant. The order shall have the same force as other orders of the department and shall be enforced as provided in this subsection, except that the enforcement of the order is automatically stayed upon the filing of a petition for review with the commission. If the examiner finds that the respondent has not engaged in an act prohibited under sub. (3) as alleged in the complaint, the department shall serve a certified copy of the examiner's findings on the complainant and the respondent together with an order dismissing the complaint. If the complaint is dismissed, costs in an amount not to exceed \$100 plus actual disbursements for the attendance of witnesses may be assessed against the department in the discretion of the department.

SECTION 3. 111.39 (4) (b) of the statutes is amended to read:

111.39 (4) (b) If the department finds probable cause to believe that any discrimination has been or is being committed, that unfair honesty testing has occurred or is occurring or that unfair genetic testing has occurred or is occurring, it may endeavor to eliminate the practice by conference, conciliation or persuasion.

If the department does not eliminate the discrimination, unfair honesty testing or unfair genetic testing, the department shall issue and serve a written notice of hearing, specifying the nature of the discrimination that appears to have been committed or unfair honesty testing or unfair genetic testing that has occurred, and requiring the person named, in this section called the “respondent”, to answer the complaint at a hearing before an examiner. The notice shall specify a time of hearing not less than 30 days after service of the complaint, and a place of hearing ~~within either the county of the respondent’s residence or the county in which the discrimination, unfair honesty testing or unfair genetic testing appears to have occurred.~~ The department shall designate the place of hearing, which may include a remote, web-based, or in-person hearing in a location accessible and in proximity to the parties. The testimony at the hearing shall be recorded or taken down by a reporter appointed by the department.

(END)