



State of Wisconsin

2021 - 2022 LEGISLATURE

LRB-4629/P2
JAM:cdc

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT **to amend** 106.50 (6) (f) 1., 106.52 (4) (a) 4. and 111.39 (4) (b) of the
2 statutes; **relating to:** changes to Department of Workforce Development
3 hearings (suggested as remedial legislation by the Department of Workforce
4 Development).

Analysis by the Legislative Reference Bureau

Under current law, in cases of an alleged violation of the fair employment law, the open housing law, and the law governing discrimination in public places of accommodation, the Department of Workforce Development is required to specify in a written notice of hearing the time of hearing and a place of hearing within the county in which the violation is alleged to have occurred.

This bill requires that in cases of an alleged violation of the fair employment law, the open housing law, and the law governing discrimination in public places of accommodation, DWD is required to specify in a written notice of hearing the time of hearing and whether the hearing will be conducted online using telecommunication technology, or at a physical location within the county in which the violation is alleged to have occurred.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

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

2 106.50 (6) (f) 1. After the department issues a charge under par. (c) 2., the
3 department shall serve the charge, along with a written notice of hearing, specifying
4 the nature and acts of discrimination which appear to have been committed, and
5 requiring the respondent to answer the charge at a hearing before an examiner. The
6 notice shall specify a time of hearing, not less than 10 days after service of the charge,
7 and ~~a place of hearing whether the hearing will be conducted online using~~
8 ~~telecommunication technology or at a physical location~~ within the county in which
9 the violation is alleged to have occurred.

NOTE: SECTION 1 requires the Department of Workforce Development, when it issues a charge and schedules a hearing in an open housing matter, to include in its notice of hearing a statement as to whether the hearing will be conducted online, using telecommunication technology, or at a physical location.

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

11 106.52 (4) (a) 4. If the department finds probable cause to believe that any act
12 prohibited under sub. (3) has been or is being committed, the department may
13 endeavor to eliminate the act by conference, conciliation and persuasion. If the
14 department determines that such conference, conciliation and persuasion has not
15 eliminated the alleged act prohibited under sub. (3), the department shall issue and
16 serve a written notice of hearing, specifying the nature and acts prohibited under
17 sub. (3) which appear to have been committed, and requiring the person named, in
18 this subsection called the "respondent", to answer the complaint at a hearing before
19 an examiner. The notice shall specify a time of hearing, not less than 10 days after
20 service of the complaint, and ~~a place of hearing whether the hearing will be~~
21 ~~conducted online using telecommunication technology or at a physical location~~
22 within the county in which the violation of sub. (3) is alleged to have occurred. The
23 attorney of record for any party may issue a subpoena to compel the attendance of

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

NOTE: SECTION 2 requires the Department of Workforce Development, when it determines that a hearing is required in a matter alleging discrimination in a public place of accommodation or amusement, to include in its notice of hearing a statement as to whether the hearing will be conducted online, using telecommunication technology, or at a physical location.

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

2 **111.39 (4) (b)** If the department finds probable cause to believe that any
3 discrimination has been or is being committed, that unfair honesty testing has
4 occurred or is occurring or that unfair genetic testing has occurred or is occurring,
5 it may endeavor to eliminate the practice by conference, conciliation or persuasion.
6 If the department does not eliminate the discrimination, unfair honesty testing or
7 unfair genetic testing, the department shall issue and serve a written notice of
8 hearing, specifying the nature of the discrimination that appears to have been
9 committed or unfair honesty testing or unfair genetic testing that has occurred, and
10 requiring the person named, in this section called the “respondent”, to answer the
11 complaint at a hearing before an examiner. The notice shall specify a time of hearing
12 not less than 30 days after service of the complaint, and ~~a place of hearing whether~~
13 the hearing will be conducted online using telecommunications technology or at a
14 physical location within either the county of the respondent’s residence or the county
15 in which the discrimination, unfair honesty testing or unfair genetic testing appears
16 to have occurred. The testimony at the hearing shall be recorded or taken down by
17 a reporter appointed by the department.

NOTE: SECTION 3 requires the Department of Workforce Development, when it determines that a hearing is required in a matter alleging a violation of the fair employment law, to include in its notice of hearing a statement as to whether the hearing will be conducted online, using telecommunication technology, or at a physical location.