

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 2.2-3907 and 2.2-3908 of the Code of Virginia, relating to Virginia Human Rights Act; right to sue.

[S 350]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3907 and 2.2-3908 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3907. Procedures for a charge of unlawful discrimination; notice; investigation; report; conciliation; notice of the right to file a civil action; temporary relief.

A. Any person claiming to be aggrieved by an unlawful discriminatory practice may file a complaint in writing under oath or affirmation with the Office of Civil Rights of the Department of Law (the Office). The Office itself or the Attorney General may in a like manner file such a complaint. The complaint shall be in such detail as to substantially apprise any party properly concerned as to the time, place, and facts surrounding the alleged unlawful discrimination.

B. Upon perfection of a complaint filed pursuant to subsection A, the Office shall timely serve a charge on the respondent and provide all parties with a notice informing the parties of the complainant's rights, including the right to commence a civil action, and the dates within which the complainant may exercise such rights. In the notice, the Office shall notify the complainant that the charge of unlawful discrimination will be dismissed with prejudice and with no right to further proceed if a written complaint is not timely filed with the appropriate general district or circuit court.

C. The complainant and respondent may agree to voluntarily submit the charge to mediation without waiving any rights that are otherwise available to either party pursuant to this chapter and without incurring any obligation to accept the result of the mediation process. Nothing occurring in mediation shall be disclosed by the Office or admissible in evidence in any subsequent proceeding unless the complainant and the respondent agree in writing that such disclosure be made.

D. Once a charge has been issued, the Office shall conduct an investigation sufficient to determine whether there is reasonable cause to believe the alleged discrimination occurred. Such charge shall be the subject of a report made by the Office. The report shall be a confidential document subject to review by the Attorney General, authorized Office employees, and the parties. The review shall state whether there is reasonable cause to believe the alleged unlawful discrimination has been committed.

E. If the report on a charge of discrimination concludes that there is no reasonable cause to believe the alleged unlawful discrimination has been committed, the charge shall be dismissed and the complainant shall be given notice of his right to commence a civil action.

F. If the report on a charge of discrimination concludes that there is reasonable cause to believe the alleged unlawful discrimination has been committed, the complainant and respondent shall be notified of such determination and the Office shall immediately endeavor to eliminate any alleged unlawful discriminatory practice by informal methods such as conference, conciliation, and persuasion. When the Office determines that further endeavor to settle a complaint by conference, conciliation, and persuasion is unworkable and should be bypassed, the Office shall issue a notice that the case has been closed and the complainant shall be given notice of his right to commence a civil action.

G. At any time after a notice of charge of discrimination is issued, the Office or complainant may petition the appropriate court for temporary relief, pending final determination of the proceedings under this section, including an order or judgment restraining the respondent from doing or causing any act that would render ineffectual an order that a court may enter with respect to the complainant. Whether it is brought by the Office or by the complainant, the petition shall contain a certification by the Office that the particular matter presents exceptional circumstances in which irreparable injury will result from unlawful discrimination in the absence of temporary relief.

H. Upon receipt of a written request from the complainant, the Office shall promptly issue a notice of the right to file a civil action to the complainant after (i) 180 days have passed from the date the complaint was filed or (ii) the Office determines that it will be unable to complete its investigation within 180 days from the date the complaint was filed. *If the Office fails to issue such a notice pursuant to the provisions of this subsection, the complainant may commence a timely civil action as provided in § 2.2-3908.*

§ 2.2-3908. Civil actions by private parties.

A. An aggrieved person (i) who has been provided a notice of his right to file a civil action pursuant to § 2.2-3907 by the Office or the Equal Employment Opportunity Commission or (ii) if 180 days have

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57 *passed since a complaint was filed in the Office and the aggrieved person has not been provided a*
58 *notice of his right to file a civil action may commence a timely civil action in an appropriate general*
59 *district or circuit court having jurisdiction over the person who allegedly unlawfully discriminated*
60 *against such person in violation of this chapter. Any person may file an action that is not dual-filed after*
61 *180 days have passed since the complaint was filed with the Office of Civil Rights of the Department of*
62 *Law.*

63 B. If the court or jury finds that unlawful discrimination has occurred, the court or jury may award
64 to the plaintiff, as the prevailing party, compensatory and punitive damages and the court may award
65 reasonable attorney fees and costs and may grant as relief any permanent or temporary injunction,
66 temporary restraining order, or other order, including an order enjoining the defendant from engaging in
67 such practice, or order such affirmative action as may be appropriate.

68 C. Upon timely application, the Attorney General may intervene in such civil action if the Attorney
69 General certifies that the case is of general public importance. Upon intervention, the Attorney General
70 may obtain such relief as would be available to a private party under subsection B.