

HB 120 – AS INTRODUCED

2015 SESSION

15-0227
08/05

HOUSE BILL **120**

AN ACT relative to complaint procedures before the state commission for human rights.

SPONSORS: Rep. Abrami, Rock 19

COMMITTEE: Judiciary

ANALYSIS

This bill allows time to gather evidence during investigations of the state commission on human rights.

This bill also allows parties to a state commission on human rights hearing time to prepare for such hearing.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 120 – AS INTRODUCED

15-0227
08/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT relative to complaint procedures before the state commission for human rights.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Procedure on Complaints. Amend RSA 354-A:21, II (a)-(b) to read as follows:

2 (a) After the filing of any complaint, one of the commissioners designated by the chair
3 shall make, with the assistance of the commission's staff, prompt investigation in connection
4 therewith, ***leaving time for all evidence to be gathered which includes interviews with all***
5 ***witnesses brought both by the complainant and responder;*** ~~[during the course of the~~
6 ~~investigation,]~~ ***once probable cause is established,*** the commission shall encourage the parties to
7 resolve their differences through settlement negotiations; and if such commissioner shall determine
8 after such investigation that probable cause exists for crediting the allegations of the complaint, the
9 commissioner shall immediately endeavor to eliminate the unlawful discriminatory practice
10 complained of by conference, conciliation and persuasion. The members of the commission and its
11 staff shall not disclose what has occurred in the course of such endeavors, provided that the
12 commission may publish the facts in the case of any complaint which has been dismissed, and the
13 terms of conciliation when the complaint has been so disposed of. When the investigating
14 commissioner finds no probable cause to credit the allegations in the complaint, the complaint shall
15 be dismissed, subject to a right of appeal to superior court. To prevail on appeal, the moving party
16 shall establish that the commission decision is unlawful or unreasonable by a clear preponderance of
17 the evidence. The findings of the investigating commissioner upon questions of fact shall be upheld
18 as long as the record contains credible evidence to support them. If it reverses the finding of the
19 investigating commissioner, the superior court shall remand the case for further proceedings in
20 accordance with RSA 354-A:21, II, unless the complainant or respondent elects to proceed with a
21 hearing in superior court pursuant to RSA 354-A:21-a.

22 (b) In case of failure to eliminate an unlawful discriminatory practice complained of, or
23 in advance thereof, if, in the judgment of the commissioner making the investigation, circumstances
24 so warrant, the commissioner shall cause to be issued and served in the name of the commission, a
25 written notice, together with a copy of such complaint, as the same may have been amended,
26 requiring the person, employer, labor organization or employment agency named in such complaint,
27 hereinafter referred to as respondent, to answer charges of such complaint at a hearing before 3
28 members of the commission, designated by the chair and sitting as the commission, at a time and
29 place to be fixed by the chair and specified in such notice. The place of any such hearing shall be the
30 office of the commission or such other place as may be designated by it. ***Reasonable time shall be***
31 ***given to both parties to prepare for the hearing with the 3-member commissioner panel.***

HB 120 – AS INTRODUCED
- Page 2 -

- 1 *The facts in the investigator's report shall be subject to cross-examination by either side.*
- 2 2 Effective Date. This act shall take effect 60 days after its passage.