

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 2.2-3907 and 2.2-3908 of the Code of Virginia, relating to Virginia Human*
 3 *Rights Act; unlawful discriminatory practices; civil actions; statute of limitations.*

4 [H 925]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 2.2-3907 and 2.2-3908 of the Code of Virginia are amended and reenacted as follows:**8 **§ 2.2-3907. Procedures for a charge of unlawful discrimination; notice; investigation; report;**
 9 **conciliation; notice of the right to file a civil action; temporary relief.**

10 A. Any person claiming to be aggrieved by an unlawful discriminatory practice may file a complaint in
 11 writing under oath or affirmation with the Office of Civil Rights of the Department of Law (the Office).
 12 Unless otherwise stated in this chapter, a complaint alleging a violation of this chapter or federal statutes
 13 governing discrimination in employment that also falls under the jurisdiction of this chapter shall be filed
 14 with the Office no later than ~~300 days~~ *two years* from the day upon which the alleged discriminatory practice
 15 occurred. The Office itself may in a like manner initiate such a complaint. The complaint shall be in such
 16 detail as to substantially apprise any party properly concerned as to the time, place, and facts surrounding the
 17 alleged unlawful discrimination.

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

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

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

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

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

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

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

56 I. For any complaint or charge of discrimination for which the complainant has received a Notice of Right

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57 to Sue from the E.E.O.C., the general district or circuit court having jurisdiction shall accept the E.E.O.C.
58 Notice of Right to Sue as a notice of the right to file a civil action under subsection H.

59 **§ 2.2-3908. Civil actions by private parties.**

60 A. 1. An aggrieved person may commence a timely civil action in an appropriate general district or circuit
61 court having jurisdiction over the person who allegedly unlawfully discriminated against such person in
62 violation of this chapter. Any such civil action may only be filed, if at all, within 90 days of the complainant's
63 receipt of a notice of his right to file a civil action pursuant to § 2.2-3907.

64 2. An aggrieved person (i) who has been provided a notice of his right to file a civil action pursuant to
65 § 2.2-3907 by the Office or the Equal Employment Opportunity Commission or (ii) if 180 days have passed
66 since a complaint was filed in the Office *or a local human rights commission organized pursuant to*
67 *§ 15.2-965* and the aggrieved person has not been provided a notice of his right to file a civil action may
68 commence a timely civil action in an appropriate general district or circuit court having jurisdiction over the
69 person who allegedly unlawfully discriminated against such person in violation of this chapter. Any person
70 may file an action that is not dual-filed after 180 days have passed since the complaint was filed with the
71 Office of Civil Rights of the Department of Law.

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

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