

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5011

**FISCAL
NOTE**

By Delegates Hanshaw (Mr. Speaker), Martin, Leavitt,
Holstein, Masters, Heckert, Phillips, Mallow, Hornby,
Ellington, and Maynor

[Introduced January 30, 2026; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §16B-17-10 of the Code of West Virginia, 1931, as amended,
2 relating to permitting parties to an action before the Human Rights Commission to remove
3 the matter to the appropriate circuit court.

Be it enacted by the Legislature of West Virginia:

ARTICLE 17. HUMAN RIGHTS COMMISSION.

§16B-17-10. Discriminatory practices; investigations, hearings, procedures and orders;

election of remedies.

(a)(1) Any individual claiming to be aggrieved by an alleged unlawful discriminatory practice shall make, sign and file with the commission a verified complaint, which shall state the name and address of the person, employer, labor organization, employment agency, owner, real estate broker, real estate salesman or financial institution alleged to have committed the unlawful discriminatory practice complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the commission's rules and regulations. The commission upon its own initiative, or the Attorney General, shall, in like manner, make, sign and file such complaint. Any employer, whose employees, or some of them, hinder or threaten to hinder compliance with the provisions of this article, shall file with the commission a verified complaint, asking for assistance by conciliation or other remedial action and, during such period of conciliation or other remedial action, no hearings, orders or other actions shall be held, made or taken by the commission against such employer. Any complaint filed pursuant to this article must be filed within 365 days after the alleged act of discrimination.

14 (2) After the filing of any complaint, or whenever there is reason to believe that an unlawful
15 discriminatory practice has been committed, the commission shall make a prompt investigation in
16 connection therewith.

(3) If it shall be determined after such investigation that no probable cause exists for substantiating the allegations of the complaint, the commission shall, within 10 days from such determination, cause to be issued and served upon the complainant written notice of such

determination, and the said complainant or his or her attorney may, within 10 days after such service, file with the commission a written request for a meeting with the commission to show probable cause for substantiating the allegations of the complaint. If it shall be determined after such investigation or meeting that probable cause exists for substantiating the allegations of the complaint, the commission shall immediately endeavor to eliminate the unlawful discriminatory practices complained of by conference, conciliation and persuasion. The members of the commission and its staff shall not disclose what has transpired in the course of such endeavors: *Provided*, That the commission may publish the facts in the case of any complaint which has been dismissed, and the terms of conciliation when the complaint has been adjusted, without disclosing the identity of the parties involved.

(4) In case of failure so to eliminate such practice or in advance thereof, if in the judgment of the commission circumstances so warrant, the commission shall cause to be issued and served a written notice, together with a copy of such complaint as the same may have been amended, in the manner provided by law for the service of summons in civil actions, requiring the person, employer, labor organization, employment agency, owner, real estate broker, real estate salesman or financial institution named in such complaint, hereinafter referred to as respondent, to answer the charges of such complaint at a hearing before the commission in the county where the respondent resides or transacts business at a time and place to be specified in such notice: *Provided*, That said written notice be served at least 30 days prior to the time set for the hearing.

(5) The case in support of the complaint shall be presented before the commission by one of its attorneys or agents. The respondent may file a written, verified answer to the complaint and appear at such hearing in person or otherwise, with or without counsel, and submit testimony and evidence. Except as provided in this article, all of the pertinent provisions of §29A-5-1 *et seq.* of this code shall apply to and govern the hearing and the administrative procedures in connection with and following such hearing, with like effect as if the provisions of said article five were set forth in extensor in this section.

(6) If, after such hearing and consideration of all of the testimony, evidence and record in the case, the commission shall find that a respondent has engaged in or is engaging in any unlawful discriminatory practice as defined in this article, the commission shall issue and cause to be served on such respondent an order to cease and desist from such unlawful discriminatory practice and to take such affirmative action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, admission or restoration to membership in any respondent labor organization, or the admission to full and equal enjoyment of the services, goods, facilities, or accommodations offered by any respondent place of public accommodation, and the sale, purchase, lease, rental or financial assistance to any complainant otherwise qualified for the housing accommodation or real property, denied in violation of this article, as in the judgment of the commission, will effectuate the purposes of this article, and including a requirement for report of the manner of compliance. Such order shall be accompanied by findings of fact and conclusions of law as specified in §29A-5-3 of this code.

(7) If, after such hearing and consideration of all of the testimony, evidence and record in the case, the commission shall find that a respondent has not engaged in such unlawful discriminatory practice, the commission shall state its findings of fact and conclusions of law as aforesaid and shall issue and cause to be served on the complainant an order dismissing the said complaint as to such respondent.

A copy of its order shall be delivered in all cases by the commission to the complainant, the respondent, the Attorney General and to such other public officers as the commission may deem proper. Any such order shall not be enforceable except as provided in §16B-17-11 of this code.

(b)(1) When a charge is filed under this article a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in that charge decided in a civil action under subsection (b) of this section in lieu of a hearing under subsection (a) of this section. The election must be made not later than 20 days after the receipt by the electing person of service under this article or, in the case of the commission, not later than 20

72 days after such service. The person making such election shall give notice of doing so to the
73 commission and to all other complainants and respondents to whom the charge relates.

74 (2) If an election is made under subsection (b) of this section, the commission shall
75 authorize, and not later than 30 days after the election is made the Attorney General shall
76 commence and maintain, a civil action on behalf of the aggrieved person in the appropriate circuit
77 court seeking relief under this subsection. Venue for such civil action shall be in the circuit court in
78 the county in which the alleged unlawful discriminatory practice occurred.

79 (3) Any aggrieved person with respect to the issues to be determined in a civil action under
80 this subsection may intervene as of right in that civil action.

81 (4) In a civil action under this subsection, if the court finds that an unlawful discriminatory
82 practice has occurred or is about to occur, the court may grant as relief any relief which a court
83 could grant with respect to such unlawful discriminatory practice in a civil action under §16B-17-1
84 et seq. of this code. Any relief so granted that would accrue to an aggrieved person in a civil action
85 commenced by that aggrieved person under said section shall also accrue to that aggrieved
86 person in a civil action under this subsection. If monetary relief is sought for the benefit of an
87 aggrieved person who does not intervene in the civil action, the court shall not award such relief if
88 that aggrieved person has not complied with discovery orders entered by the court.

NOTE: The purpose of this bill is to permit removal of matters before the Human Rights Commission to the circuit court.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.