

STATE OF NEW YORK

292--A

2019-2020 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. STECK -- read once and referred to the Committee on Judiciary -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil rights law, in relation to the imposition of penalties and remedies in suits brought for the vindication of civil rights or human rights

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Article 9 and sections 90 and 91 of the civil rights law,
2 as renumbered by chapter 310 of the laws of 1962, are renumbered article
3 10 and sections 100 and 101 and a new article 9 is added to read as
4 follows:

5 ARTICLE 9
6 PENALTIES AND REMEDIES

7 Section 90. Penalties and remedies.

8 § 90. Penalties and remedies. 1. Every person who, under color of any
9 statute, ordinance, regulation, custom, or usage, of this state,
10 subjects, or causes to be subjected, any citizen of this state or other
11 person within the jurisdiction thereof to the deprivation of any rights,
12 privileges, or immunities secured by the constitution and laws of this
13 state, shall be liable to the party injured in an action at law, suit in
14 equity, or other proper proceeding for redress, except that in any
15 action brought against a judicial officer for an act or omission taken
16 in such officer's judicial capacity, injunctive relief shall not be
17 granted unless a declaratory decree was violated or declaratory relief
18 was unavailable.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 2. The supreme court of the state of New York shall have jurisdiction
2 over all suits brought for the vindication of civil rights as provided
3 in subdivision one of this section. To the extent that the laws of the
4 state of New York furnish a remedy for the vindication of such civil
5 rights, such laws shall be applied; but in all cases where such laws are
6 deficient in the provisions necessary to furnish suitable remedies, the
7 common law shall be extended to and govern the said courts in the trial
8 and disposition of the matter.

9 3. (a) In any action or proceeding to enforce this section or the New
10 York human rights law, the court must award the prevailing party, other
11 than the United States, a reasonable attorney's fee as part of the
12 costs, except that in any action brought against a judicial officer for
13 an act or omission taken in such officer's judicial capacity such offi-
14 cer shall not be held liable for any costs, including attorney's fees,
15 unless such action was clearly in excess of such officer's jurisdiction.

16 (b) In awarding an attorney's fee under paragraph (a) of this subdivi-
17 sion in any action or proceeding to enforce a provision of this article,
18 the court shall include reasonable expert fees as part of the attorney's
19 fee.

20 4. This article shall supplement and not displace any jurisdiction
21 currently existing in the courts or administrative agencies of this
22 state to the extent that other laws of this state already provide a
23 remedy for the type of injury referred to in this section.

24 5. In interpreting this section, the courts shall consider the funda-
25 mental principles already enunciated by the federal courts in interpret-
26 ing 42 U.S.C. §§ 1983 and 1988, which are the parallel federal civil
27 rights laws.

28 § 2. This act shall take effect on the ninetieth day after it shall
29 have become a law.