STATE OF NEW YORK

10792

IN ASSEMBLY

May 18, 2018

Introduced by M. of A. STECK -- read once and referred to the Committee on Judiciary

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:

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

ARTICLE 9
PENALTIES AND REMEDIES

Section 90. Penalties and remedies.

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

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

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

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

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

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

5. In interpreting this section, the courts shall apply the same fundamental principles already enunciated by the federal courts in interpreting 42 U.S.C. §§ 1983 and 1988, which are the parallel federal civil rights laws.

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