

# 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:

1 Section 1. Article 9 and sections 90 and 91 of the civil right law, as  
2 renumbered by chapter 310 of the laws of 1962, are renumbered article 10  
3 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. 1. Every person who, under color of any statute,  
9 ordinance, regulation, custom, or usage, of this state, subjects, or  
10 causes to be subjected, any citizen of this state or other person within  
11 the jurisdiction thereof to the deprivation of any rights, privileges,  
12 or immunities secured by the constitution and laws of this state, shall  
13 be liable to the party injured in an action at law, suit in equity, or  
14 other proper proceeding for redress, except that in any action brought  
15 against a judicial officer for an act or omission taken in such offi-  
16 cer's judicial capacity, injunctive relief shall not be granted unless a  
17 declaratory decree was violated or declaratory relief was unavailable.

18 2. The supreme court of the state of New York shall have jurisdiction  
19 over all suits brought for the vindication of civil rights as provided  
20 in subdivision one of this section. To the extent that the laws of the  
21 state of New York furnish a remedy for the vindication of such civil  
22 rights, such laws shall be applied; but in all cases where such laws are  
23 deficient in the provisions necessary to furnish suitable remedies, the  
24 common law shall be extended to and govern the said courts in the trial  
25 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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1     3. (a) In any action or proceeding to enforce this section or the New  
2 York human rights law, the court must award the prevailing party, other  
3 than the United States, a reasonable attorney's fee as part of the  
4 costs, except that in any action brought against a judicial officer for  
5 an act or omission taken in such officer's judicial capacity such offi-  
6 cer shall not be held liable for any costs, including attorney's fees,  
7 unless such action was clearly in excess of such officer's jurisdiction.

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

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

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

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