STATE OF NEW YORK

263--B

Cal. No. 17

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. STECK, ZINERMAN, SEAWRIGHT, SIMON -- read once and referred to the Committee on Judiciary -- ordered to a third reading, amended and ordered reprinted, retaining its place on the order of third reading -- again amended on third reading, ordered reprinted, retaining its place on the order of third reading

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; and to repeal section 24 of the correction law relating thereto

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

Section 1. Article 10 and sections 100 and 101 of the civil rights law, as renumbered by chapter 263 of the laws of 2019, are renumbered article 11 and sections 110 and 111 and a new article 10 is added to read as follows:

ARTICLE 10
PENALTIES AND REMEDIES

Section 100. Penalties and remedies.

§ 100. Penalties and remedies. 1. Every person or the state, its subdivisions, agencies, public authorities, and any other affiliated entities, and all municipal entities in this state, including but not limited to counties, school districts, towns, and villages who, is acting or which acts 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

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

LBD04042-06-2

for redress, 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 unless such action was clearly in excess of such officer's jurisdiction.

2. The supreme court shall have jurisdiction over all suits brought for the vindication of civil rights as provided in subdivision one of this section. The parties in an action brought pursuant to this section shall have the right to a jury trial.

3. (a) In any action or proceeding to enforce this section or the human rights law, the court shall award the prevailing party, other than the state, a reasonable attorney's fee as part of the costs.

(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 displace any jurisdiction currently existing in the courts or administrative agencies of this state and shall be the exclusive remedy for the type of injury referred to in this section.

5. In interpreting this section, the courts may, except as set forth herein, consider the 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, except as indicated in subdivisions six and seven of this section.

6. The state hereby waives its sovereign immunity and consents on behalf of itself, its subdivisions, agencies, public authorities, and any other affiliated entity to suit as provided herein. The doctrine of qualified immunity is hereby abolished and shall not be asserted as a defense to any action arising under this section, unless specifically set forth in this section.

7. The state, its subdivisions, agencies, public authorities, and any other affiliated entities, and all municipal entities in this state, including but not limited to counties, school districts, towns, and villages, shall be liable in respondant superior for the actions of any person or entity committing constitutional violations as referred to in subdivision one of this section. Any act committed while on the premises of the employer or using equipment or an instrumentality provided by the employer shall be considered within the scope of employment.

§ 2. Section 24 of the correction law is REPEALED.

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