

SENATE No. 915

The Commonwealth of Massachusetts

PRESENTED BY:

Sal N. DiDomenico

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to restore enforcement of civil rights.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>1/31/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/31/2019</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>2/8/2019</i>

SENATE No. 915

By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 915) of Sal N. DiDomenico, Michael O. Moore, James B. Eldridge and Jason M. Lewis for legislation to restore enforcement of civil rights. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to restore enforcement of civil rights.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 12 of the General Laws, as appearing in the 2016 Official Edition,
2 is hereby amended by inserting after section 11N the following section:—

3 Section 11N. (a) No unit of state, county, or local government shall:-

4 (1) exclude a person from participation in, deny a person the benefits of, or otherwise
5 subject a person to discrimination in any program or activity on the grounds of that person’s
6 race, color, national origin, or gender; or

7 (2) utilize criteria or methods of administration that have the effect of excluding persons
8 from participation in, denying persons the benefits of, or otherwise subjecting persons to
9 discrimination in any program or activity because of their race, color, national origin, or gender.

10 (b) Any person aggrieved by conduct that violates subsection (a) may bring a civil
11 lawsuit, in a State court, against the offending unit of government. This lawsuit shall be brought

12 not later than 3 years after the violation of subsection (a). A violation of this section is
13 established if, based on the totality of the circumstances, it is shown that any individual has been
14 denied any of the rights protected by subsection (a) and if the defendant fails to show each of the
15 following: that there were non-discriminatory reasons for its program, activity, action, or
16 inaction; that the program, activity, action, or inaction was narrowly tailored to serve a
17 compelling government interest; and that there were no less discriminatory alternatives.

18 (c) If the court finds that a violation of paragraph (1) of subsection (a) has occurred, the
19 court may award to the plaintiff actual and punitive damages and if the court finds that a
20 violation of paragraph (2) of subsection (a) has occurred, the court may award to the plaintiff
21 actual damages. The court, as it deems appropriate, may grant as relief any permanent or
22 preliminary injunction, temporary restraining order, or other order.

23 (d) Upon motion, a court shall award reasonable attorneys' fees and costs, including
24 expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in any
25 action brought (i) pursuant to subsection (b); or (2) to enforce a right arising under the
26 Massachusetts Constitution. In awarding reasonable attorneys' fees, the court shall consider the
27 degree to which the relief obtained relates to the relief sought.

28 (e) For the purposes of this section, the term "prevailing party" shall have the following
29 meaning: "any party (i) who obtains some of his or her requested relief through a judicial
30 judgment in his or her favor; (ii) who obtains some of his or her requested relief through any
31 settlement agreement approved by the court; or (iii) whose pursuit of a non-frivolous claim was a
32 catalyst for a unilateral change in position by the unit of State, county, or local government
33 relative to the relief sought."

34 (f) Nothing in this section shall be intended to require a plaintiff seeking to enforce the
35 protection afforded herein to exhaust any administrative remedies applicable to discrimination
36 actions under other laws.