

**HOUSE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Byron Rushing**

*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 passage of the accompanying bill:

**An Act to Restore Enforcement of Civil Rights.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Byron Rushing	9th Suffolk

# The Commonwealth of Massachusetts

\_\_\_\_\_  
In the Year Two Thousand and Nine  
\_\_\_\_\_

## 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 11 of Chapter 12 of the General Laws, as appearing in the  
2 2002 Official Edition, is hereby amended by inserting a new section  
3 11M as follows:—

4 (a) No unit of State, county, or local government shall:—

5 (1) exclude a person from participation in, deny a person the benefits  
6 of, or otherwise subject a person to discrimination in any program or  
7 activity on the grounds of that person's race, color, national origin, or sex; or  
8 (2) utilize criteria or methods of administration that have the effect of  
9 excluding persons from participation in, denying persons the benefits of, or  
10 otherwise subjecting persons to discrimination in any program or activity because  
11 of their race, color, national origin, or sex.

12 (b) Any person aggrieved by conduct that violates subsection (a)  
13 may bring a civil lawsuit, in a State court, against the offending unit  
14 of government. This lawsuit must be brought not later than 3 years  
15 after the violation of subsection (a). A violation of this section is  
16 established if, based on the totality of the circumstances, it is shown

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

25 (c) Upon motion, a court shall award reasonable attorneys' fees  
26 and costs, including expert witness fees and other litigation  
27 expenses, to a plaintiff who is a prevailing party in any action  
28 brought:—

29 (1) pursuant to subsection (b); or

30 (2) to enforce a right arising under the Massachusetts Constitution.

31 In awarding reasonable attorneys' fees, the court shall consider  
32 the degree to which the relief obtained relates to the relief sought.

33 (d) For the purpose of this Act, the term "prevailing party"  
34 includes any party:—

35 (1) who obtains some of his or her requested relief through a judicial  
36 judgment in his or her favor;

37 (2) who obtains some of his or her requested relief through any  
38 settlement agreement approved by the court; or

39 (3) whose pursuit of a non-frivolous claim was a catalyst for a  
40 unilateral change in position by the unit of State, county, or local government  
41 relative to the relief sought.

42 (e) Nothing in this section shall be intended to require a plaintiff  
43 seeking to enforce the protection afforded herein to exhaust any

44 administrative remedies applicable to discrimination actions under

45 other laws.

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