

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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:

James B. Eldridge

DISTRICT/ADDRESS:

Middlesex and Worcester

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
11 because 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.