

SENATE, No. 2199

AN ACT FURTHER PROTECTING 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. The Commonwealth of Massachusetts

2 Section 11 of Chapter 12 of the General Laws, as appearing in the 2002 Official Edition, is
3 hereby amended by inserting a new section 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 of, or subject a person to
6 discrimination under any program or activity on the grounds of that person's race, color, or
7 national origin; or

8 (2) utilize criteria or methods of administration that have the effect of subjecting individuals to
9 discrimination because of their race, color, or national origin.

10 (b) Any party aggrieved by conduct that violates subsection (a) may bring a civil lawsuit, in a
11 State court, against the offending unit of government. This lawsuit must be brought not later
12 than 4 years after the violation of subsection (a). A violation of this section is established if,
13 based on the totality of the circumstances, it is shown that any individual has been denied any
14 of the rights protected by subsection (a). If the court finds that a violation of paragraph (1) of
15 subsection (a) has occurred, the court may award to the plaintiff actual and punitive damages
16 and if the court finds that a violation of paragraph (2) of subsection (a) has occurred, the court
17 may award to the plaintiff actual damages. The court, as it deems appropriate, may grant as

18 relief any permanent or preliminary injunction, temporary restraining order, or other order,
19 including an order enjoining the defendant from engaging in the violation of subsection (a) or
20 mandating affirmative action.

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

24 (1) pursuant to subsection (b); or (2) to enforce a right arising under the Massachusetts'
25 Constitution.

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

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

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

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

33 (3) whose pursuit of a non-frivolous claim was a catalyst for a unilateral change in
34 position by the opposing party relative to the relief sought.

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