



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/6/2004, by Don Harmon

SYNOPSIS AS INTRODUCED:

740 ILCS 23/5

Amends the Illinois Civil Rights Act of 2003. Provides that any party aggrieved by conduct that violates the Act may bring a civil lawsuit in federal or State circuit court (instead of just a State circuit court). Provides that the court may grant as relief any permanent or preliminary negative or mandatory injunction. Removes language concerning punitive damages.

LRB093 19269 LCB 45004 b

1 AN ACT concerning civil rights.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Civil Rights Act of 2003 is amended
5 by changing Section 5 as follows:

6 (740 ILCS 23/5)

7 Sec. 5. Discrimination prohibited.

8 (a) No unit of State, county, or local government in
9 Illinois shall:

10 (1) exclude a person from participation in, deny a
11 person the benefits of, or subject a person to
12 discrimination under any program or activity on the grounds
13 of that person's race, color, or national origin; or

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

18 (b) Any party aggrieved by conduct that violates subsection
19 (a) may bring a civil lawsuit, in a federal district court or
20 State circuit court, against the offending unit of government.
21 This lawsuit must be brought not later than 2 years after the
22 violation of subsection (a). If the court finds that a
23 violation of paragraph (1) or (2) of subsection (a) has
24 occurred, the court may award to the plaintiff actual ~~and~~
25 ~~punitive damages and if the court finds that a violation of~~
26 ~~paragraph (2) of subsection (a) has occurred, the court may~~
27 ~~award to the plaintiff actual damages.~~ The court, as it deems
28 appropriate, may grant as relief any permanent or preliminary
29 negative or mandatory injunction, temporary restraining order,
30 or other order, ~~including an order enjoining the defendant from~~
31 ~~engaging in the violation of subsection (a) or mandating~~
32 ~~affirmative action.~~

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

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

6 (2) to enforce a right arising under the Illinois
7 Constitution.

8 In awarding reasonable attorneys' fees, the court shall
9 consider the degree to which the relief obtained relates to the
10 relief sought.

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

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

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

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

20 (Source: P.A. 93-425, eff. 1-1-04.)