



Sen. Don Harmon

Filed: 2/24/2004

09300SB2946sam002

LRB093 19269 LCB 48105 a

1 AMENDMENT TO SENATE BILL 2946

2 AMENDMENT NO. _____. Amend Senate Bill 2946 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Civil Rights Act of 2003 is
5 amended 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 Any State claim brought in federal district court shall be a
22 supplemental claim to a federal claim. This lawsuit must be
23 brought not later than 2 years after the violation of
24 subsection (a). If the court finds that a violation of

1 paragraph (1) or (2) of subsection (a) has occurred, the court
2 may award to the plaintiff actual ~~and punitive~~ damages ~~and if~~
3 ~~the court finds that a violation of paragraph (2) of subsection~~
4 ~~(a) has occurred, the court may award to the plaintiff actual~~
5 ~~damages~~. The court, as it deems appropriate, may grant as
6 relief any permanent or preliminary negative or mandatory
7 injunction, temporary restraining order, or other order,
8 ~~including an order enjoining the defendant from engaging in the~~
9 ~~violation of subsection (a) or mandating affirmative action.~~

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

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

15 (2) to enforce a right arising under the Illinois
16 Constitution.

17 In awarding reasonable attorneys' fees, the court shall
18 consider the degree to which the relief obtained relates to the
19 relief sought.

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

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

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

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

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