

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: H3/14/17

A Bill

HOUSE BILL 1983

5 By: Representative Shepherd
6 By: Senator Hickey
7

For An Act To Be Entitled

9 AN ACT CONCERNING THE PROCEDURE AND REQUIREMENTS FOR
10 THE COMMENCEMENT OF CERTAIN CIVIL CLAIMS; CONCERNING
11 INJUNCTIVE RELIEF; AND FOR OTHER PURPOSES.
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Subtitle

15 CONCERNING THE PROCEDURE AND REQUIREMENTS
16 FOR THE COMMENCEMENT OF CERTAIN CIVIL
17 CLAIMS; AND CONCERNING INJUNCTIVE RELIEF.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 *SECTION 1. Arkansas Code Title 20, Chapter 14, Subchapter 3, is*
23 *amended to add an additional section to read as follows:*

24 *20-14-309. Website accessibility – Compliance.*

25 *(a)(1) Before filing a civil action or petition for injunctive relief*
26 *based on a claim that an entity’s website does not conform with applicable*
27 *law, codes, guidelines, or standards regulating the functionality of an*
28 *entity’s website to accommodate a person with a disability as defined by the*
29 *Americans with Disability Act, 42 U.S.C. § 12101 et seq., the aggrieved party*
30 *shall notify the entity in writing of the aggrieved party’s allegation that*
31 *the website does not comply with applicable law, codes, guidelines, or*
32 *standards regulating the functionality of an organization’s website to*
33 *accommodate persons with a disability as defined by the Americans with*
34 *Disability Act, 42 U.S.C. § 12101 et seq., and the specific violations that*
35 *the aggrieved party asserts.*

36 *(2) The specific violations alleged in the written notice under*



1 subsection (a) of this section shall include without limitation the alleged
2 violation, alleged harm, and date of alleged harm.

3 (3) The notice shall be sent by certified mail with return
4 receipt requested at least one hundred twenty (120) days before the filing of
5 a petition for injunctive relief.

6 (4) The lack of the written notice under or compliance with this
7 subsection may be used as a basis for dismissal by a court and may be used by
8 a court as a mitigating factor in any remedy ordered by the court.

9 (b)(1) An entity that corrects the website that is allegedly in
10 violation as described in the written notice under subsection (a) of this
11 section within one hundred twenty (120) days of receipt of the written notice
12 under subsection (a) of this section may use that fact as an affirmative
13 defense to a civil action or petition for injunctive relief.

14 (2) The affirmative defense under subsection (b)(1) of this
15 section shall be proven by a preponderance of the evidence and may not be
16 rebutted.

17 (3) A defendant in a civil action or petition for injunctive
18 relief that prevails in that action due to the raising and successful proving
19 of the affirmative defense under subsection (b)(1) of this section shall be
20 entitled to all reasonable costs of litigation, including attorney's fees.

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22 /s/Shepherd
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