SENATE DOCKET, NO. 1030 FILED ON: 1/17/2013

SENATE . . . . . No. 729

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 adoption of the accompanying bill:

An Act restoring enforcement of civil rights.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	*Middlesex and Worcester*

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SENATE . . . . . No. 729

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 729) of James B. Eldridge for legislation to restore enforcement of civil rights. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *770* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act restoring 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:

SECTION 1.Chapter 12 of the General Laws, as so appearing, is hereby amended by inserting after section 11L the following new section:—

11M

(a) No unit of State, county, or local government shall:—

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

(2) utilize criteria or methods of administration that have the effect of excluding persons from participation in, denying persons the benefits of, or otherwise subjecting persons to discrimination in any program or activity because of their race, color, national origin, or sex.

(b) Any person aggrieved by conduct that violates subsection (a) may bring a civil lawsuit, in a State court, against the offending unit of government. This lawsuit must be brought not later than 3 years after the violation of subsection (a). A violation of this section is established if, based on the totality of the circumstances, it is shown that any individual has been denied any of the rights protected by subsection (a). If the court finds that a violation of paragraph (1) of subsection (a) has occurred, the court may award to the plaintiff actual and

punitive damages and if the court finds that a violation of paragraph (2) of subsection (a) has occurred, the court may award to the plaintiff actual damages. The court, as it deems appropriate, may grant as relief any permanent or preliminary injunction, temporary restraining order, or other order.

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

(1) pursuant to subsection (b); or

(2) to enforce a right arising under the Massachusetts Constitution.

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

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

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

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

(3) whose pursuit of a non-frivolous claim was a catalyst for a unilateral change in position by the unit of State, county, or local government relative to the relief sought.

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