

HOUSE No. 00491

The Commonwealth of Massachusetts

PRESENTED BY:

Byron Rushing

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 passage of the accompanying bill:

An Act to restore enforcement of civil rights.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Russell Holmes</i>	<i>6th Suffolk</i>
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>
<i>Carlos Henriquez</i>	<i>5th Suffolk</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>

HOUSE No. 00491

By Mr. Byron Rushing of Boston, petition (accompanied by bill, House, No. 00491) of Russell Holmes and others relative to the enforcement of certain civil rights laws. Joint Committee on the Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ HOUSE
□ , NO. 3533 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to restore 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:

- 1 Section 11 of Chapter 12 of the General Laws, as appearing in the 2002 Official Edition, is
- 2 hereby amended by inserting a new section 11M as follows:—
- 3 (a) No unit of State, county, or local government shall:—
- 4 (1) exclude a person from participation in, deny a person the benefits of, or otherwise subject a
- 5 person 4 to discrimination in any program or activity on the grounds of that person’s race, color,
- 6 national origin, or sex; or

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

10 (b) Any person 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 than
12 3 years after the violation of subsection (a). A violation of this section is established if, based on
13 the totality of the circumstances, it is shown that any individual has been denied any of the rights
14 protected by subsection (a). If the court finds that a violation of paragraph (1) of subsection (a)
15 has occurred, the court may award to the plaintiff actual and punitive damages and if the court
16 finds that a violation of paragraph (2) of subsection (a) has occurred, the court may award to the
17 plaintiff actual damages. The court, as it deems appropriate, may grant as relief any permanent or
18 preliminary injunction, temporary restraining order, or other order.

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

22 (1) pursuant to subsection (b); or (2) to enforce a right arising under the Massachusetts
23 Constitution.

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

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

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

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

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

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