

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
91st General Assembly  
Regular Session, 2017

As Engrossed: H3/14/17

# A Bill

HOUSE BILL 1983

By: Representative Shepherd

By: Senator Hickey

## For An Act To Be Entitled

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

### Subtitle

CONCERNING THE PROCEDURE AND REQUIREMENTS  
FOR THE COMMENCEMENT OF CERTAIN CIVIL  
CLAIMS; AND CONCERNING INJUNCTIVE RELIEF.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*SECTION 1. Arkansas Code Title 20, Chapter 14, Subchapter 3, is amended to add an additional section to read as follows:*

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

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

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



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

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

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

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

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

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

/s/Shepherd