



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB2090

Introduced 2/6/2025, by Sen. Erica Harriss

SYNOPSIS AS INTRODUCED:

New Act

Creates the Stop Abusive Website-Access to Litigation Act. Authorizes the Attorney General to file a civil action in a State court against a party, attorney, or law firm that initiated the litigation that alleges any website-access violation for a determination as to whether it is abusive litigation. Provides that in determining whether the litigation alleging a website-access violation constitutes abusive litigation, the trier of fact shall consider the totality of the circumstances to determine if the primary purpose of the litigation that alleges a website-access violation is obtaining a payment from a defendant because of the costs of defending the action in court. Creates criteria for the trier of fact to determine if the litigation is abusive under the Act. Provides that if the trier of fact determines that the litigation qualifies as abusive litigation under the Act, the court may award reasonable attorney's fees and costs to the defendant. Provides that the court may also award punitive damages not to exceed 3 times the amount of attorney's fees awarded by the court.

LRB104 08505 JRC 18557 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Abusive Website-Access to Litigation Act.

6 Section 5. Legislative findings and purpose. The purpose
7 of this Act is to restrict abusive litigation while allowing
8 for meritorious litigation. It is the policy of this State
9 that people with disabilities must be ensured equal
10 opportunities to full access to public accommodations, and
11 that they are empowered to enforce the right to equal access
12 through litigation, if necessary. Unfortunately, the General
13 Assembly recognizes that in a small minority of cases, the use
14 of litigation to assert the right to equal access is being
15 abused for the primary purpose of obtaining an award of
16 attorney's fees for the plaintiff instead of remedying the
17 alleged access violation. This small minority of cases often
18 involves an alleged lack of equal access to a public
19 accommodation's internet site and are often filed in another
20 state's court system against smaller Illinois businesses. In
21 most cases, the litigation is filed without notifying the
22 defendant of the alleged violation, without attempting to
23 resolve the issue prelitigation, and without providing a

1 reasonable opportunity for the public accommodation to revise
2 its website to remedy the alleged access violation. To address
3 this issue, the State intends to provide a process to curb
4 abusive litigation to mitigate the harms that abusive
5 litigation perpetuates. The State does not intend that this
6 process in any way is to be used to preclude a person with a
7 disability from asserting a right in good faith to equal
8 access to a public accommodation under the law either
9 individually or through a class through litigation in a State
10 court.

11 Section 10. Definitions. As used in this Act:

12 "Access violation" means any allegation that a public
13 accommodation does not provide sufficient access under the
14 federal Americans with Disabilities Act of 1990, or comparable
15 State law.

16 "Public accommodation" has the meaning given to that term
17 in the federal Americans with Disabilities Act of 1990.

18 "Public accommodation" includes a website operated by a
19 resident of this State.

20 "Resident" means any person residing in this State and any
21 entity that has filed with the Secretary of State's office
22 requirements to do business in this State.

23 Section 15. Procedure under this Act.

24 (a) The Attorney General is authorized, on behalf of a

1 resident or a class of residents, who have been sued as
2 defendants alleging a website-access violation, to file a
3 civil action in a State court against the party, attorney, or
4 law firm that initiated the website-access violation
5 litigation for a determination as to whether the litigation is
6 abusive under this Act.

7 (b) In determining whether litigation that alleges any
8 website-access violation constitutes abusive litigation, the
9 trier of fact shall consider the totality of the circumstances
10 to determine if the primary purpose of the litigation is for
11 obtaining a payment from a defendant because of the expense of
12 defending the action in court. For the purposes of making this
13 determination, the trier of fact may assess the following
14 factors and any other factors the trier of fact deems
15 relevant:

16 (1) the number of substantially similar actions filed
17 by the same plaintiff, lawyer, or law firm or the history
18 of such plaintiff, lawyer, or law firm in bringing
19 frivolous litigation or other litigation declared by a
20 court to be abusive litigation in the past 10 years;

21 (2) the number of full-time employees employed by the
22 defendant and the resources available to the defendant to
23 engage in the litigation;

24 (3) the resources available to the defendant to
25 correct the alleged website-access violation;

26 (4) whether the jurisdiction or venue where the action

1 is brought is a substantial obstacle to defending against
2 the litigation;

3 (5) whether the filing party or lawyer filing the
4 litigation is a resident of this State or is licensed to
5 practice law in this State;

6 (6) the nature of settlement discussions, the
7 reasonableness of settlement offers, and refusals to
8 settle. The settlement information may be used only as
9 provided by this Section and may not otherwise alter the
10 applicable rules of evidence; and

11 (7) whether any factors under State law exist in the
12 litigation and whether sanctions are appropriate.

13 (c) If the defendant in the litigation alleging a
14 website-access violation in good faith attempts to cure the
15 alleged violation within 30 days after being provided written
16 notice or being served a complaint with sufficient detail to
17 identify and correct the alleged violation, there is a
18 rebuttable presumption that a later initiation or continuance
19 of the litigation constitutes abusive litigation. There is no
20 rebuttable presumption that such litigation is abusive if the
21 alleged website-access violation is not corrected, as
22 determined by the court, within 90 days after the defendant
23 was provided notice as under this subsection of the alleged
24 violation. The trier of fact may not determine whether such
25 litigation is abusive litigation until after such 90-day
26 period expires or the alleged violation is corrected, as

1 determined by the court, whichever occurs first. If the
2 Attorney General determines in writing that the access
3 violation litigation is not abusive, that determination is a
4 rebuttable presumption that the litigation is not abusive.

5 (d) At the conclusion of the litigation alleging a
6 website-access violation, if the court determines that the
7 litigation is abusive, it may award to the defendant
8 attorney's fees and costs as appropriate under the Code of
9 Civil Procedure and Supreme Court Rules. The court may also
10 award to the defendant punitive damages not to exceed 3 times
11 the amount of attorney's fees awarded to the defendant.