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HOUSE BILL 2884

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State of Washington                      54th Legislature                      1996 Regular Session

By Representatives L. Thomas, Sheahan, Dellwo, Robertson, Murray, Chappell, Delvin, Morris and Veloria

Read first time 01/24/96. Referred to Committee on Law & Justice.

1            AN ACT Relating to the civil rights act of 1996; adding a new  
2 chapter to Title 7 RCW; and declaring an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.** This chapter may be known and cited as the  
5 Washington state civil rights act of 1996.

6            NEW SECTION.    **Sec. 2.** (1) The legislature recognizes that the  
7 Constitution of the state of Washington was ordained in gratitude to  
8 the supreme ruler of the universe for our liberties; that all political  
9 power is inherent in the people, and governments derive their just  
10 powers from the consent of the governed, and are established to protect  
11 and maintain individual rights; and that a frequent recurrence to  
12 fundamental principles is essential to the security of individual right  
13 and the perpetuity of free government.

14            (2) The legislature declares that it is a fundamental principle  
15 that the state Constitution embodies public policy of the highest order  
16 and priority; that it is a compelling interest of the state of  
17 Washington to ensure that the provisions of the state Constitution are  
18 guaranteed and enforced in order to protect and maintain the liberties

1 and individual rights of the people of the state of Washington; that  
2 the people of the state of Washington should be able to rely primarily  
3 upon the state Constitution for the protection of their liberties and  
4 individual rights; and that it is a legitimate exercise of the police  
5 power of the state of Washington to preserve the public peace, health,  
6 morals, and safety of the people of the state of Washington by  
7 establishing an enforcement mechanism for redress for violations of the  
8 state Constitution.

9 NEW SECTION. **Sec. 3.** (1) Every governmental entity that, under  
10 color of a statute, ordinance, regulation, custom, or usage, subjects  
11 or causes to be subjected, a citizen, inhabitant, or domiciliary of the  
12 state of Washington to the deprivation of any rights, privileges, or  
13 immunities secured by the constitution of the state of Washington, is  
14 liable to the party injured in an action at law, suit in equity, or  
15 other proper proceeding for the redress.

16 (2) A person deeming himself or herself injured by any act in  
17 violation of this chapter may recover all damages sustained including,  
18 but not limited to, damages or remedies made available under the Civil  
19 Rights Act of 1871; 42 U.S.C. Sec. 1983.

20 (3) It is the intent of the legislature that persons who are  
21 injured by a violation of the state Constitution are eligible for  
22 redress, that future violations of the state Constitution be deterred  
23 thereby, and that this statute be construed liberally for the  
24 accomplishment of its declared purpose in this chapter. Nothing  
25 contained in this chapter shall be construed to deny the right of a  
26 person to institute an action or pursue any civil or criminal remedy  
27 based upon an alleged violation of his or her civil rights.

28 NEW SECTION. **Sec. 4.** (1) For purposes of this chapter,  
29 "governmental entity" means any federal, state, or local government.

30 (2) For the purpose of this chapter, a governmental entity is  
31 liable for the act of an agency, instrumentality, officer, or employee  
32 done under color of a statute, ordinance, regulation, custom, or usage.

33 (3) For the purpose of this chapter, an officer, employee, or agent  
34 of a governmental entity is liable only to the extent that he or she  
35 acts under color of a statute, ordinance, regulation, custom, or usage.

1        NEW SECTION.    **Sec. 5.**    In an action or proceeding to enforce a  
2 provision of this chapter:

3        (1) Attorneys' fees must be awarded to the prevailing plaintiff  
4 unless special circumstances exist to render such an award unjust.

5        (2) Attorneys' fees may be awarded to the prevailing defendant only  
6 where the underlying claim is frivolous or totally without merit.

7        (3) The prevailing party may recover any and all costs, including  
8 but not limited to, expert witness fees and those recoverable under RCW  
9 49.60.030(2).

10       NEW SECTION.    **Sec. 6.**    In an action or proceeding to enforce a  
11 provision of this chapter, a court may not impose or levy as a remedy  
12 or otherwise a general or special tax, assessment, fee, toll, charge,  
13 or other monetary obligation on the citizens of the state of  
14 Washington.

15       NEW SECTION.    **Sec. 7.**    Sections 1 through 6 of this act shall  
16 constitute a new chapter in Title 7 RCW.

17       NEW SECTION.    **Sec. 8.**    This act is necessary for the immediate  
18 preservation of the public peace, health, morals, or safety, or support  
19 of the state government and its existing public institutions, and shall  
20 take effect immediately.

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