

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL NO. 651

By: Leewright of the Senate

and

O'Donnell of the House

COMMITTEE SUBSTITUTE

An Act relating to civil procedure; requiring written notification prior to commencement of an action based on website accessibility; prescribing method of notice; directing attachment to petition of notice and receipt; providing for dismissal of action without prejudice for failure to comply; directing dismissal of action if website is corrected and petition is filed anyway; providing for award of costs and attorney fees; requiring sanctions for frivolous action; authorizing extension of time to complete corrections; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2003.3 of Title 12, unless there is created a duplication in numbering, reads as follows:

COMMENCEMENT OF ACTION BASED ON WEBSITE ACCESSIBILITY CLAIM

A. Prior to filing any civil action or a petition for injunctive relief based on a claim that an organization's website

1 does not conform with applicable law, codes and standards for
2 websites for the visually or hearing impaired, the plaintiff shall
3 notify the organization in writing of the plaintiff's assertion that
4 its website does not comply with applicable law, codes and standards
5 regulating the functionality of an organization's website to
6 accommodate visually or hearing impaired individuals and the
7 specific violations that the plaintiff asserts. The notice shall be
8 sent by certified mail with return receipt requested at least one
9 hundred twenty (120) days prior to the filing of a petition for
10 injunctive relief.

11 B. In any civil action or action for injunctive relief based on
12 a claim that an organization's website does not conform with
13 applicable law, codes and standards for the visually or hearing
14 impaired, the plaintiff shall attach to the petition:

15 1. A copy of the notice required by subsection A of this
16 section; and

17 2. A copy of the certified mail return receipt signed by the
18 defendant or person authorized to receive service of process for the
19 defendant.

20 C. If a civil action or action for injunctive relief that is
21 based on a claim that an organization's website does not conform
22 with applicable law, codes and standards for the visually or hearing
23 impaired is filed without the documentation required by subsection B
24 of this section or if the petition is filed less than one hundred

1 twenty (120) days after the date the notice required by subsection A
2 of this section is sent, the court shall, upon motion of the
3 defendant, dismiss the action without prejudice to its refiling.

4 D. If the organization corrects the alleged website defect
5 prior to the filing of the petition and the plaintiff files the
6 petition, the court shall dismiss the action and award court costs
7 and reasonable attorney fees to the defendant. In addition, the
8 court shall impose sanctions if the action is determined to be
9 frivolous pursuant to Section 2011 of Title 12 of the Oklahoma
10 Statutes.

11 E. If the defendant has made a reasonable effort to correct the
12 defect but has not completed the correction within one hundred
13 twenty (120) days of notification as directed in subsection A of
14 this section or prior to the filing of the petition, the court may,
15 upon application of the defendant for good cause shown, grant the
16 defendant a reasonable extension of time, based on the nature of the
17 work needed on the website to correct the deficiency. If the
18 correction is completed within that period of time, the court shall
19 dismiss the action.

20 SECTION 2. This act shall become effective November 1, 2017.

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