

1 **SENATE FLOOR VERSION**

2 April 11, 2017

3 ENGROSSED HOUSE
4 BILL NO. 1429

By: Hilbert of the House

and

Leewright of the Senate

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8 An Act relating to civil procedure; providing for
9 commencement of action based on website accessibility
10 claim; requiring prefiling notification; requiring
11 that certain information be attached to petition;
12 providing for dismissal of action if requirements are
13 not complied with; providing for dismissal of action
14 if defendant corrects defects prior to filing of
15 petition; providing for award of court costs and
16 attorney fees; providing for imposition of sanctions;
17 authorizing the court to grant extension of time for
18 corrective action in certain circumstances and
19 dismissal of action if corrective action is
20 completed; providing for codification; and providing
21 an effective date.

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

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

25 COMMENCEMENT OF ACTION BASED ON WEBSITE ACCESSIBILITY CLAIM

26 A. Prior to filing any civil action or a petition for
27 injunctive relief based on a claim that an organization's website
28 does not conform with applicable law, codes and standards for

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

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

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

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

19 C. If a civil action or action for injunctive relief that is
20 based on a claim that an organization's website does not conform with
21 applicable law, codes and standards for the visually or hearing
22 impaired is filed without the documentation required by subsection B
23 of this section or if the petition is filed less than one hundred
24 twenty (120) days after the date the notice required by subsection A

1 of this section is sent, the court shall, upon motion of the
2 defendant, dismiss the action without prejudice to its refiling.

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

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

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

19 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
20 April 11, 2017 - DO PASS
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