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SENATE BILL NO. 199

Offered January 10, 2018

Prefiled January 1, 2018

A *BILL to amend the Code of Virginia by adding in Chapter 9 of Title 51.5 a section numbered 51.5-46.1, relating to rights of persons with disabilities; procedures for certain actions; notice and opportunity to cure.*

Patron—DeSteph

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 9 of Title 51.5 a section numbered 51.5-46.1 as follows:

§ 51.5-46.1. Procedures for certain actions; opportunity to cure.

A. As used in this section:

"Aggrieved person" means a person with a disability who (i) patronized or attempted to patronize a public accommodation, (ii) encountered a barrier to his access to the public accommodation, and (iii) experienced denial of access to the public accommodation based on his disability.

"Architectural barrier" means the applicable design, construction, technical, or similar standards do not comply with state or federal laws that require compliance with specified design, construction, technical, or similar standards to accommodate persons with disabilities.

B. Before bringing a civil action based on the failure to remove an architectural barrier to access into an existing public accommodation, the aggrieved person shall provide to the owners or operators of the public accommodation a written notice given in a manner prescribed for service of process in a civil action. The notice shall:

1. Provide the name of the individual alleging a failure to remove an architectural barrier;

2. Provide the date, place, and manner in which the aggrieved person discovered the alleged violation;

3. Cite the law alleged to be violated;

4. Identify each architectural barrier that is the subject of an alleged violation and specify its location on the premises; and

5. Provide a reasonable period for response, which shall not be less than 60 days.

The notice shall not include a request or demand for money or an offer or agreement to accept money but may offer to engage in settlement negotiations before litigation.

C. A civil action based on the failure to remove an architectural barrier may not be commenced by an aggrieved person before expiration of the period for response provided in the notice required under subsection B.

D. An owner or operator receiving a notice provided under subsection B may correct the alleged violation before the earliest date on which the aggrieved person may file the civil action.

E. An owner or operator who has corrected an alleged violation shall provide a written notice of the correction to the aggrieved person describing each correction and the manner in which the correction addresses the alleged violation. If the owner or operator concludes that an alleged violation has not occurred and that a correction is not necessary, the owner or operator shall provide to the aggrieved person a written explanation of the owner's or operator's conclusion.

F. If an aggrieved person files an action to which this section applies, such aggrieved person must establish by a preponderance of the evidence that the respondent has not corrected one or more of the alleged violations stated in the written notice provided under subsection B.

INTRODUCED

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