

19107715D

**HOUSE BILL NO. 2296****AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Joint Conference Committee  
on February 23, 2019)

(Patron Prior to Substitute—Delegate Leftwich)

*A BILL to amend and reenact § 51.5-46 of the Code of Virginia, relating to rights of persons with disabilities; procedures for certain actions; website accessibility.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 51.5-46 of the Code of Virginia is amended and reenacted as follows:**

**§ 51.5-46. Remedies.**

A. Any circuit court having jurisdiction and venue pursuant to Title 8.01, on the petition of any person with a disability, shall have the right to enjoin the abridgement of rights set forth in this chapter and to order such affirmative equitable relief as is appropriate and to award compensatory damages and to award to a prevailing party reasonable attorney fees, except that a defendant shall not be entitled to an award of attorney fees unless the court finds that the claim was frivolous, unreasonable or groundless, or brought in bad faith. Compensatory damages shall not include damages for pain and suffering. Punitive damages shall not be awarded.

B. An action may be commenced pursuant to this section any time within one year of the occurrence of any violation of rights under this chapter. However, such action shall be forever barred unless such claimant or his agent, attorney or representative has commenced such action or has filed by registered mail a written statement of the nature of the claim with the potential defendant or defendants within 180 days of the occurrence of the alleged violation. *If the claimant is alleging that the website of a bank, trust company, savings institution, or credit union is inaccessible and abridges his rights under this chapter, the claimant shall file by registered mail such written statement within such 180-day period, in which case the action shall be commenced no sooner than 120 days thereafter.* Any liability for back pay shall not accrue from a date more than 180 days prior to the filing of the notice or the initial pleading in such civil action and shall be limited to a total of 180 days, reduced by the amount of other earnings over the same period. The petitioner shall have a duty to mitigate damages.

C. *The website of a bank, trust company, savings institution, or credit union is in compliance with this chapter regarding its accessibility by persons with vision or hearing impairment, until such time that the federal government adopts standards governing website accessibility, if it meets the Web Content Accessibility Guidelines 2.0 Level AA as developed by the Web Accessibility Initiative.*

D. The relief available for violations of this chapter shall be limited to the relief set forth in this section.