

# Lawsuit Reform Alliance of New York

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# OPPOSE

**BILL:** S.5208 (SANDERS) / A.1092 (Lifton)  
**SUBJECT:** Waiver of sovereign immunity for ADA  
**DATE:** March 1, 2020  
**CONTACT:** Tom Stebbins ([tstebbins@lrany.org](mailto:tstebbins@lrany.org))

## Summary:

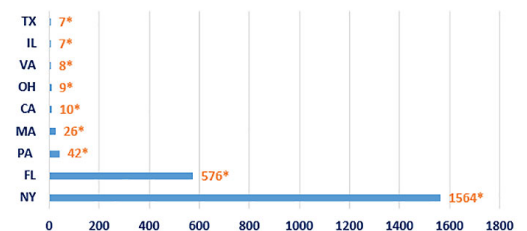
This legislation would waive the state's sovereign immunity to liability under the Americans with Disabilities Act of 1990 and certain other federal acts.

## Why we oppose this legislation:

### ***New York is Currently Facing a Crisis of Abusive and Fraudulent ADA Cases***

- New York currently leads the nation in lawsuits brought under the Americans with Disabilities Act. According to a November 2019 indictment by the US Attorney's office, over 300 cases in New York were brought without a client.<sup>1</sup> Most of the other cases are brought by just a handful of plaintiffs and their attorneys casting doubt on the overall public value of these claims.<sup>2</sup> In response to a surge in cases, some universities ceased to offer classes online for fear of litigation, another negative public consequence of these claims.<sup>3</sup>

Top 10 States for ADA Title III Website Accessibility Lawsuits



### ***Our Public Institutions are Already the Target of Massive Litigation***

- According to a study by *Governing* magazine, the City of New York pays more in legal payouts, \$785m than the next nineteen largest US cities combined. The City government pays more for lawsuits than for parks, libraries, and aging combined. Upstate municipalities pay an estimated \$1b in legal costs every year. This legislation is part of a new trend of, "plaintiffs' lawyers focusing on new targets, including municipalities, county governments, and universities."<sup>4</sup> As the recent US Attorney indictment illustrates, many of these claims are driven by lawyers seeking a payout rather than the disabled seeking access.

### ***Regulations Regarding Compliance are Unclear***

- When the Americans with Disabilities Act was drafted, the internet was in its infancy. The federal regulation includes no mention of websites or the internet and the Department of Justice has not issued any revisions regarding website accessibility. Meanwhile, the courts have said website operators are liable for non-compliance, even without knowledge of what compliance is. Without any guidance, state and local governments could face a wave of litigation and no way to defend themselves against claims.

<sup>1</sup> Stephen Rex Brown, "Lawyer Filed Bogus ADA Lawsuits without Telling His Disabled Clients: Prosecutors," *New York Daily News*, Nov 2019

<sup>2</sup> Hobday et al, "Serial Plaintiffs: The Abuse of ADA Title III," New York Civil Justice Institute, Mar 2018

<sup>3</sup> Elizabeth A. Harris, "Galleries from A to Z Sued Over Websites the Blind Can't Use," *New York Times*, Feb 2019

<sup>4</sup> Elizabeth Bowersox, "Municipalities and Universities New Targets in ADA Website Accessibility Lawsuits" JD Supra, Mar 2019

The Lawsuit Reform Alliance of New York is a not-for-profit association of businesses, healthcare providers, membership organizations, and concerned citizens dedicated to reform of the legal system in order to foster a better business climate, promote job growth and address the growing cost of lawsuit abuse.