A bill for an act

relating to human rights; providing for access to certain information by a respondent; requiring an award of attorney fees and other expenses in certain cases; amending Minnesota Statutes 2010, sections 363A.28, subdivision 9; 363A.29, subdivision 11; 363A.33, subdivision 7.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2010, section 363A.28, subdivision 9, is amended to read:

Subd. 9. **Access to documents.** (a) The commissioner shall provide the respondent with a copy of the charge. The charging party or the party's representative may review the answer of the respondent to the charge submitted pursuant to subdivision 1. The department shall make these documents available to the charging party.

(b) Regardless of whether a probable cause determination has been made, if the commissioner is using conciliation under subdivision 8 or the parties are involved in alternative dispute resolution, the commissioner shall provide the respondent with names of witnesses, documents, and other information submitted by the charging party related to the alleged unfair discriminatory practice.

Sec. 2. Minnesota Statutes 2010, section 363A.29, subdivision 11, is amended to read:

Subd. 11. **Litigation and hearing costs.** (a) The administrative law judge shall order a respondent who is determined to have engaged in an unfair discriminatory practice to reimburse the department and the attorney general for all appropriate litigation and hearing costs expended in preparing for and conducting the hearing, unless payment of the costs would impose a financial hardship on the respondent. Appropriate costs include but are not limited to the costs of services rendered by the attorney general, private attorneys

if engaged by the department, administrative law judges, court reporters, and expert witnesses as well as the costs of transcripts and other necessary supplies and materials.

(b) If the administrative law judge determines that the respondent did not engage in an unfair discriminatory practice and that the position of the department was not substantially justified, as defined in section 15.471, subdivision 8, the administrative law judge shall award fees and other expenses to the respondent as provided under sections 15.471 to 15.474.

(c) Money reimbursed to the Department of Human Rights under ~~this subdivision~~ paragraph (a) must be paid into the state treasury and credited to a special revenue account. Money in that account is appropriated to the commissioner of human rights to the extent the reimbursements were made to cover the department's costs and for purposes of paying fees and other expenses awarded to a respondent under paragraph (b) and are available for the department's activities in enforcing the Minnesota Human Rights Act.

Sec. 3. Minnesota Statutes 2010, section 363A.33, subdivision 7, is amended to read:

Subd. 7. **Attorney's fees and costs.** (a) In any action or proceeding brought pursuant to this section the court, in its discretion, may ~~allow~~ award the prevailing party ~~a~~ reasonable ~~attorney's fee~~ attorney fees as part of the costs.

(b) In any case brought by the department, the court shall order a respondent who is determined to have engaged in an unfair discriminatory practice to reimburse the department and the attorney general for all appropriate litigation and court costs expended in preparing for and conducting the hearing, unless payment of the costs would impose a financial hardship on the respondent. Appropriate costs include but are not limited to the costs of services rendered by the attorney general, private attorneys if engaged by the department, court costs, court reporters, and expert witnesses as well as the costs of transcripts and other necessary supplies and materials.

(c) In a case brought by the department, if the court determines that the respondent did not engage in an unfair discriminatory practice and that the position of the department was not substantially justified, as defined in section 15.471, subdivision 8, the court shall award fees and other expenses to the respondent as provided under sections 15.471 to 15.474.