

STATE OF NEW YORK

5982

2021-2022 Regular Sessions

IN ASSEMBLY

March 4, 2021

Introduced by M. of A. WALKER -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the civil rights law, in relation to civil actions for deprivation of constitutional rights

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The civil rights law is amended by adding a new section
2 79-q to read as follows:

3 § 79-q. Civil action for deprivation of constitutional rights. 1.
4 Notwithstanding any other law to the contrary, a peace officer, as
5 defined in section 2.10 of the criminal procedure law, employed by a
6 local government, who under color of law, subjects or causes to be
7 subjected, including failing to intervene, any other person to the
8 deprivation of any individual rights that create binding obligations on
9 government actors secured by the bill of rights, article one of the
10 state constitution, is liable to the injured party for legal or equita-
11 ble relief or any other appropriate relief.

12 2. Notwithstanding any other law to the contrary, (a) statutory immu-
13 nities and statutory limitations on liability, damages or attorney fees
14 shall not apply to claims brought pursuant to this section; (b) govern-
15 mental immunity shall not be a defense to liability pursuant to this
16 section; and (c) qualified immunity shall not be a defense to liability
17 pursuant to this section.

18 3. Notwithstanding any other law to the contrary, in any action
19 brought pursuant to this section, a court shall award reasonable attor-
20 ney fees and costs to a prevailing plaintiff. In actions for injunctive
21 relief, a court shall deem a plaintiff to have prevailed if the
22 plaintiff's suit was a substantial factor or significant catalyst in
23 obtaining the results sought by the litigation. When a judgment is
24 entered in favor of a defendant, the court may award reasonable costs

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 and attorney fees to the defendant for defending any claims the court
2 finds frivolous.

3 § 2. This act shall take effect immediately and shall apply to any
4 cause of action that accrues on or after such effective date.