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:

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

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

2. Notwithstanding any other law to the contrary, (a) statutory immunities and statutory limitations on liability, damages or attorney fees shall not apply to claims brought pursuant to this section; (b) governmental immunity shall not be a defense to liability pursuant to this section; and (c) qualified immunity shall not be a defense to liability pursuant to this section.

3. Notwithstanding any other law to the contrary, in any action brought pursuant to this section, a court shall award reasonable attorney fees and costs to a prevailing plaintiff. In actions for injunctive relief, a court shall deem a plaintiff to have prevailed if the plaintiff's suit was a substantial factor or significant catalyst in obtaining the results sought by the litigation. When a judgment is 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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and attorney fees to the defendant for defending any claims the court finds frivolous.

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