

# STATE OF NEW YORK

9076

2025-2026 Regular Sessions

## IN ASSEMBLY

September 12, 2025

Introduced by M. of A. ROMERO -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil rights law, in relation to establishing a right of action for the 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 article 8-A  
2 to read as follows:

### ARTICLE 8-A

#### THE NEW YORK CIVIL RIGHTS ACT

#### Section 85. Action for deprivation of constitutional rights.

6 § 85. Action for deprivation of constitutional rights. 1. Legislative  
7 intent. The people of the State of New York must be guaranteed meaning-  
8 ful remedies, including but not limited to those provided through the  
9 courts, when their constitutional rights are violated. Recent United  
10 States Supreme Court decisions have curtailed the availability of such  
11 remedies under Bivens v. Six Unknown Named Agents, repeatedly declining  
12 to extend damages actions to new contexts and leaving many victims of  
13 constitutional violations without recourse. Concurrently, the Federal  
14 Tort Claims Act (FTCA), as amended by the Westfall Act, provides the  
15 exclusive avenue for many common-law damages actions against federal  
16 officers acting within the scope of their employment. These developments  
17 have created a significant remedial void for New Yorkers injured by  
18 unconstitutional conduct.

19 Therefore, the legislature finds it necessary to enact a state cause  
20 of action authorizing claims for damages against any federal, state, or  
21 local official, who, acting under color of federal, state, or local law,  
22 deprives a person of rights secured by the United States Constitution.  
23 The Westfall Act explicitly carves out from the FTCA's exclusive purview  
24 "a civil action against an employee of the Government which is brought  
25 for a violation of the Constitution of the United States." 28 U.S.C. §

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

LBD13560-03-5

1 2679(b)(2)(a). The plain text of this provision contains no limitation  
2 on the scope of constitutional violations carved out from the FTCA's  
3 exclusive purview, recognizing the well-established principle that  
4 government agents act outside of the scope of their offices when they  
5 violate the Constitution. The legislature intends for this statute to  
6 fall squarely within that provision.

7 This article does not, nor is intended to, usurp federal authority.  
8 Nor does it discriminate against federal officials. This statute under-  
9 scores the supremacy of the federal Constitution by ensuring that its  
10 guarantees remain enforceable for all New Yorkers against all persons  
11 acting under color of law. From the Founding era through the nineteenth  
12 century, state courts regularly entertained suits against federal offi-  
13 cers who exceeded lawful authority. Nothing in the Constitution, federal  
14 statutes, or United States Supreme Court precedent forecloses such  
15 actions today. The legislature thus finds that New York State may prop-  
16 erly act to safeguard its residents' constitutional rights.

17 The intent of this statute is to restore a meaningful avenue of  
18 accountability consistent with federal supremacy, state sovereignty, and  
19 the longstanding principle that rights must be paired with remedies.

20 2. Liability. Any person who, under the color of law, subjects, or  
21 causes to be subjected, any person within the jurisdiction thereof to  
22 the deprivation of any rights, privileges, or immunities secured by the  
23 federal or state constitution or laws, or whose exercise or enjoyment of  
24 those rights, privileges or immunities has been interfered with or  
25 attempted to be interfered with, by threats, intimidation or coercion by  
26 a person acting under the color of law, shall be liable to the party  
27 injured in an action at law, suit in equity, or other proper proceeding  
28 for redress.

29 3. Civil action. If a person, acting under the color of law, subjects,  
30 or causes to be subjected, any other person the deprivation of any  
31 rights, privileges, or immunities secured by the federal or state  
32 constitution or laws, or interferes with or attempts to interfere with  
33 the exercise or enjoyment of those rights, privileges or immunities  
34 secured by the federal or state constitution or laws, by threats, intim-  
35 idation or coercion, the attorney general may bring a civil action for  
36 damages, injunctive relief or other appropriate relief. The civil action  
37 shall be brought in the name of the state and may be brought on behalf  
38 of the injured party. If the attorney general proceeds with and prevails  
39 in an action brought pursuant to this section, the court shall order the  
40 distribution of any award of damages to the injured party and shall  
41 award reasonable attorney's fees and costs to the attorney general.

42 4. Remedies. In any action brought under this section, the court may  
43 award:

44 (a) compensatory damages, including damages for emotional distress,  
45 pain and suffering, and other non-economic damages;

46 (b) punitive damages where the violation is found to be malicious,  
47 wanton, willful, or in reckless disregard of the plaintiff's rights;

48 (c) injunctive and declaratory relief; and

49 (d) reasonable attorneys' fees and costs to a prevailing plaintiff.

50 § 2. This act shall take effect immediately.