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:

Section 1. The civil rights law is amended by adding a new article 8-A to read as follows:

ARTICLE 8-A

THE NEW YORK CIVIL RIGHTS ACT

Section 85. Action for deprivation of constitutional rights.

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

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

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

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

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

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

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

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

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

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

(c) injunctive and declaratory relief; and

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

§ 2. This act shall take effect immediately.