

STATE OF NEW YORK

8500--A

2025-2026 Regular Sessions

IN SENATE

September 10, 2025

Introduced by Sens. MYRIE, FAHY, FERNANDEZ, GIANARIS, GONZALEZ, GOUNARDES, HINCHEY, HOYLMAN-SIGAL, KAVANAGH, LIU, MAY, MAYER, RAMOS, RIVERA, C. RYAN, SALAZAR, SANDERS, STAVISKY, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil rights law, in relation to enacting the New York Civil Rights Act

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

1 Section 1. This act shall be known and may be cited as the "New York
2 Civil Rights Act".

3 § 2. The civil rights law is amended by adding a new article 8-A to
4 read as follows:

ARTICLE 8-A

THE NEW YORK CIVIL RIGHTS ACT

Section 85. Action for deprivation of constitutional rights.

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

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

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1 Therefore, the legislature finds it necessary to provide an avenue for
2 claims for damages against any federal, state, or local official, who,
3 acting under color of any federal, state, or local law, deprives a
4 person of rights secured by the United States Constitution. The West-
5 fall Act explicitly carves out from the FTCA's exclusive purview "a
6 civil action against an employee of the Government which is brought for
7 a violation of the Constitution of the United States." 28 U.S.C. §
8 2679(b)(2)(A). The plain text of this provision contains no limitation
9 on the scope of constitutional violations carved out from the FTCA's
10 exclusive purview, recognizing the well-established principle that
11 government agents act outside of the scope of their offices when they
12 violate the Constitution. The legislature intends for this statute to
13 fall squarely within that provision.

14 This article does not, nor is intended to, usurp federal authority.
15 Nor does it discriminate against federal officials. This statute under-
16 scores the supremacy of the federal Constitution by ensuring that its
17 guarantees remain enforceable for all New Yorkers against all persons
18 acting under color of any law. From the Founding era through the nine-
19 teenth century, courts regularly entertained state law suits against
20 federal officers who exceeded lawful authority. Nothing in the Constitu-
21 tion, federal statutes, or United States Supreme Court precedent fore-
22 closes such actions today. The legislature thus finds that New York
23 State may properly act to safeguard its residents' constitutional
24 rights.

25 The intent of this statute is to restore a meaningful avenue of
26 accountability consistent with federal supremacy, sovereignty, and the
27 long-standing principle that rights must be paired with remedies.

28 2. Definition. As used in this section, "color of any law, statute,
29 ordinance, regulation, custom, or usage" includes color of any statute,
30 ordinance, regulation, custom, or usage, of the United States and of any
31 State or Territory or District of Columbia.

32 3. Liability. Any person who, under color of any law, statute, ordi-
33 nance, regulation, custom, or usage, subjects, or causes to be
34 subjected, any citizen of the United States or other person within the
35 jurisdiction thereof to the deprivation of any rights, privileges, or
36 immunities secured by the Constitution of the United States, shall be
37 liable to the party injured in an action at law, suit in equity, or
38 other proper proceeding for redress, except that in any action brought
39 against a judicial officer for an act or omission taken in such offi-
40 cer's judicial capacity, injunctive relief shall not be granted unless
41 declaratory decree was violated or declaratory relief was unavailable.

42 4. Immunity Defenses. (a) Official immunity. A defendant in an action
43 under this section may assert a defense of absolute or qualified immuni-
44 ty to the same extent as a person sued under 42 U.S.C. 1983 under like
45 circumstances.

46 (b) Sovereign Immunity. Nothing in this section shall be construed to
47 waive or abrogate any defense or sovereign immunity otherwise available
48 to a party.

49 5. Remedies. In any action brought under this section, the court may
50 award:

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

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

55 (c) injunctive and declaratory relief;

1 (d) reasonable attorneys' fees and costs to a prevailing plaintiff;
2 and

3 (e) expert fees as part of the reasonable attorneys' fees.

4 6. Severability. If any provision of this section or the application
5 of the person or circumstance is held invalid, the remainder of this
6 section and the application of the provision to any other person or
7 circumstance shall not be affected by that invalidation.

8 § 3. This act shall take effect immediately.