

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.

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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, intimid-
35 ation 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.