STATE OF NEW YORK

9076--B

2025-2026 Regular Sessions

IN ASSEMBLY

September 12, 2025

Introduced by M. of A. ROMERO, RAGA, SHRESTHA, LEE, WOERNER, DE LOS SANTOS, McDONALD, BURDICK, WRIGHT, HOOKS, OTIS, SIMON, KELLES, GONZALEZ-ROJAS, ROSENTHAL, MEEKS, FORREST, MITAYNES, DINOWITZ, CRUZ, SHIMSKY, HEVESI -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Judiciary in accordance with Assembly Rule 3, sec. 2 -- 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:

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

§ 2. 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

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

LBD13560-13-6

have created a significant remedial void for New Yorkers injured by unconstitutional conduct.

Therefore, the legislature finds it necessary to provide an avenue for claims for damages against any federal, state, or local official, who, acting under color of any 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. § 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 any law. From the Founding era through the nineteenth century, courts regularly entertained state law suits against federal officers who exceeded lawful authority. Nothing in the Constitution, federal statutes, or United States Supreme Court precedent foreclosses 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, sovereignty, and the long-standing principle that rights must be paired with remedies.

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

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

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;

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

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

§ 3. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the

remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect immediately.