# STATE OF NEW YORK

3280

2025-2026 Regular Sessions

# IN SENATE

January 24, 2025

Introduced by Sens. MYRIE, BAILEY, COONEY, HOYLMAN-SIGAL, RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil rights law, in relation to filling the void left by the expansive and overbroad applicability of the qualified immunity doctrine that operates as a near absolute shield to civil liability for public officials and ensure that state officials are justly held accountable for violating an individual's rights, privileges and immunities under state law

**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 Restoring Accountability and Civil Equity Act," or The RACE Act.

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

**ARTICLE 3-A**

**THE RESTORING ACCOUNTABILITY AND CIVIL EQUITY ACT**

**Section 30. Liability for rights violations.**
**31. Proceedings.**
**32. Burden of proof.**
**33. Qualified immunity not a defense.**
**34. Pre-emption.**
**35. Remedies.**
**36. Indemnification.**

**§ 30. Liability for rights violations. a. 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,**

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

LBD07720-01-5

shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

b. If the injured party is incapacitated, deceased, or otherwise unavailable as a matter of law, an action under subdivision a of this section may be brought by and in the name of the surviving spouse, child, parent or guardian, or personal representative of the injured party and on behalf of the spouse, children or parents, or if none of these survive, on behalf of the injured party's estate.

c. 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.

§ 31. Proceedings. a. An action brought pursuant to this article shall be filed in a court of competent jurisdiction within the state.

b. Upon application of any party, a jury trial shall be directed.

§ 32. Burden of proof. a. The standard of proof that applies to all actions brought under this article is the preponderance of the evidence standard.

b. Where a defendant has raised a factual defense, that defendant bears the burden of persuasion and must establish the defense by preponderance of the evidence.

§ 33. Qualified immunity not a defense. It shall not be a defense or immunity to any action brought under this article that the defendant was acting in good faith, or that the defendant believed, reasonably or otherwise, that their conduct was lawful at the time when it was committed. Nor shall it be a defense or immunity that the rights, privileges, or immunities secured by the federal or state constitution or laws were not clearly established at the time of their deprivation or interference or attempted interference by the defendant, or that the state of the law was otherwise such that the defendant could not reasonably have been expected to know whether their conduct was lawful.

§ 34. Pre-emption. Any action, and defenses hereunder, brought under this article borne of facts that may also give rise to an action under 42 U.S.C. § 1983 are independent of any federal action, and defenses thereunder.

§ 35. Remedies. a. A civil action under this article can be brought for monetary damages, injunctive relief or any other relief that the court deems appropriate.

b. Punitive damages may be awarded in actions under this article where it is proven by clear and convincing evidence that the defendant's course of conduct was motivated by the victim's race, gender, religion, sexual orientation, nationality, ethnicity or disability.

c. In addition to any damages, civil penalty, injunction or other appropriate relief awarded in an action brought pursuant to this article, the court shall award the prevailing plaintiff reasonable attorney's fees and costs. For the purposes of this section, the term "prevailing plaintiff" includes a plaintiff whose commencement of liti-

gation has acted as a catalyst to effect change in the defendant's conduct, regardless of whether that change has been implemented as a result of a judgment in such plaintiff's favor.

§ 36. Indemnification. a. Notwithstanding any other provision of law, a public entity shall indemnify its public employee for any liability incurred by the employee and for any judgment entered against the employee for claims arising under this section or upon the settlement of such claims, provided that the judgment or settlement amount be paid from the budget of the agency or department employing such employee and that such judgment or settlement amount shall not be paid from the general fund of such public entity.

b. A public entity shall not indemnify a public employee if the employee was convicted of a criminal violation for the conduct from which the claim arises.

c. For the purpose of this section, "public entity" shall mean the state, any county, city and county, municipality, and every other political subdivision of the state; and any private entity that engages in state action.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law.