

HOUSE BILL REPORT

HB 2597

As Reported by House Committee On:

Civil Rights & Judiciary
Appropriations

Title: An act relating to remedies for violations of federal constitutional rights occurring during immigration enforcement.

Brief Description: Concerning remedies for violations of federal constitutional rights occurring during immigration enforcement.

Sponsors: Representatives Thai, Fosse, Simmons, Parshley, Gregerson, Santos, Ramel, Stearns, Goodman, Obras, Peterson, Cortes, Doglio, Ormsby, Pollet, Scott, Ryu, Nance and Salahuddin.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/28/26, 2/4/26 [DPS];

Appropriations: 2/6/26, 2/9/26 [DPS(CRJ)].

Brief Summary of Substitute Bill

- Creates a cause of action for any person who is deprived of any rights, privileges, or immunities secured by the United States Constitution during civil immigration enforcement by any person acting with government authority or on behalf of a government.
- Provides a defendant with the defense of absolute or qualified immunity to the same extent as a person sued under a section 1983 action for a claim of deprivation of federal constitutional rights during civil immigration enforcement.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Signed by 8 members: Representatives Taylor, Chair; Farivar, Vice Chair; Entenman, Goodman, Peterson, Salahuddin, Thai and Walen.

Minority Report: Do not pass. Signed by 5 members: Representatives Walsh, Ranking Minority Member; Abell, Assistant Ranking Minority Member; Burnett, Graham and Jacobsen.

Staff: Matt Sterling (786-7289).

Background:

Civil Actions for Deprivation of Constitutional Rights.

Claims Against State Agents.

Federal law provides a civil cause of action to redress violations of federal constitutional and statutory rights caused by state and local officers acting under color of state law that is often referred to as a section 1983 action. The legal standard depends on the legal right at issue.

Section 1983 actions are generally brought against the individual state officer who committed the alleged violation. The doctrine of vicarious liability of employers does not apply in section 1983 actions. An officer's employing agency may only be held liable in a section 1983 action when the injury is the result of the execution of a policy or custom adopted by the agency.

Claims Against Federal Agents.

The Federal Tort Claims Act (FTCA) generally provides the exclusive civil remedy against the United States for injury or loss resulting from the negligent or wrongful act or omission of any federal agent while acting within the scope of their office or employment. However, the FTCA does not displace or prohibit a civil action against a federal agent that is brought for a violation of the Constitution of the United States.

The United States Supreme Court held in *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics* that a civil claim for damages is available in limited circumstances when federal officials commit certain constitutional violations.

Federal Government Immunity.

The Supremacy Clause requires that federal law prevails when it is in conflict with state law. The states are prohibited from burdening or controlling the operations of the constitutional laws enacted by the United States Congress. The doctrine of intergovernmental immunity bars state laws that attempt to regulate or discriminate against the federal government or single out federal actors for unique treatment.

Supremacy Clause Immunity.

Supremacy Clause immunity generally shields federal officials from criminal state liability

if the federal official was engaged in activity that was authorized by federal law and the official's actions were "necessary and proper" in fulfilling their federal duties.

Qualified Immunity.

The doctrine of qualified immunity provides government officials performing discretionary functions with immunity from civil suits for violations of rights secured by the United States Constitution or federal law, unless the plaintiff shows that the officer violated "clearly established" rights. When determining whether a right was clearly established, courts consider whether the right at issue was sufficiently clear such that every reasonable official would have known that his or her conduct violated the right.

Washington Civil Actions.

Washington has not enacted a statute authorizing a cause of action for violations of state constitutional or statutory rights. Washington courts have consistently refused to recognize a private cause of action for damages for state constitutional violations absent legislative guidance.

However, a civil suit against state agents and employees can be brought under state common law tort actions. These include actions for intentional torts, such as assault, battery, false arrest, false imprisonment, or trespass; and for unintentional torts, such as a negligence claim based on an officer's failure to use reasonable care.

Qualified Immunity.

Washington courts recognize a distinct state variant of qualified immunity in some instances. A peace officer is generally entitled to state qualified immunity from civil liability where the officer carries out a statutory duty according to procedures dictated to the officer by statute and superiors and where the officer acts reasonably. However, this state qualified immunity does not apply to claims of assault and battery arising out of the use of excessive force to effectuate an arrest.

Removal to Federal Court.

Federal law provides that a civil action or criminal prosecution that is commenced in a state court and that is against or directed toward the federal government or a federal agent may be removed to federal court.

Summary of Substitute Bill:

Washington Civil Actions.

A person who is deprived of any rights, privileges, or immunities secured by the United States Constitution during civil immigration enforcement by any person acting under color of any law, statute, ordinance, regulation, custom, or usage may bring an action at law, suit in equity, or other proper proceeding.

Recovery of Attorneys' Fees.

A court may award reasonable attorneys' fees, including expert fees, to a prevailing plaintiff.

Government Immunity.

Defendants are provided with the defense of absolute or qualified immunity to the same extent as a person sued under a section 1983 action under like circumstances. Any defense of sovereign immunity otherwise available to a party is not waived or abrogated.

Statute of Limitations.

A civil action brought against a person who violates the United States Constitution while participating in civil immigration enforcement must be commenced within two years after the cause of action accrues.

Severability.

Severability clauses are included for any provision of the act that is held invalid or conflicts with federal requirements that are a condition to the allocation of federal funds to the state.

Substitute Bill Compared to Original Bill:

The substitute bill :

- makes every person acting under color of law liable for the deprivation of any rights, privileges, or immunities secured by the United States Constitution during civil immigration enforcement;
- authorizes an injured person to bring an action at law, suit in equity, or other proper proceeding;
- authorizes, but does not require, a court to award a prevailing plaintiff reasonable attorneys' fees, including expert fees;
- provides a defendant with the defense of absolute or qualified immunity to the same extent as a person sued under a section 1983 action under like circumstances and does not waive or abrogate any defense of sovereign immunity otherwise available to a party;
- reduces the statute of limitations to bring a claim under the bill to two years, rather than three years, after the cause of action accrues; and
- removes the legislative intent section.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 4, 2026.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) The bill creates a clear and reasonable pathway to accountability when federal constitutional rights are violated during civil immigration enforcement. Too often, existing remedies are out of reach for those harmed, and this bill ensures that access to justice is real and meaningful. Importantly, this bill does not interfere with lawful immigration enforcement or the good faith actions of officers acting within the law. It simply affirms a basic principle that government power must always be exercised with care and respect for constitutional limits.

This is a time when people fear that their constitutional rights are being violated, and when communities are permeated with anxiety born of distrust in how the federal government is conducting its operations. For many Muslim Washingtonians, constitutional violations are not abstract legal debates, they are lived experiences that include unlawful stops, warrantless questioning, religious profiling, and coercive detention.

This bill is about the fundamental principle that everyone's constitutional rights must be respected, that these rights are not optional, and that government must be accountable when those rights are violated. People want to know that their government will treat people fairly and lawfully, especially in moments when individuals are most vulnerable. It is important for people to have trust in the government because when that trust exists, communities are stronger, safer, and more engaged. When trust is broken, the impacts are felt far beyond any one individual and affect families, neighborhoods, and the whole community. This bill reinforces accountability and ensures that no one officer is above the law, including those engaged in civil immigration enforcement.

Congress has already passed legislation that allows civil action related to federal violations of constitutional law. This bill is narrower, in that it is related to civil immigration enforcement, an area of concern to Washington communities. The bill is also broader in that it applies to any officer, regardless of agency affiliation or claimed immunity. It is very important to avoid any kind of Supremacy Clause concerns and to not specifically target the federal government. The bill has to apply broadly across the board and address immigration enforcement by whoever does it at the local, state, or federal level. The Legislature should consider expanding the scope of the bill to encompass all federal activities and agencies, not just those involved in immigration enforcement.

(Opposed) Everyone supports the idea that enforcement of laws should be consistent with the Constitution. There seems to be a national trend of state leadership seeking to undermine and hinder the enforcement of federal law. The bill seeks to remove qualified immunity and sovereign immunity. Revoking immunity for federal government agents seems suspect, but even if it does hold up legally, having a different standard for immigration enforcement does not make sense.

(Other) Accountability of law enforcement officers starts with clear laws that include clear

definitions and clear guidance. Law enforcement officers really need to understand the law and the Legislature's expectations, and they need to know that they will be supported when they follow the rules and laws. The line between federal and state enforcement authorities in this area needs to be very clear to help state law enforcement officers do what the public expects them to do. Local law enforcement should not be included in this bill. It is unclear what the term "participation" means. If a federal officer is being attacked and law enforcement intervenes to save that officer's life, it is unclear whether that would count as "participation" under the bill. The bill needs further work to ensure that it reaches the intended goals without unintended consequences.

Persons Testifying: (In support) Representative My-Linh Thai, prime sponsor; Giovanni Severino, Latino Community Fund; Alex Dietz, Washington State Association for Justice; Antonio Ginatta, Columbia Legal Services; Anders Ibsen, Mayor, City of Tacoma; Imraan Siddiqi, Council on American-Islamic Relations Washington (CAIR-WA); Lilliane Ballesteros, Progreso: Latino Progress; Sina Sam, Southeast Asia Resource Action Center; Brian Korst; Sandesh Sadalge, Councilmember, City of Tacoma; and Malou Chavez, Northwest Immigrant Rights Project.

(Opposed) Rebecca Faust.

(Other) Jeff DeVere, WACOPS—Washington Council of Police and Sheriffs.

Persons Signed In To Testify But Not Testifying: Jacob Schwartz; Lydia Zepeda, League of Women Voters of Washington; Angelina Lara; and Negheen Kamkar, Commission on Asian Pacific American Affairs.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Civil Rights & Judiciary be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Bergquist, Callan, Cortes, Doglio, Fitzgibbon, Leavitt, Lekanoff, Peterson, Pollet, Ryu, Springer, Stonier, Street and Thai.

Minority Report: Do not pass. Signed by 12 members: Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett, Corry, Dye, Keaton, Manjarrez, Marshall, Rude and Valdez.

Staff: Jessica Van Horne (786-7288).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Civil Rights & Judiciary:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) Our duty is to make sure that the constitutional rights of the people in Washington are protected, and that there are remedies when rights are violated. This bill will achieve that.

(Opposed) None.

Persons Testifying: Representative My-Linh Thai, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.