

# SENATE BILL REPORT

## SB 5154

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As Reported By Senate Committee On:  
Judiciary, February 6, 2001

**Title:** An act relating to the civil rights act of 2001.

**Brief Description:** Creating the Washington state civil rights act of 2001.

**Sponsors:** Senators Kline, McCaslin, Roach, Constantine, Kohl-Welles and Winsley.

**Brief History:**

**Committee Activity:** Judiciary: 1/23/01, 2/6/01 [DPS-WM].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 5154 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Kline, Chair; Johnson, Kastama, McCaslin, Roach and Zarelli.

**Staff:** Aldo Melchiori (786-7439)

**Background:** The federal Civil Rights Act of 1871, 42 U.S.C. 1983, provides redress for deprivations, under color of law, of any rights, privileges, and immunities secured by the Constitution and laws of the United States. There is no comparable state statute. Attorneys' fees are available under 42 U.S.C. 1988 to successful plaintiffs, and, under limited circumstances, successful defendants as well. The state itself cannot be sued in the federal court under the 11th Amendment, but that provision does not protect local governments, nor state officers or agents acting in their individual capacity, but under color of law. Several categories of officials are immune from suit under federal case law.

**Summary of Substitute Bill:** The Washington State Civil Rights Act of 2001 is enacted. A governmental entity, who under any statute, ordinance, regulation, custom, or usage deprives any person of any right, privilege, or immunity secured by the state Constitution is liable to the injured person. The act applies prospectively only to causes of action arising on or after the effective date of the act. The common law doctrine of qualified immunity does not protect parties from suit.

All damages and remedies, except punitive damages, available under the federal Civil Rights Act are available. The prevailing party may recover reasonable attorneys' fees and costs, including expert witness fees.

In a proceeding to enforce this act, no court may impose or levy as a remedy a general or special tax, assessment, fee, toll, charge, or other monetary obligation on the citizens of the state.

If a person recovers damages under the federal Civil Rights Act, he or she may not also recover under this act.

**Substitute Bill Compared to Original Bill:** Punitive damages are not allowed. The common law doctrine of qualified immunity does not apply. If a person recovers under the federal Civil Rights Act, he or she cannot also recover under the state act.

**Appropriation:** None.

**Fiscal Note:** Requested on January 16, 2001.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The citizens of Washington deserve to have a state remedy for violations of the state Constitution. Civil rights is a bipartisan issue in which we all have a stake.

**Testimony Against:** There is no specific identifiable need for this bill. Local governments are already subject the federal civil rights act.

**Testified:** PRO: Senator Kline; Larry Shannon, WSTLA CON: Leo Poort, Washington Association of Chiefs and Sheriffs; Ron Zirkle, Washington Association of Prosecuting Attorneys; Dan Heid, City of Lakewood; Tim Gosselin, Association of Washington Cities.