
HOUSE BILL 1025

State of Washington

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2023 Regular Session

By Representatives Thai, Reed, Berry, Ryu, Simmons, Bateman, Fitzgibbon, Farivar, Peterson, Alvarado, Pollet, Street, Cortes, Doglio, Macri, Gregerson, Stonier, Kloba, and Santos

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1 AN ACT Relating to creating a private right of action for harm
2 from violations of the state Constitution or state law by peace
3 officers; adding a new chapter to Title 7 RCW; and providing an
4 effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The state of Washington and its
7 subdivisions undertake to protect the safety of individuals and to
8 preserve public peace by employing peace officers entrusted with the
9 power to arrest, detain, and use force against individuals suspected
10 of violating criminal statutes. It is the intent of the legislature
11 to provide a meaningful legal remedy under state law for persons who
12 are injured when a peace officer or the officer's employer violates
13 the state Constitution or state law.

14 (2) The legislature finds that the lack of such a remedy
15 jeopardizes justice for the victims and implies impunity for the
16 violators. In order to foster the important public policy of
17 accountability for unlawful policing and promote trust between
18 communities and law enforcement, and in recognition of remedial
19 deficiencies in existing federal law and Washington common law, this
20 chapter establishes a more meaningful remedy through a civil cause of
21 action by which victims of such misconduct by peace officers or their

1 employers may obtain compensation for their injuries and an award of
2 costs and attorney fees incurred in seeking the remedy. By enacting
3 this chapter, the legislature intends to preclude the creation of the
4 doctrine of qualified immunity as it has developed in litigation of
5 suits under 42 U.S.C. Sec. 1983.

6 NEW SECTION. **Sec. 2.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires
8 otherwise.

9 (1) "Employer" means:

10 (a) The state of Washington and all political subdivisions and
11 agencies thereof that act as a peace officer's principal or
12 supervisor; and

13 (b) Any private entity that, under a contract or agreement with
14 the state or a subdivision of the state, supervises a peace officer
15 or any other person exercising the powers of a peace officer.

16 (2) "Peace officer" has the meaning defined in RCW 43.101.010.

17 (3) "Person" means a natural person and, if the natural person
18 has died, includes the person's estate and statutory beneficiaries.

19 NEW SECTION. **Sec. 3.** (1) Any person injured in person or
20 property by a peace officer acting under color of authority has a
21 cause of action against the peace officer, and against any other
22 peace officer who had the power through reasonable diligence to
23 prevent or aid in preventing the injury from occurring and failed to
24 do so, if the peace officer engaged in conduct that is unlawful under
25 the state Constitution or state law.

26 (2) In an action against a peace officer under subsection (1) of
27 this section, the plaintiff may also name the officer's employer as a
28 defendant. The employer is vicariously liable if the unlawful conduct
29 causing the injury was within the scope of the peace officer's
30 employment.

31 (3) A peace officer has a defense against an action brought under
32 subsection (1) of this section if, when the injury occurred, the
33 officer substantially complied with a regulation, practice,
34 procedure, policy, or training that was established by the employer
35 or approved or condoned by superior officers. If the peace officer
36 proves this defense, the employer is independently liable for the
37 injury if the injury was proximately caused by a regulation,
38 practice, procedure, policy, or training approved or condoned by the

1 employer, unless the training was provided by the criminal justice
2 training center, or the policy was model guidance drafted by the
3 Washington office of the attorney general.

4 (4) The employer is also independently liable for the injury if a
5 proximate cause of the injury was the employer's failure to use
6 reasonable care in hiring, training, retaining, supervising, or
7 disciplining the peace officer, unless the department proves that it
8 was not able to use reasonable care in retaining or disciplining the
9 officer as a result of binding arbitration.

10 (5) It is not an immunity or defense to an action brought under
11 this chapter that:

12 (a) The rights, privileges, or immunities sued upon were not
13 clearly established at the time of the act, omission, or decision by
14 the peace officer or employer; or

15 (b) At such time, the state of the law was such that the peace
16 officer or employer could not reasonably have been expected to know
17 whether such act, omission, or decision was lawful.

18 NEW SECTION. **Sec. 4.** The court shall award to a prevailing
19 plaintiff actual damages as determined by the trier of fact, and
20 shall make an award of at least nominal damages. The court may also
21 award to a prevailing plaintiff costs and reasonable attorneys' fees.
22 The court may grant declaratory and injunctive relief as it deems
23 appropriate.

24 NEW SECTION. **Sec. 5.** (1) This chapter must be liberally
25 construed to effect its beneficial and remedial purposes.

26 (2) Nothing in this chapter affects any other common law or
27 statutory right of action available to the plaintiff.

28 NEW SECTION. **Sec. 6.** A cause of action under section 3 of this
29 act must be commenced within three years after the cause of action
30 accrues.

31 NEW SECTION. **Sec. 7.** Nothing in this chapter is intended to
32 limit the right of a peace officer to have a legal defense provided
33 at the expense of his or her public employer or to having any
34 judgment under this chapter satisfied by such employer under chapter
35 4.92 or 4.96 RCW.

1 NEW SECTION. **Sec. 8.** This chapter applies only to causes of
2 action arising on or after the effective date of this section.

3 NEW SECTION. **Sec. 9.** Sections 1 through 8 and 10 of this act
4 constitute a new chapter in Title 7 RCW.

5 NEW SECTION. **Sec. 10.** This act takes effect January 1, 2025.

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