

THIRD READING

Bill No: AB 2393
Author: Addis (D)
Amended: 3/16/26 in Assembly
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-2, 6/30/26

AYES: Umberg, Allen, Ashby, Caballero, Laird, Reyes, Stern, Wahab, Weber
Pierson, Wiener

NOES: Niello, Valladares

NO VOTE RECORDED: Durazo

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/13/26

AYES: Cervantes, Cabaldon, Grayson, Richardson, Wahab

NOES: Seyarto, Dahle

ASSEMBLY FLOOR: 61-17, 5/27/26 - See last page for vote

SUBJECT: False imprisonment: false arrest: remedies

SOURCE: Author

DIGEST: This bill establishes an enhanced statutory damages remedy available in a civil action for false arrest or false imprisonment when the defendant engaged in specified conduct in the commission of the tort.

ANALYSIS:

Existing federal law:

- 1) Establishes the Federal Tort Claims Act (FTCA), which permits private parties to sue the United States government in federal court for most torts committed by persons acting on its behalf. (28 United States Code (U.S.C.), tit. 28, pt. VI, ch. 171, §§ 2671 et seq.)

- 2) Provides that a plaintiff does not need to use the FTCA process for a claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights. (28 U.S.C. § 2680.)
- 3) Provides that the FTCA exception in 2) does not apply with respect to acts or omissions of investigative or law enforcement officers of the United States Government with respect to claims arising out of assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution; “investigative or law enforcement officer” means any officer of the United States who is empowered by law to execute searches, to seize evidence, or to make arrests for violations of Federal law. (28 U.S.C. § 2680.)

Existing state law:

- 1) Prohibits false imprisonment, which is defined as the unlawful violation of the personal liberty of another. (Penal (Pen.) Code, § 236.)
- 2) Establishes the Tom Bane Act, which provides a cause of action against a person or persons, whether or not acting under color of law, who interferes by threat, intimidation, or coercion, or attempts to do so, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or the Constitution or laws of this state. (Civil (Civ.) Code, § 52.1.)
- 3) Specifies that for the breach of an obligation not arising from contract, the measure of damages is the amount which will compensate for all the detriment proximately caused thereby, whether it could have been anticipated or not, except where otherwise expressly provided by the Civil Code. (Civ. Code, § 3333.)

This bill:

- 1) States that the Legislature finds and declares all of the following:
 - a) Californians are currently faced with serious concerns regarding the commission of false arrests and false imprisonments, including by private individuals pretending to be law enforcement or emulating their methods. These concerns apply to false arrests committed by public and private actors alike.
 - b) The public has an interest in ensuring that meritorious false arrest and false imprisonment claims are litigated to ensure both that victims are

compensated and that offenders bear the costs, particularly when aggravating factors are likely to impose emotional distress, including the use of masks to conceal the offender's identity, the use of handcuffs or other restraints to bind the victim, the forcible transportation of the victim in a vehicle, or the brandishing of a firearm or other weapon during the false arrest or false imprisonment.

- c) In cases involving false arrest or false imprisonment, damages due to emotional distress can be difficult to quantify. Setting statutory damages for the conduct likely to exacerbate this emotional distress can help address all of these concerns by appropriately estimating compensation for damages that are difficult to quantify, streamlining litigation, and helping encourage plaintiffs to seek and obtain compensation for meritorious claims.
- 2) Provides that a prevailing plaintiff in an action based on that false imprisonment or false arrest may elect to be awarded statutory damages of \$10,000 in lieu of actual damages if the defendant committed any of the following acts in perpetration of the false imprisonment or false arrest:
- a) The defendant wore a face covering or other attire for the purpose of concealing their identity.
 - b) The defendant used handcuffs, ties, or other restraints to bind the hands or legs of the person.
 - c) The defendant forcibly transported the person in a vehicle from one location to another or falsely imprisoned the person for purposes of transporting the person from one location to another.
 - d) The defendant brandished a firearm or other weapon capable of causing death or serious bodily injury.
- 3) Provides that all defendants liable to a person for amounts awarded pursuant to 2) for a single incident of false imprisonment or false arrest shall be jointly and severally liable, and that the aggregate award to a person under 2) shall not exceed \$250,000 for each incident of false imprisonment or false arrest.
- 4) Provides that nothing in this measure shall be construed to limit the availability of punitive or exemplary damages in an action for false imprisonment or false arrest.

- 5) Provides that 1) does not apply to a cause of action brought against any peace officer or custodial officer, as defined, or directly against a public entity that employs a peace officer or custodial officer.
- 6) Includes a severability clause.

Comments

When law enforcement act like thugs, it's easy for thugs to pose as law enforcement. As federal immigration officials increasingly hide their faces, refuse to identify themselves, and grab people off the streets, some private individuals have taken it upon themselves to impersonate law enforcement officers for the purpose of harassing and intimidating other civilians, particularly those in immigrant communities. As part of this trend, some of these impersonators are unlawfully detaining individuals, or otherwise restricting their freedom of movement. In essence, these impersonators are committing false imprisonments or false arrests. While California law already deems false imprisonment and false arrest a crime, and provides that parties can file civil actions to receive monetary damages for the emotional distress caused by false imprisonment or false arrest, quantifying the harm caused by either is an imprecise and difficult task.

To help address the harms caused by bad actors, this bill establishes an optional statutory damages award for victims of false imprisonment or false arrest, when the defendant engaged in specified conduct in connection with the false imprisonment or false arrest. Under this bill, the plaintiff may recover \$10,000 for each specified act, including where the same defendant engaged in the multiple acts, for a maximum of up to \$250,000 when multiple defendants were involved in the tort.

The author has indicated that this bill is intended to apply in false imprisonment actions against federal law enforcement agents, including ICE. Any such case would have to be brought in federal court under the FTCA,¹ which provides that the United States shall be liable “in the same manner and to the same extent as a private individual under like circumstances” under applicable state law.² “Although the federal government ‘could never be exactly like a private actor, a court’s job in applying the standard is to find the most reasonable analogy.’”³ The author believes that the applicable comparison here would be a private citizen engaging in the tort of false imprisonment, raising no further questions about whether ICE can be held liable under this bill. Given the state’s recent experience in court with mask mandates, however, there are significant questions about whether this bill’s carve-

¹ 28 U.S.C. §§ 2674-2680.

² *Id.*, § 2674.

³ *Dugard v. United States* (9th Cir. 2017) 835 F.3d 915, 919.

out for state law enforcement will run afoul of the doctrine of intergovernmental immunity, which holds that “[a] state law or regulation impermissibly discriminates against the federal government if it treats a state entity more favorably than it treats a comparable federal entity.”⁴ The author argues that the FTCA’s general waiver of immunity extends to the doctrine of intergovernmental immunity, such that it is irrelevant whether state or local law enforcement cannot also be liable for the statutory damages established by this bill. The author also points to the availability of other remedies for false imprisonment committed by a peace officer, such as the Tom Bane Civil Rights Act. Nevertheless, there is no case law clearly establishing that the FTCA supersedes intergovernmental immunity principles, and the penalties available under the Tom Bane Civil Rights Act are far less generous than the ones available under this bill.⁵

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, the fiscal impact is as follows:

Unknown, potentially significant costs to the courts to adjudicate new penalties depending on many unknowns, including the number of cases filed, the amount of court time needed to resolve each case and the motivation to settle.

Adding statutory damages likely makes these actions more attractive, potentially increasing court workload costs. While there may be more actions, it is equally likely the actions may lead to being settled more quickly by eliminating the need to prove emotional distress damages and electing the statutory option.

An eight-hour court day costs approximately \$10,500 based on the hourly rate of court personnel including at minimum the judge, clerk, bailiff, court reporter, jury administrator, administrative staff, and jury per-diems. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources. The FY 2026–27 Budget appropriated \$70 million General Fund for this purpose (Trial Court Trust Fund, General Fund).

SUPPORT: (Verified 8/13/26)

California Immigrant Policy Center
California Rural Legal Assistance Foundation
County of Monterey

⁴ *Geo Group v. Inslee* (9th Cir. 2025) 151 F.4th 1107, 1118.

⁵ See Civ. Code, § 52.1.

NorCal Resist

OPPOSITION: (Verified 8/13/26)

None received

ARGUMENTS IN SUPPORT: According to the County of Monterey:

The County of Monterey agrees that there is a rising concern that people are being wrongfully detained, including by both federal agents acting outside of the law and individuals impersonating law enforcement. Instances are becoming too common where federal agents wear face coverings to obscure their identity, use restraints to bind their victims, forcibly transport them to another location, and display firearms and other weapons.

These incidents of false arrest and imprisonment are incredibly traumatic for victims. People who are wrongfully and violently detained suffer emotional distress. Given the severe psychological trauma experienced by survivors of false imprisonment, it's important that they are properly compensated and that perpetrators are held accountable for their actions. However, emotional distress can be difficult to quantify with a dollar amount. Setting statutory damages for specific egregious conduct that contributes to a victim's distress would help courts streamline litigation and empower plaintiffs to seek compensation for valid claims, both of which are in the public interest.

AB 2393 would allow the prevailing plaintiff in a lawsuit for false arrest or imprisonment to choose a set payment instead of proving actual damages when certain aggravating actions occurred. The plaintiff may receive \$10,000 for each aggravating action by the perpetrator. These actions include wearing a face covering to hide their identity, using restraints to bind the plaintiff, forcibly transporting the plaintiff in a vehicle, and brandishing a firearm.

ASSEMBLY FLOOR: 61-17, 5/27/26

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NOES: Castillo, Chen, Davies, DeMaio, Dixon, Ellis, Flora, Gallagher, Jeff
Gonzalez, Hadwick, Hoover, Johnson, Lackey, Macedo, Patterson, Sanchez,
Tangipa

NO VOTE RECORDED: Celeste Rodriguez, Ta

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113
8/14/26 13:57:33

**** **END** ****