
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2025 - 2026 Regular Session

SB 747 (Wiener) - Civil rights: deprivation of federal constitutional rights, privileges, and immunities

Version: January 5, 2026

Policy Vote: L., P.E. & R. 4 - 0, JUD. 9 - 2, JUD. 11 - 2

Urgency: Yes

Mandate: No

Hearing Date: January 20, 2026

Consultant: Liah Burnley

Bill Summary: SB 747 would establish a civil cause of action for violations of one's constitutional rights by government officials, and plaintiff's fees and costs, to be applied retroactively.

Fiscal Impact:

- Unknown, potentially significant costs to the state funded trial court system (Trial Court Trust Fund, General Fund) to adjudicate civil actions. Creating a new cause of action that allows for the recovery of attorney's fees may lead to additional case filings that otherwise would not have been commenced. Creating new causes of action could lead to lengthier and more complex court proceedings with attendant workload and resource costs to the court. The fiscal impact of this bill to the courts will depend on many unknowns, including the number of cases filed and the factors unique to each case. An eight-hour court day costs approximately \$10,500 in staff in workload. This is a conservative estimate, 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. If court days exceed 10, costs to the trial courts could reach hundreds of thousands of dollars. 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 and to increase the amount appropriated to backfill for trial court operations. The proposed fiscal year 2026–27 Governor's provides for \$70 million ongoing General Fund to help the trial courts address increases in operational costs (e.g.: salaries and benefits, supplies, equipment, and other services necessary for the courts to operate) and mitigate potential reductions to core program and services.
- Unknown, potentially significant costs to state and local government officials (General Fund, special funds, local funds) for increased exposure to civil liability. Agencies may also incur higher liability insurance costs due to increased litigation exposure.

Background: Under federal law, specifically 42 U.S.C. section 1983 (“Section 1983”), a cause of action is provided to those whose rights are violated under color of law. However, Section 1983 this does not afford a cause of action where the defendants are federal officials. Historically, plaintiffs have relied on a court-made doctrine to bring such actions, however courts have been increasingly resistant to inferring a right of action against federal government officials. Additionally, existing statutory paths to seeking remedies, at both the state and federal levels, are onerous and provided only limited relief, especially against federal officials.

This bill creates a state level analog of Section 1983, allowing for a cause of action against any person acting under color of law (including federal, state, and local officials) in state court when their constitutional rights have been violated.

Proposed Law:

- Provides that every person who, under color of any law, statute, ordinance, regulation, custom, or usage, subjects, or causes to be subjected, any citizen of this state or any person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the United States Constitution, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.
- States that an action may be filed either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in which a person whose conduct complained of resides or has their place of business.
- Authorizes a defendant to assert a defense of absolute or qualified immunity to the same extent as a person sued under Section 1983 of Title 42 of the United States Code under like circumstances.
- States that nothing in this section shall be construed to waive or abrogate any defense of sovereign immunity otherwise available to a party.
- Allows the court, in its discretion, to award a prevailing plaintiff reasonable attorney’s fees and costs.
- Allows the court, in its discretion, to award expert fees to the prevailing plaintiff.
- Provides that an action shall not be commenced later than two years after the date that the cause of action accrues.
- Contains a severability clause.
- States that these provisions apply retroactively to March 1, 2025.

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