

UNFINISHED BUSINESS

Bill No: SB 747
Author: Wiener (D) and Wahab (D), et al.
Amended: 8/13/26
Vote: 27 - Urgency

SENATE JUDICIARY COMMITTEE: 11-2, 1/13/26

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

NOES: Niello, Valladares

SENATE APPROPRIATIONS COMMITTEE: 5-2, 1/22/26

AYES: Caballero, Cabaldon, Grayson, Richardson, Wahab

NOES: Seyarto, Dahle

SENATE FLOOR: 30-10, 1/27/26

AYES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon,
Caballero, Cervantes, Cortese, Durazo, Gonzalez, Grayson, Hurtado, Laird,
Limón, McGuire, McNerney, Menjivar, Padilla, Pérez, Reyes, Richardson,
Rubio, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson, Wiener

NOES: Alvarado-Gil, Choi, Dahle, Grove, Jones, Niello, Ochoa Bogh, Seyarto,
Strickland, Valladares

ASSEMBLY FLOOR: 57-19, 8/25/26 - See last page for vote

SUBJECT: Civil rights: deprivation of federal constitutional rights, privileges,
and immunities

SOURCE: Inland Coalition for Immigrant Justice
Prosecutors Alliance Action
Protect Democracy United

DIGEST: This bill establishes, on an urgency basis, a cause of action for the violation of a person's constitutional rights by a government official, subject to specified immunities and defenses.

Assembly Amendments added findings and declarations regarding the Legislature's intent; removed venue provisions; clarified that the cause of action may be filed only against a natural person; clarified the availability of defenses; removed the discretionary award of expert fees to a prevailing plaintiff; prevent an action under the measure from being filed if there has already been a final judgment on the merits for a related claim; and added an urgency clause.

ANALYSIS:

Existing federal law:

- 1) Provides that the U.S. Constitution (Const.), and the Laws of the United States, are the supreme law of the land. (U.S. Const., art. VI, cl. 2.)
- 2) Provides that every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except as provided. (42 United States Code (U.S.C.) § 1983 (“Section 1983”).)
- 3) Establishes the Federal Tort Claims Act (FTCA), which authorizes injured parties to bring certain tort suits against the United States, in the same manner and to the same extent as a private individual under like circumstances, except as provided. (28 U.S.C. §§ 1346, 2671 et seq.)
- 4) Provides that the above remedies are exclusive of any other civil action or proceeding for money damages by reason of the same subject matter against the employee whose act or omission gave rise to the claim or against the estate of such employee. Any other civil action or proceeding for money damages arising out of or relating to the same subject matter against the employee or the employee's estate is precluded without regard to when the act or omission occurred. (28 U.S.C. § 2679 (“Westfall Act”).)

Existing state law establishes the Tom Bane Civil Rights Act (Tom Bane Act), which provides that if a person, whether or not acting under color of law, interferes by threat, intimidation, or coercion, or attempts to so interfere, with the exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney, or the person whose exercise or enjoyment of

rights was interfered with, or attempted to be interfered with, may institute a civil action for damages. (Civil (Civ.) Code § 52.1.)

This bill:

- 1) Makes findings and declarations regarding the Legislature's intent regarding the cause of action established by this measure, including the following:
 - a) This measure does not provide for any substantive rights, but is intended only to ensure that an individual has a cause of action for violations of the United States Constitution.
 - b) The defense of absolute or qualified immunity, as added by this measure, for any defendant, is identical to the defense available to a person sued under Section 1983 under like circumstances, and the defense should reflect future developments to Section 1983 defenses so that the defenses remain identical; but nothing is intended to alter or amend current statutory or decisional law regarding the application of qualified or absolute immunity to any other provision of California law.
 - c) Nothing in this measure is intended to alter or amend current statutory or decisional law regarding the Tom Bane Act.
 - d) A violation of the United States Constitution is an essential element of any action brought under this measure, and therefore necessarily present questions of federal constitutional law, and nothing in the measure should be construed to limit, constrain, or weigh against the exercise of any right of removal that currently exists under federal law.
- 2) Establishes the No Kings Act.
- 3) Provides that every natural 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, except as provided.
- 4) Provides that "color of any law, statute, ordinance, regulation, custom, or usage" includes color of any statute, ordinance, regulation, custom, or usage, of the United States and of any state or territory or the District of Columbia, and that a "natural person" does not include a federal, state, or local official who is sued in their capacity for monetary relief.

- 5) Provides that a defendant in an action brought under 3) may assert, and shall receive the benefit of, a defense of absolute or qualified immunity only to the same extent as a person sued under Section 1983.
 - a) The measure shall not be construed to make an absolute or qualified immunity defense broader or narrower than that defense would be if asserted under like circumstances in a Section 1983 action.
 - b) These provisions apply only to proceedings brought pursuant to 3) and do not later, amend, create, or support a qualified or absolute immunity defense, or any rule or decision governing such a defense, in any other action or proceeding brought under any other provision of California law.
- 6) Provides that nothing in the measure shall be construed to waive or abrogate any defense of sovereign immunity otherwise available to a party; this provision applies only to proceedings brought under 3) and does not alter, amend, create, or support a sovereign immunity defense in any other action or proceeding brought under any other provision of California law.
- 7) Applies retroactively to March 1, 2025, provided that, for any claim for a violation of the United States Constitution that occurred between March 1, 2025, and the effective date of this law, the only monetary damages that shall be available pursuant hereto for that constitutional violation are nominal and compensatory damages; except that an action may not be brought under 3) if, before the effective date of the measure, a court of competent jurisdiction entered a final judgment on the merits determining whether the conduct in question deprived the injured party of rights secured by the United States Constitution, as specified.
- 8) Includes a severability clause.
- 9) Includes an urgency clause.

Background

Under federal law, specifically Section 1983, a cause of action is provided to those whose rights are violated under color of law. However, 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 recently been increasingly resistant to inferring a right of action against federal defendants. Additionally, existing statutory paths to seeking remedies, at both the state and federal levels, are onerous and provided only limited relief.

This bill establishes the “No Kings Act.” It creates a state level analogue of Section 1983, allowing for a cause of action against governmental officials when their constitutional rights have been violated. It does not bestow individuals with any additional substantive rights—instead, it establishes a more explicit cause of action to vindicate their constitutional rights. This bill imports the same immunities currently afforded governmental defendants under existing law. Given the recent incidents in which federal officials are alleged to have unlawfully intruded on Californians’ rights, this bill applies retroactively to March 1, 2025, as provided, except where a court has already entered a final judgment on the merits on the plaintiff’s claim, as specified.

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

According to the Assembly Appropriations Committee:

- 1) Cost pressures (Trial Court Trust Fund, General Fund) to the trial courts to adjudicate a new category of civil action. Because the bill creates a new cause of action and authorizes recovery of attorney’s fees, costs, and expert fees, it may prompt filings that would not otherwise be brought and produce lengthier, more complex proceedings. It generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The state budget provides annual General Fund backfills to the Trial Court Trust Fund to offset revenue reductions, totaling approximately \$117.3 million in 2025-26.
- 2) Costs of an unknown but potentially significant amount for litigation defense exposure (General Fund, special funds, local funds) to state and local officials newly subject to suit under this cause of action, plus possible increases in liability insurance costs. Because 42 U.S.C. Section 1983 and the Bane Act already permit constitutional-tort actions against state and local actors, this exposure may be limited in practice, but the additional state pathway could increase filings, motion practice, and defense costs.
- 3) Costs of an unknown but potentially significant amount for litigation defense costs (General Fund) to the Department of Justice. To the extent the statute is challenged in court, any costs to defend its constitutionality would be borne by the Department of Justice

SUPPORT: (Verified 8/25/26)

Inland Coalition for Immigrant Justice (co-source)

Prosecutors Alliance Action (co-source)
Protect Democracy United (co-source)
ACLU California Action
Black Alliance for Just Immigration
California Alliance for Retired Americans
California Rural Legal Assistance Foundation, INC.
CFT – A Union of Educators & Classified Professionals, AFT, AFL-CIO
Consumer Attorneys of California
County of Sonoma
Courage California
Electronic Frontier Foundation
Ella Baker Center for Human Rights
Friends Committee on Legislation of California
Gente Organizada
Inclusive Action for the City
Los Angeles County Democratic Party
National Union of Healthcare Workers
San Bernardino Community Service Center, Inc.
Smart Justice California
Supervisor Vicente Sarmiento, Orange County Board of Supervisors
Public Counsel
UDW/AFSCME Local 3930
University of California Student Association
Visión y Compromiso

OPPOSITION: (Verified 8/25/26)

Arcadia Police Officers' Association
Association for Los Angeles Deputy Sheriffs
Brea Police Association
Burbank Police Officers' Association
California Association of Highway Patrolmen
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California District Attorneys Association
California Narcotic Officers' Association
California Peace Officers Association
California Police Chiefs Association
California Reserve Peace Officers Association
California State Sheriffs' Association
Claremont Police Officers Association

Corona Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
Los Angeles Police Protective League
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Orange County Sheriff's Department
Palos Verdes Police Officers Association
Peace Officers Research Association of California
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside County Sheriff's Office
Riverside Police Officers Association
Riverside Sheriffs' Association

ARGUMENTS IN SUPPORT: The sponsors of this bill, Protect Democracy United, the Inland Coalition for Immigrant Justice, and Prosecutors Alliance Action argue:

SB 747 is necessary to correct an imbalance in how federal, state, and local officials are held accountable to the Constitution. While a federal law, 42 U.S.C. § 1983, allows people to sue state and local officials for constitutional violations, no equivalent federal law exists for suing federal officials. Instead, people injured by federal officials have historically relied on a “*Bivens* action”—a limited, implied right to sue directly under the Constitution.

Making matters worse, the Supreme Court has sharply curtailed the availability of *Bivens* actions in recent years. And as *Bivens* has been narrowed, a dangerous gap has emerged: federal officers often have *de facto* immunity and cannot be sued for damages, even for willful violations of constitutional rights. This disparity—where federal officers operate without the same accountability as state and local actors—violates the longstanding and foundational legal principle that “every right, when withheld, must have a remedy, and every injury its proper redress.” *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 147 (1803).

Senate Bill 747 closes that accountability gap. By providing for a clear statutory pathway to sue any official—federal, state, or local—who violates the Constitution, it affirms that the United States Constitution (and not the whims of any governmental official) is the supreme law of the United States. Most

importantly, by providing for a universal remedy for violations of the United States Constitution, SB 747 will ensure that Californians can exercise their constitutional rights knowing they are enforceable rights, not just hollow promises.

ARGUMENTS IN OPPOSITION: According to the California State Sheriffs' Association:

Existing state law already protects against and provides meaningful avenues to address alleged civil rights violations. The Tom Bane Civil Rights Act allows a civil action to be brought if a person interferes, by threats, intimidation, or coercion, with the exercise or enjoyment of a person's rights secured by federal or state Constitutions or laws. However, in attempting to fill a perceived deficiency in federal law, SB 747 creates a new state law cause of action that is not limited in scope to actions taken by federal agents and excludes the important safeguard contained in existing state law that the alleged violation of rights occurs through threat, intimidation, or coercion. This opens the door for state-level accusations of civil rights violations by California officers based on disputes that fail to include any specific intent to harm. Society asks peace officers to make split-second decisions on matters of life and liberty, a fact that must be recognized when considering a measure that will promote second-guessing of a public employee's actions made in good faith.

While the measure attempts to define the types of immunity claims that may be asserted in actions authorized by the bill, the fact remains that SB 747 opens the door to lawsuits that today generally do not meet the longstanding thresholds for these types of serious allegations to be filed under state law. Also, given the history of qualified immunity jurisprudence, it is unclear whether the bill's language will be sufficient to convey the immunity it purports to grant to peace officers.

ASSEMBLY FLOOR: 57-19, 8/25/26

AYES: Addis, Aguiar-Curry, Ahrens, 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, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Schiavo,

Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Ward, Wicks, Wilson,
Zbur, Rivas

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

NO VOTE RECORDED: McKinnor, Ramos, Blanca Rubio

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113
9/21/26 15:31:54

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