

Bill Text: CA SB747 | 2025-2026 | Regular Session | Enrolled California Senate Bill 747

Bill Title: Civil rights: deprivation of federal constitutional rights, privileges, and immunities.

Sponsorship: Broadly Bipartisan Bill

Status: (*Enrolled*) 2026-08-27 - Assembly amendments concurred in. (Ayes 30. Noes 10.) Ordered to engrossing and enrolling.
[SB747 Detail]

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CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

SENATE BILL

NO. 747

Introduced by Senators Wiener and Wahab
(Principal coauthors: Assembly Members Mark González and Lee)
(Coauthors: Senators Becker, Blakespear, Caballero, Cervantes, Cortese, Durazo, Gonzalez, McGuire, McNerney, Padilla, Pérez, Reyes, Rubio, and Weber Pierson)
(Coauthors: Assembly Members Ahrens, Ávila Farías, Boerner, Bryan, Connolly, Elhawary, Garcia, Haney, Hart, Jackson, Kalra, Ortega, Pellerin, Quirk-Silva, Celeste Rodriguez, Rogers, Solache, Stefani, and Zbur)

February 21, 2025

An act to add Section 53.8 to the Civil Code, relating to civil rights, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 747, Wiener. Civil rights: deprivation of federal constitutional rights, privileges, and immunities.

Under existing law, the Tom Bane Civil Rights Act (act), if a person or persons, whether or not acting under color of law, interferes or attempts to interfere, by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals 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, is authorized to bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the exercise or enjoyment of the right or rights secured.

Under that act, an individual may also institute and prosecute in their own name and on their own behalf a civil action for damages, as described, for any resulting interference or attempt at interference of the individual's exercise or enjoyment of rights secured by the Constitution or laws of the United States or this state. The act authorizes the court to award the petitioner or plaintiff reasonable attorney's fees in addition to any damages, injunction, or other equitable relief awarded in these civil actions (attorney's fees authorization).

Existing federal law provides that every person who, under color of any statute, ordinance, regulation, custom, or usage, of any state, territory, or the District of Columbia, subjects or causes to be subjected any United States citizen or other person within the jurisdiction to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, is liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except as provided.

This bill would also provide that every natural person, as defined, who, under color of any law, statute, ordinance, regulation, custom, or usage, as defined, 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 specified. The bill would apply the aforementioned attorney's fees authorization, except as specified, to any action brought under these provisions. The bill would authorize a court, in its discretion, to also award costs, except as specified, to the prevailing plaintiff in any action brought under these provisions.

This bill would authorize a defendant in an action brought under these provisions to assert and receive the benefit of a defense of absolute or qualified immunity only to the same extent as a person sued under certain federal provisions under like circumstances, as specified, and would specify that nothing in these provisions is to be construed to waive or abrogate any defense of sovereign immunity otherwise available to a party, as specified. The bill would prohibit any civil action brought under these provisions from being commenced later than 2 years after the date that the cause of action accrues. The bill would make its provisions severable. The bill would specify that these provisions apply retroactively to March 1, 2025, as provided.

This bill would declare the intent of the Legislature in enacting these provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

Digest Key

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) It is the intent of the Legislature that the cause of action created by subdivision (b) of Section 53.8 of the Civil Code, as added by this act, does "not provide for any substantive rights" *Chapman v. Houston Welfare Rights Organization*, 441 U.S. 600, 617 (1979). It is intended "only to ensure that an individual had a cause of action for violations of the Constitution" (Id.), and no other substantive law. Thus, "[a]ll civil suits . . . which this [a]ct authorizes, are not based upon it" (Id.), they are based on a person's rights under the Constitution of the United States.

(b) It is the intent of the Legislature that the defense of absolute or qualified immunity available under subdivision (c) of Section 53.8 of the Civil Code, as added by this act, to any defendant, including a federal, state, or local official, be identical to the defense available to a person sued under Section 1983 of Title 42 of the United States Code under like circumstances, and that the defense reflect future developments in the law of immunity under that section so that the defenses remain identical. However, nothing in this legislation is intended to alter or amend current statutory or decisional law regarding application of qualified or absolute immunity to any other provision of California law.

(c) It is the intent of the Legislature that nothing in this act is intended to alter or amend current statutory or decisional law regarding Section 52.1 of the Civil Code.

(d) The Legislature recognizes that a violation of the United States Constitution is an essential element of any action brought under Section 53.8 of the Civil Code, as added by this act, and that such actions therefore necessarily present questions of federal constitutional law. Nothing in this act shall be construed to limit, constrain, or weigh against the exercise of any right of removal that exists under federal law. This subdivision shall not be construed to express any intent of the Legislature respecting the proper forum

for, or the removability of, any other action or proceeding brought under any other provision of California law. No inference regarding the state's interest in the adjudication of any other action or proceeding in the courts of this state shall be drawn from this act.

SEC. 2. Section 53.8 is added to the Civil Code, to read:

53.8. (a) This section shall be known, and may be cited, as the No Kings Act.

(b) 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 that in any action brought against a judicial officer for an act or omission taken in the officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

(c) (1) A defendant in an action brought under subdivision (b) 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 of Title 42 of the United States Code under like circumstances.

(2) Nothing in this section shall be construed to make a defense described in this subdivision broader or narrower than that defense would be if asserted under like circumstances in an action under Section 1983 of Title 42 of the United States Code.

(3) This subdivision applies only to proceedings brought under subdivision (b), and does not alter, 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.

(d) Nothing in this section shall be construed to waive or abrogate any defense of sovereign immunity otherwise available to a party. This subdivision applies only to proceedings brought under subdivision (b), 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.

(e) In any action or proceeding brought under this section, the court, in its discretion, may award a prevailing plaintiff reasonable attorney's fees and costs, except that in any action brought against a judicial officer for an act or omission taken in the officer's judicial capacity, the officer shall not be held liable for any fees or costs, except if the officer's action was clearly in excess of the officer's jurisdiction.

(f) A civil action brought under subdivision (b) shall not be commenced later than two years after the date that the cause of action accrues.

(g) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(h) (1) This section shall apply 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 section, the only monetary damages that shall be available pursuant to this section for that constitutional violation are nominal and compensatory damages.

(2) (A) An action shall not be brought under this section by or on behalf of an injured party if, before the effective date of this section, a court of competent jurisdiction entered a final judgment on the merits determining either of the following:

(i) Whether the conduct complained of deprived that party of rights, privileges, or immunities secured by the United States Constitution.

(ii) The person whose conduct is complained of did not violate clearly established constitutional rights of which a reasonable person would have known at the time of the conduct complained of.

(B) For purposes of this paragraph, a judgment is not a judgment on the merits if it rested on the absence or unavailability of a cause of action or remedy for the alleged deprivation, rather than on a determination described in clause (i) or (ii) of subparagraph (A).

(3) Paragraph (2) supplements, and does not limit or displace, any otherwise applicable law governing claim or issue preclusion.

(i) For purposes of this section, both of the following definitions apply:

(1) "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.

(2) "Natural person" does not include a federal, state, or local official who is sued in their official capacity for monetary relief.

SEC. 3. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the

meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide sufficient redress for the infringement of the civil liberties of all persons in the state as soon as possible, it is necessary for this act to take effect immediately.