

21101696D

HOUSE BILL NO. 2045

Offered January 13, 2021

Prefiled January 12, 2021

A *BILL to amend the Code of Virginia by adding sections numbered 8.01-42.6 and 8.01-42.7, relating to civil action for deprivation of rights; duties and liabilities of certain employers in employing or contracting for the services of law-enforcement officers.*

Patrons—Bourne, Jones, Carr, Carter, Kory, Plum, Price, Samirah and Simon; Senator: Lucas

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 8.01-42.6 and 8.01-42.7 as follows:

§ 8.01-42.6. Civil action for deprivation of rights.

A. Any law-enforcement officer, as defined in § 9.1-101, who, under color of law, subjects or causes to be subjected, including failing to intervene, any other person to the deprivation of any rights, privileges, or immunities granted to such person under the constitutions and laws of the United States and the Commonwealth, shall be liable to the injured party for compensatory damages, punitive damages, and equitable relief. If the plaintiff prevails in such an action, in addition to any monetary or injunctive relief, the court may award reasonable attorney fees and costs. If the defendant prevails in such an action, the court may award reasonable attorney fees and costs if the court finds the claims to have been frivolous.

B. Sovereign immunity and any limitations on liability or damages shall not apply to claims brought pursuant to this section. Qualified immunity is not a defense to liability imposed by this section.

C. No action shall be commenced under this section more than two years after the most recent conduct prohibited by this section.

D. Nothing in this section shall prevent an aggrieved individual from pursuing any other cause of action available to him for the conduct giving rise to a cause of action under this section.

E. Notwithstanding any other provision of law, any public or private entity that employs or contracts for the services of a law-enforcement officer shall indemnify its law-enforcement officers for any liability incurred by such law-enforcement officer and for any judgment or settlement entered against such law-enforcement officer for claims arising pursuant to the provisions of this section. However, if such employer determines that such law-enforcement officer did not act upon a good faith and reasonable belief that any action or failure to act was lawful, such law-enforcement officer shall be held personally liable and shall not be indemnified by his employer for five percent of the judgment or settlement or \$25,000, whichever is less.

§ 8.01-42.7. Duty of employer of law-enforcement officer.

A. Any public or private entity that employs or contracts for the services of a law-enforcement officer, as defined by § 9.1-101, whether such employment or agency is with or without pay, owes a duty of reasonable care to third parties in its hiring, supervision, training, retention, and use of law-enforcement officers under its employment or contract. Any such entity may be liable to a third party for any injuries or damages sustained by the third party caused, in whole or in part, by a breach of this duty.

B. Sovereign and governmental immunity shall not be a defense to any cause of action brought under this section.

INTRODUCED

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