

**First Regular Session
Seventy-Seventh General Assembly
STATE OF SAN ANDREAS**

REVISED

LLS NO. 26-0701.03 Asa Miller x2741

SENATE BILL 26-001

SENATE SPONSORSHIP

Murillo, Petty

HOUSE SPONSORSHIP

Ballard, Barnes, Willis, Enriquez

House Committees

Judiciary

Senate Committees

Justice, Public Safety & Constitutional Affairs

A BILL FOR AN ACT

**CONCERNING STATE COURT REMEDIES FOR VIOLATIONS OF FEDERAL
CONSTITUTIONAL RIGHTS OCCURRING DURING CIVIL IMMIGRATION
ENFORCEMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <https://saleg.uscgov.com>)

This bill creates a civil cause of action allowing individuals to seek relief in state court for violations of constitutional rights occurring during civil immigration enforcement within the State of San Andreas. The bill clarifies that individuals participating in civil

Shading denotes HOUSE amendment. Underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

immigration enforcement activities may be held civilly liable when their actions violate the United States Constitution, regardless of whether they are acting under color of law.

The legislation establishes that an injured person may bring a civil action for damages, equitable relief, or other appropriate remedies when constitutional violations occur in the course of civil immigration enforcement. The bill provides for the award of reasonable attorney fees and costs to prevailing plaintiffs and limits fee awards to defendants to cases involving frivolous or bad-faith claims.

The Act further specifies that, to the maximum extent permitted under the United States Constitution, certain immunity defenses — including sovereign immunity, official immunity, qualified immunity, intergovernmental immunity, and supremacy clause immunity — shall not bar claims brought under the statute. The bill also establishes a two-year statute of limitations for such actions.

The purpose of the Act is to ensure accountability and provide a clear legal remedy for constitutional violations occurring during civil immigration enforcement while reaffirming the authority of state courts to adjudicate civil rights claims arising within the state’s jurisdiction.

1 *Be it enacted by the General Assembly of the State of San*

2 *Andreas:*

3 **SECTION 1. SHORT TITLE.** This act shall be known and cited
4 as the “Immigration Enforcement Accountability Act”.

5 **SECTION 2. LEGISLATIVE DECLARATION.** (a) The General
6 Assembly finds and declares that: (I) Since the founding of the
7 United States, courts have recognized that federal officials may be
8 held liable for violations of federal law and constitutional rights,
9 including in *Little v. Barreme* and *Murray v. The Charming*
10 *Betsey*; (II) The United States Supreme Court has long held that
11 federal officers and employees are not categorically immune from
12 the operation of state law, consistent with the Supremacy Clause
13 of the United States Constitution, solely by virtue of their federal
14 employment, including liability under state civil and criminal law

1 where applicable; (III) The Supreme Court has repeatedly
2 recognized that, in suits for damages arising from abuses of
3 power, federal officials are ordinarily governed by local law, and
4 that state courts provide an appropriate forum for such claims;
5 (IV) When the Supreme Court recognized a federal judicial
6 remedy for certain constitutional violations in *Bivens v. Six*
7 *Unknown Named Agents*, that remedy was understood to
8 supplement, not displace, traditional state-law causes of action,
9 including common law tort remedies; (V) Congress has expressly
10 preserved the availability of civil actions for violations of the
11 United States Constitution against federal employees,
12 notwithstanding statutory limitations on other tort remedies; (VI)
13 In *Egbert v. Boule*, the Supreme Court emphasized that
14 legislatures, including state legislatures, rather than courts, are
15 better suited to determine whether and how damages remedies
16 should be provided for constitutional violations; (VII) In *Martin v.*
17 *United States*, the Supreme Court declined to extend
18 supremacy-clause immunity beyond its traditional criminal-law
19 context; (VIII) Violations of the constitutional rights of persons
20 within the United States are neither “necessary” nor “proper” to
21 the execution of federal powers as interpreted under the Necessary
22 and Proper Clause of the United States Constitution; and (IX) The
23 State of San Andreas, as a sovereign state, possesses the authority
24 and responsibility to provide remedies in its courts for violations
25 of federal constitutional rights occurring within its jurisdiction,
26 consistent with the United States Constitution. **SECTION 3.**
27 **AMENDMENT TO THE REVISED STATUTES.** In the San
28 Andreas Revised Statutes, add Section 13-20-1401 as follows:
29 13-20-1401. Civil action for violation of constitutional rights
30 during civil immigration enforcement — relief — attorney fees —
31 immunity — statute of limitations — definitions. (a) A person
32 injured within the State, regardless of the citizenship or
33 immigration status of the injured person, including actions

1 occurring in detention facilities or during transport, during civil
2 immigration enforcement by another person who, acting under
3 color of federal or state authority, whether acting individually or
4 as part of a joint task force, ~~knowingly violates~~ knowingly or
5 recklessly violates rights secured by the Constitution of the United
6 States may bring a civil action under the laws of this State for
7 damages, declaratory relief, injunctive relief, or other appropriate
8 relief, including compensatory damages, punitive damages where
9 appropriate, and equitable remedies, including nominal damages
10 where no actual damages are proven. Nothing in this section shall
11 be construed to regulate federal immigration policy or operations,
12 but rather to provide remedies for unlawful conduct occurring
13 within the State. Liability shall attach only where the defendant
14 acted knowingly or with reckless disregard for clearly established
15 constitutional rights, as determined by controlling federal or state
16 precedent. (a.5) Venue for actions brought under this section shall
17 lie in the county where the alleged violation occurred or where the
18 plaintiff resides. (a.6) A plaintiff bringing an action under this
19 section shall not be required to exhaust administrative remedies
20 prior to filing suit. (b) Attorney fees and costs: In an action
21 brought pursuant to this section, a court shall award reasonable
22 attorney fees and costs, including fees incurred on appeal, to a
23 prevailing plaintiff as determined under a totality of the
24 circumstances, except where special circumstances would render
25 such an award unjust. In actions seeking injunctive or declaratory
26 relief, a plaintiff shall be deemed to have prevailed if the action
27 was a substantial factor or significant catalyst, even if no final
28 judgment on the merits is entered, in obtaining the relief sought. A
29 court may reduce attorney fee awards where damages are nominal
30 or where equitable relief substantially exceeds demonstrated
31 injury. (c) When judgment is entered in favor of a defendant, the
32 court may award reasonable attorney fees and costs only for
33 claims the court finds to be frivolous or brought in bad faith, and

1 such awards shall be narrowly tailored to deter abusive litigation,
2 and the court shall make written findings supporting such
3 determination. (d) To the maximum extent permitted under the
4 United States Constitution, and consistent with binding precedent
5 of the United States Supreme Court, immunity defenses shall not
6 bar an action brought pursuant to this section where the
7 challenged conduct exceeds lawful authority or violates clearly
8 established constitutional protections, including protections
9 against unreasonable searches and seizures and due process
10 violations. Nothing in this subsection shall be interpreted to waive
11 immunities required by federal law or binding federal precedent.
12 (e) Definitions. As used in this section, unless the context
13 otherwise requires: (I) "Civil immigration enforcement" means an
14 action taken to investigate, question, detain, transfer, or arrest a
15 person for the purpose of enforcing federal civil immigration law.
16 ~~(II) "Civil immigration enforcement" means direct participation in~~
17 ~~investigation, detention, transfer, or arrest conducted primarily for~~
18 ~~enforcement of federal civil immigration law and does not include~~
19 ~~incidental administrative, custodial, or emergency assistance~~
20 ~~unrelated to immigration enforcement decisions.~~ (II) 'Civil
21 immigration enforcement' includes participation in joint
22 federal-state operations where the primary purpose is enforcement
23 of federal civil immigration law. (III) Statute of limitations: An
24 action brought pursuant to this section must be commenced within
25 two years after the cause of action accrues. (IV) 'Reckless
26 disregard' means conscious disregard of a substantial risk that
27 conduct will violate constitutional rights. (e.5) A cause of action
28 accrues when the plaintiff knew or reasonably should have known
29 of the violation and the injury. (f) This section shall not be
30 construed to limit the ability of a defendant to seek removal or
31 federal judicial review where authorized under federal law,
32 including removal under applicable federal statutes, provided that
33 such removal does not delay or impair timely adjudication of

1 claims. (g) It shall be an affirmative defense, which shall be
2 proven by a preponderance of the evidence, that the defendant
3 reasonably relied in good faith upon: (I) A facially valid judicial
4 warrant; (II) Binding federal statute or regulation; or (III) Direct
5 supervisory instruction not known to be unlawful, and where
6 reliance was objectively reasonable under the circumstances; (IV)
7 Written guidance or policy formally adopted by a federal agency,
8 provided such reliance was objectively reasonable; or (IV) A
9 facially valid administrative warrant issued under federal
10 immigration law, provided such warrant is supported by probable
11 cause or its equivalent standard under existing state law. (h)
12 Actions brought pursuant to this section shall proceed against
13 defendants in their individual capacity, except where a court
14 determines that official-capacity claims are necessary to afford
15 complete relief, unless otherwise authorized by law. Personal
16 liability shall not be avoided solely by virtue of federal
17 employment status. (i) Nothing in this section requires
18 indemnification by the State or any political subdivision, except
19 where indemnification is otherwise required by law or contract,
20 for conduct determined by a court to be outside lawful authority
21 or undertaken in bad faith. (j) Nothing in this section shall be
22 construed to create liability for lawful cooperation with federal
23 authorities that does not involve direct participation in civil
24 immigration enforcement. (k) Courts shall construe this section
25 liberally to effectuate its remedial purposes while remaining
26 consistent with federal constitutional requirements. **SECTION 4.**
27 **IN THE SAN ANDREAS REVISED STATUTES, SECTION**
28 **13-80-102, ADD A NEW SUBSECTION TO READ: 13-80-102.**
29 **General limitation of actions — two years. An action alleging a**
30 **violation of constitutional rights during civil immigration**
31 **enforcement brought pursuant to Section 13-20-1401 must be**
32 **commenced within two years subject to equitable tolling where**
33 **justice so requires after the cause of action accrues. SECTION 5.**

1 SEVERABILITY. If any provision of this Act or its application,
2 including partial invalidation of specific remedies or defenses is
3 held invalid, such invalidity shall not affect remaining provisions
4 that may be given effect without the invalid portion. **SECTION 6.**
5 SAFETY CLAUSE - EFFECTIVE DATE. The General Assembly
6 finds, determines, and declares that this act is necessary for the
7 immediate preservation of the public peace, health, and safety,
8 and the protection of constitutional rights within the State.
9 Therefore, this act shall take effect immediately upon being
10 signed into law by the Governor, however, this act shall apply
11 only to causes of action arising on or after such date.