

SB 1563 A STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski, Sen. Broadman

Senate Committee On Judiciary

Action Date: 02/16/26
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 4-2-0-0
Yeas: 4 - Broadman, Gelser Blouin, Manning Jr, Prozanski
Nays: 2 - McLane, Thatcher
Fiscal: Fiscal impact issued
Revenue: Has minimal revenue impact
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Meeting Dates: 2/4, 2/16, 2/16

WHAT THE MEASURE DOES:

The measure creates a civil cause of action for a person injured by a violation of the U.S. Constitution by a person acting under the color of law, unless the person is already subject to an action under 42 U.S.C. Section 1983 (Civil Action for Deprivation of Rights). The measure declares an emergency, effective on its passage.

Detailed Summary:

- Creates a two-year statute of limitations
- Renders immunities inapplicable to the extent permitted by the U.S. Constitution
- Allows economic and non-economic damages, equitable relief, and attorney fees and costs for a prevailing plaintiff
- Allows attorney fees in an injunctive relief action if the action was a substantial factor or significant catalyst in obtaining the results sought
- Permits a court to award a prevailing defendant’s attorney fees and costs if the court determines the plaintiff’s claim was frivolous

ISSUES DISCUSSED:

- Federal case law regarding suing federal actors
- History of the measure

EFFECT OF AMENDMENT:

The amendment replaces the measure.

BACKGROUND:

Federal law permits civil actions for the deprivation of an individual’s rights, privileges, or immunities secured by the U.S. Constitution and laws by any person acting under the color of state law (see 42 U.S.C. Section 1983, referred to as “Section 1983”). State and local officials can be sued in their official capacities and be held personally liable, and local governments can also be sued for federal constitutional harms caused by municipal policies. The plaintiff must assert the violation of a federal constitutional provision or a federal law that unmistakably confers individual rights onto the class of beneficiaries to which the plaintiff belongs. It does not allow actions against federal employees or officials.

The Federal Tort Claims Act (FTCA) allows a civil suit against the United States for money damages for personal injury, death, or property damage caused by a federal employee’s negligent or wrongful conduct, if a private person would be liable under the state’s law for similar acts. The FTCA requires a person to first file an administrative claim with the employing agency, and the person’s recoverable damages are limited to the sum certain stated in the administrative claim. The FTCA is the exclusive remedy for torts committed by a federal actor

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acting within the course and scope of employment. The action can be filed only in a federal district court and can proceed only against the United States as the defendant. The FTCA does not prohibit a person from instituting and maintaining a civil action against a federal employee for violation of a constitutional right, per 28 U.S.C. Section 2679(b)(2), but there is no clear vehicle that allows it independent of torts.