

Second Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0941.01 Conrad Imel x2313

SENATE BILL 26-176

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SENATE SPONSORSHIP

Weissman and Gonzales J.,

HOUSE SPONSORSHIP

Mabrey and Zokaie,

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Senate Committees  
Judiciary

House Committees

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A BILL FOR AN ACT

101 CONCERNING STATE COURT REMEDIES FOR VIOLATIONS OF FEDERAL  
102 CONSTITUTIONAL RIGHTS.

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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 <http://leg.colorado.gov>.)*

A person who, under color of any law, subjects, or causes to be subjected, another person to the deprivation of any rights, privileges, or immunities secured by the United States constitution is liable to the injured party for legal or equitable relief. A defendant may assert a defense of absolute or qualified immunity to the same extent as in certain federal actions alleging a deprivation of rights. An action alleging a

Shading denotes HOUSE amendment. Double 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.

deprivation of constitutional rights must be commenced within 2 years after the cause of action accrues.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1. Short title.** The short title of this act is the "No  
3 Kings Act".

4           **SECTION 2.** In Colorado Revised Statutes, **add** 13-20-1302 as  
5 follows:

6           **13-20-1302. Liability for violation of constitutional rights -  
7 relief - attorney fees - immunity - time limit to commence action -  
8 definition.**

9           (1) A PERSON WHO, UNDER COLOR OF ANY LAW, STATUTE,  
10 ORDINANCE, REGULATION, CUSTOM, OR USAGE, SUBJECTS, OR CAUSES TO  
11 BE SUBJECTED, A PERSON IN COLORADO TO THE DEPRIVATION OF ANY  
12 RIGHTS, PRIVILEGES, OR IMMUNITIES SECURED BY THE UNITED STATES  
13 CONSTITUTION IS LIABLE TO THE INJURED PARTY IN AN ACTION AT LAW,  
14 SUIT IN EQUITY, OR OTHER PROPER PROCEEDING FOR REDRESS; EXCEPT  
15 THAT, IN AN ACTION BROUGHT AGAINST A JUDICIAL OFFICER FOR AN ACT  
16 OR OMISSION TAKEN IN THE OFFICER'S JUDICIAL CAPACITY, INJUNCTIVE  
17 RELIEF SHALL NOT BE GRANTED UNLESS A DECLARATORY DECREE WAS  
18 VIOLATED OR DECLARATORY RELIEF WAS UNAVAILABLE.

19           (2) (a) IN AN ACTION OR PROCEEDING BROUGHT PURSUANT TO THIS  
20 SECTION, THE COURT, IN ITS DISCRETION, MAY ALLOW A PREVAILING  
21 PLAINTIFF REASONABLE ATTORNEY FEES AS PART OF THE COSTS; EXCEPT  
22 THAT, IN AN ACTION BROUGHT AGAINST A JUDICIAL OFFICER FOR AN ACT  
23 OR OMISSION TAKEN IN THE OFFICER'S JUDICIAL CAPACITY, THE OFFICER  
24 SHALL NOT BE HELD LIABLE FOR ANY COSTS, INCLUDING ATTORNEY FEES,  
25 UNLESS THE OFFICER'S ACT OR OMISSION WAS CLEARLY IN EXCESS OF THE

1 OFFICER'S JURISDICTION.

2 (b) IN AWARDING ATTORNEY FEES PURSUANT TO SUBSECTION  
3 (2)(a) OF THIS SECTION, THE COURT, IN ITS DISCRETION, MAY INCLUDE  
4 EXPERT FEES AS PART OF THE ATTORNEY FEES.

5 (c) WHEN A JUDGMENT IS ENTERED IN FAVOR OF A DEFENDANT,  
6 THE COURT MAY AWARD REASONABLE COSTS AND ATTORNEY FEES TO THE  
7 DEFENDANT FOR DEFENDING ANY CLAIMS THE COURT FINDS FRIVOLOUS.

8 (3) PURSUANT TO SECTION 13-80-102, A CIVIL ACTION BROUGHT  
9 PURSUANT TO THIS SECTION MUST BE COMMENCED WITHIN TWO YEARS  
10 AFTER THE CAUSE OF ACTION ACCRUES.

11 (4) A DEFENDANT IN AN ACTION BROUGHT PURSUANT TO THIS  
12 SECTION MAY ASSERT A DEFENSE OF ABSOLUTE OR QUALIFIED IMMUNITY  
13 TO THE SAME EXTENT AS A PERSON SUED UNDER 42 U.S.C. SEC. 1983  
14 UNDER LIKE CIRCUMSTANCES.

15 (5) AS USED IN THIS SECTION, "COLOR OF ANY LAW, STATUTE,  
16 ORDINANCE, REGULATION, CUSTOM, OR USAGE" INCLUDES COLOR OF ANY  
17 LAW, STATUTE, ORDINANCE, REGULATION, CUSTOM, OR USAGE OF THE  
18 UNITED STATES AND OF COLORADO AND A POLITICAL SUBDIVISION  
19 THEREOF.

20 **SECTION 3.** In Colorado Revised Statutes, 13-80-102, **amend**  
21 (1)(k); and **add** (1)(l) as follows:

22 **13-80-102. General limitation of actions - two years.**

23 (1) The following civil actions, regardless of the theory upon  
24 which suit is brought, or against whom suit is brought, must be  
25 commenced within two years after the cause of action accrues, and not  
26 thereafter:

27 (k) All actions brought ~~under~~ PURSUANT TO section 13-21-109 (2);

1 AND

2 (1) AN ACTION ALLEGING A DEPRIVATION OF CONSTITUTIONAL  
3 RIGHTS BROUGHT PURSUANT TO SECTION 13-20-1302.

4 **SECTION 4. Severability.** If any provision of this act or the  
5 application of this act to any person or circumstance is held invalid, the  
6 invalidity does not affect other provisions or applications of the act that  
7 can be given effect without the invalid provision or application, and to  
8 this end the provisions of this act are declared to be severable.

9 **SECTION 5. Safety clause.** The general assembly finds,  
10 determines, and declares that this act is necessary for the immediate  
11 preservation of the public peace, health, or safety or for appropriations for  
12 the support and maintenance of the departments of the state and state  
13 institutions.