

# 2020 SPECIAL SESSION I

## HOUSE SUBSTITUTE

20201095D

### HOUSE BILL NO. 5013

#### AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations  
on September 1, 2020)

(Patron Prior to Substitute—Delegate Bourne)

*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.*

**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 other statutory immunities or 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.*

**§ 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.*

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