

# 2020 SPECIAL SESSION I

## SENATE SUBSTITUTE

20201016D

### SENATE BILL NO. 5065

#### AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary  
on August 26, 2020)

(Patron Prior to Substitute—Senator Morrissey)

A BILL to amend the Code of Virginia by adding a section numbered 8.01-42.6, relating to civil action for deprivation of rights by a law-enforcement officer.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-42.6 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 constitution and laws of 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.

E. Notwithstanding any other provision of law, a law-enforcement officer's employer shall indemnify its law-enforcement officers for any liability incurred by the law-enforcement officer and for any judgment or settlement entered against the law-enforcement officer for claims arising pursuant to this section. Notwithstanding any provision of this section to the contrary, if the law-enforcement officer's portion of the judgment is uncollectible from the law-enforcement officer, the law-enforcement officer's employer or insurer shall satisfy the full amount of the judgment or settlement. A public entity does not have to indemnify a law-enforcement officer if the officer was convicted of a criminal violation for the conduct from which the claim arises.

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