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HOUSE JOINT RESOLUTION NO. 60

Offered January 12, 2022

Prefiled January 11, 2022

Proposing an amendment to the Constitution of Virginia by adding in Article I a section numbered 18, relating to qualified immunity.

Patron—Wampler

Referred to Committee on Privileges and Elections

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend the Constitution of Virginia by adding in Article I a section numbered 18 as follows:

ARTICLE I

BILL OF RIGHTS

Section 18. Qualified immunity for government officials.

(a) A government official shall not be found liable for the deprivation of any person's rights, privileges, or immunities secured by this Constitution and the laws of this Commonwealth if such official establishes that:

(1) The right, privilege, or immunity secured by this Constitution or the laws of this Commonwealth was not clearly established at the time of the person's deprivation by the official, or that at this time, the state of the law was not sufficiently clear that every reasonable official would have understood that the conduct alleged constituted a violation of this Constitution or the laws of this Commonwealth; or

(2) A court of competent jurisdiction had issued a final decision on the merits holding, without reversal, vacatur, or preemption, that the specific conduct alleged to be unlawful was consistent with this Constitution and the laws of this Commonwealth.

(b) A state agency or unit of local government that employed an official subject to an action for the deprivation of any person's rights, privileges, or immunities shall not be liable for such action if the official is found not liable under subsection (a) and was acting within the scope of his employment.

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