

**Second Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0710.01 Conrad Imel x2313

**SENATE BILL 26-005**

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**SENATE SPONSORSHIP**

**Weissman and Gonzales J.**, Coleman, Hinrichsen, Jodeh, Kipp, Marchman, Rodriguez,  
Wallace

**HOUSE SPONSORSHIP**

**Mabrey and Zokaie,**

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**Senate Committees**

Judiciary  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING STATE COURT REMEDIES FOR VIOLATIONS OF FEDERAL**  
102              **CONSTITUTIONAL RIGHTS OCCURRING DURING IMMIGRATION**  
103              **ENFORCEMENT.**

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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>.)*

The bill creates a statutory cause of action for a person who is injured during a civil immigration enforcement action by another person who, whether or not under color of law, violates the United States constitution while participating in civil immigration enforcement. A person who violates the United States constitution while participating in

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.*

civil immigration enforcement is liable to the injured party for legal or equitable relief or any other appropriate relief. The action 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. Legislative declaration.** (1) The general assembly  
3 finds and declares that:

4 (a) Since the earliest days of the nation, the United States supreme  
5 court has held, in cases such as *Little v. Barreme*, 6 U.S. 170 (1804), and  
6 *Murray v. The Charming Betsey*, 6 U.S. 64 (1804), that federal officials  
7 may be liable in damages for violations of federal laws;

8 (b) In later 19th century cases as well, the United States supreme  
9 court held that federal officials could be liable for damages even for  
10 reasons relating to but beyond the lawful scope of federal duties, *Mitchell*  
11 *v. Harmony*, 54 U.S. 115 (1851), and in particular that state courts  
12 possessed jurisdiction to consider such damages claims, *Teal v. Felton*,  
13 53 U.S. 284 (1852);

14 (c) The United States supreme court has long held that federal  
15 employees are not inherently beyond the reach of state laws simply  
16 because they are federal employees. For example, in *Johnson v.*  
17 *Maryland*, 254 U.S. 51 (1920), the court noted, "[A]n employee of the  
18 United States does not secure a general immunity from state law while  
19 acting in the course of his employment", and in *Colorado v. Symes*, 286  
20 U.S. 510 (1932), the court stated, "Federal officers and employees are not,  
21 merely because they are such, granted immunity from prosecution in state  
22 courts for crimes against state law".

23 (d) Decades later, the United States supreme court continued to  
24 recognize the role of state law in holding federal officials accountable for

1 legal violations, noting in *Wheeldin v. Wheeler*, 373 U.S. 647 (1963),  
2 "[w]hen it comes to suits for damages for abuse of power, federal  
3 officials are usually governed by local law";

4 (e) When the United States supreme court recognized a federal  
5 law cause of action for violation of certain constitutional rights in *Bivens*  
6 *v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971), that cause  
7 of action was in addition to, rather than instead of, traditional state law  
8 remedies. Even one of the dissenting justices in *Bivens* noted the ongoing  
9 role of state courts, writing, "The task of evaluating the pros and cons of  
10 creating judicial remedies for particular wrongs is a matter for Congress  
11 and the legislatures of the States".

12 (f) More recently, congress has made federal statutory law the  
13 exclusive remedy for certain claims sounding in tort, but this exclusivity  
14 specifically "does not extend or apply to a civil action against an  
15 employee of the Government [. . .] which is brought for a violation of the  
16 Constitution of the United States", 28 U.S.C. sec. 2679. The prime  
17 sponsor of legislation amending the federal "Tort Claims Act" to provide  
18 for limited exclusivity took pains to clarify, "We make special provisions  
19 here to make clear that the more controversial issue of constitutional torts  
20 is not covered by this bill. If you are accused of having violated  
21 someone's constitutional rights, this bill does not affect it", 134 Cong.  
22 Rec. 15963 (1988).

23 (g) In 2022, in declining to extend the scope of the *Bivens* action  
24 in *Egbert v. Boule*, 596 U.S. 482 (2022), the United States supreme court  
25 observed that legislatures, not courts, are the better branches of  
26 government to fashion damages remedies;

27 (h) In its most recently completed term, the United States supreme

1 court declined, in *Martin v. United States*, 145 S. Ct. 1689 (2025), to  
2 extend the doctrine of supremacy clause immunity beyond its traditional  
3 criminal law context;

4 (i) Violating the federal constitutional rights of residents of the  
5 United States has never been and can never be "necessary and proper" to  
6 the execution of the laws and powers of the United States within the  
7 meaning of article I, section 8, clause 18 of the United States constitution;  
8 and

9 (j) In enacting this act, the Colorado general assembly affirms its  
10 longstanding and rightful role as a sovereign state in providing forum in  
11 its courts for adjudication of claims of federal constitutional violations.

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

14 **13-20-1302. Civil action for violation of constitutional rights**  
15 **during immigration enforcement - relief - attorney fees - time limit to**  
16 **commence action - definition.**

17 (1) A PERSON WHO HAS THEIR RIGHTS THAT ARE GUARANTEED BY  
18 THE UNITED STATES CONSTITUTION VIOLATED BY ANOTHER PERSON WHO,  
19 ACTING UNDER COLOR OF ANY FEDERAL, STATE OR LOCAL LAW, IS  
20 PARTICIPATING IN CIVIL IMMIGRATION ENFORCEMENT, MAY BRING A CIVIL  
21 ACTION AGAINST THE OTHER PERSON. A PERSON FOUND TO HAVE  
22 VIOLATED THE UNITED STATES CONSTITUTION WHILE PARTICIPATING IN  
23 CIVIL IMMIGRATION ENFORCEMENT IS LIABLE TO THE PERSON WHOSE  
24 RIGHTS ARE VIOLATED FOR LEGAL OR EQUITABLE RELIEF OR ANY OTHER  
25 APPROPRIATE RELIEF.

26 (2) (a) IN AN ACTION BROUGHT PURSUANT TO THIS SECTION, A  
27 COURT SHALL AWARD REASONABLE ATTORNEY FEES AND COSTS TO A

1 PREVAILING PLAINTIFF. IN ACTIONS FOR INJUNCTIVE RELIEF, A COURT  
2 SHALL DEEM A PLAINTIFF TO HAVE PREVAILED IF THE PLAINTIFF'S SUIT WAS  
3 A SUBSTANTIAL FACTOR OR SIGNIFICANT CATALYST IN OBTAINING THE  
4 RESULTS SOUGHT BY THE LITIGATION.

5 (b) 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) TO THE MAXIMUM EXTENT PERMISSIBLE UNDER THE UNITED  
9 STATES CONSTITUTION AND 42 U.S.C. SEC. 1983, A GRANT OF IMMUNITY  
10 TO A DEFENDANT, INCLUDING, BUT NOT LIMITED TO, SOVEREIGN  
11 IMMUNITY; OFFICIAL IMMUNITY; INTERGOVERNMENTAL IMMUNITY;  
12 QUALIFIED IMMUNITY; SUPREMACY CLAUSE IMMUNITY; STATUTORY  
13 IMMUNITY, INCLUDING THE "COLORADO GOVERNMENTAL IMMUNITY  
14 ACT", ARTICLE 10 OF TITLE 24; OR COMMON LAW IMMUNITY, DOES NOT  
15 APPLY IN AN ACTION BROUGHT PURSUANT TO THIS SECTION.

16 (4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
17 REQUIRES, "CIVIL IMMIGRATION ENFORCEMENT" MEANS AN ACTION TO  
18 INVESTIGATE, QUESTION, DETAIN, TRANSFER, OR ARREST A PERSON FOR  
19 THE PURPOSE OF ENFORCING FEDERAL CIVIL IMMIGRATION LAW. "CIVIL  
20 IMMIGRATION ENFORCEMENT" DOES NOT INCLUDE AN ACTION COMMITTED  
21 BY A PEACE OFFICER WHO IS ACTING WITHIN THE SCOPE OF THE PEACE  
22 OFFICER'S DUTIES CONSISTENT WITH STATE LAW.

23 (5) PURSUANT TO SECTION 13-80-102, A CIVIL ACTION DESCRIBED  
24 IN THIS SECTION MUST BE COMMENCED WITHIN TWO YEARS AFTER THE  
25 CAUSE OF ACTION ACCRUES.

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

1           **13-80-102. General limitation of actions - two years.**

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

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

8           (l) AN ACTION ALLEGING A VIOLATION OF CONSTITUTIONAL RIGHTS  
9 DURING CIVIL IMMIGRATION ENFORCEMENT BROUGHT PURSUANT TO  
10 SECTION 13-20-1302.

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

16           **SECTION 5. Safety clause.** The general assembly finds,  
17 determines, and declares that this act is necessary for the immediate  
18 preservation of the public peace, health, or safety or for appropriations for  
19 the support and maintenance of the departments of the state and state  
20 institutions.