

COUNTY: Butler

NUMBER: 00094

INITIATIVE PETITION

Amendment to the Constitution

Proposed by Initiative Petition

To be submitted directly to the electors

AMENDMENT

TITLE

Protecting Ohioans' Constitutional Rights

SUMMARY

This Amendment would add a new section 22 to Article I of the Ohio Constitution:

The Protecting Ohioans' Constitutional Rights Amendment creates a private cause of action on behalf of persons whose rights under Ohio's Constitution are violated, or caused to be violated, by (1) the State of Ohio, its officers, departments and instrumentalities, (2) political subdivisions of Ohio, including municipal corporations, townships, counties and school districts, (3) public employees of the State or its political subdivisions, and (4) independent contractors of the State or its political subdivisions. Liability for public employees is limited to those instances where their conduct is authorized by their governmental employers and within the scope of their employments. Liability of independent contractors is limited to conduct that is authorized and under color of law. The State of Ohio is liable for the constitutional violation of one of its public employees when the conduct that caused the constitutional violation occurs within the course or scope of authority granted to that public employee by the State of Ohio. A political subdivision is liable for the constitutional violation of one of its public employees when the conduct that caused the constitutional violation occurs within the course or scope of authority that has been granted by the political subdivision to that to the public employee.

Qualified immunity, sovereign immunity, prosecutorial immunity, and any immunity provided to the State, political subdivision, or public employee by statute are eliminated. Remedies for constitutional violations include compensation for economic and non-economic damages, equitable and injunctive relief, any other remedies prescribed by State law, federal law, or common law, and awards of reasonable attorney's fees. Courts are also authorized to order government actors found to have violated Ohio's Constitution to take reasonable measures to prevent similar violations from occurring in the future. Any finding of liability against a public employee under this Amendment provides just cause for termination of the employment, agreement, or contract giving rise to the public employee's status as a public employee.

The private cause of action created by this Amendment may be tried before the bench or a jury, but in either case violations must be proven by a preponderance of evidence. Jurisdiction and venue over the private cause of action created by this Amendment lie in the Court of Common Pleas for the county where the public employee who is named as a defendant resides or works at the time the action is filed. When only the State or a political subdivision is the defendant the action may be filed in the Court of Common Pleas for any county in Ohio. If both a public employee and the State or a political subdivision are named in the same action, the venue is restricted to the county where the named public employee resided or worked at the time of filing. All claims must be commenced no later than six years from the date the alleged constitutional violation is alleged to have occurred. This amendment contains a severability clause. The effective date would be January 1, 2025.

CERTIFICATION OF THE ATTORNEY GENERAL

This certification of the Attorney General, pursuant to Ohio Revised Code §3519.01(A), will be inserted when it is provided. This initial petition must be submitted with at least one thousand (1,000) valid signatures of Ohio electors before the Attorney General will issue that certification.

COMMITTEE TO REPRESENT THE PETITIONERS

The following persons are designated as committee to represent the petitioners in all matters relating to the petition or its circulation:

Cynthia Brown	2692 Arcola Road, Columbus, Ohio 43207
Carlos Buford	2130 Della Drive, Dayton, Ohio 45417
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Hamza Khabir	26 Gould Avenue, Bedford, Ohio 44146
Jenny Sue Rowe	3340 Peterson Road, Mansfield, Ohio 44903

FULL TEXT OF THE PROPOSED AMENDMENT

Be it Resolved by the People of the State of Ohio that Article I of the Ohio Constitution is hereby amended to add the following Section:

Section 22. Protecting Ohioans' Constitutional Rights

(A) Definitions

- (1) "State" means the State of Ohio, including, but not limited to, the offices of all elected state officers and all departments and other instrumentalities of the State of Ohio.
- (2) "Political subdivision" means any body corporate or politic responsible for governmental activities within a geographic subsection of the State, including but not limited to a municipal corporation, township, county, or school district.
- (3) "Public employee" means any entity who is:
 - (a) an officer, agent, employee, or servant, of the State or a political subdivision, whether or not compensated or full time or part-time, who is authorized to act and is acting within the scope of the officer's, agent's, employee's, or servant's employment by the State or political subdivision; or
 - (b) an independent contractor of the State or a political subdivision who is authorized to act and is acting under the color of law.
- (4) "Government actor" means the State, any political subdivision thereof, or any public employee of the State or of any political subdivision thereof.
- (5) "Person" means any individual resident of Ohio or individual within the State.
- (6) "Constitutional right" means any right, privilege or immunity secured pursuant to the constitution of Ohio.

(B) Claim for Deprivation of Rights Guaranteed by the Constitution of Ohio

- (1) No government actor shall cause any person to be subjected to deprivation of any constitutional right.
- (2) A person who claims to have suffered a deprivation of any constitutional right due to acts or omissions of any government actor or actors may bring a civil action against said government actor or actors.
- (3) A civil action pursuant to this Section may be brought in the following jurisdictions:
 - (a) An action naming a public employee as a defendant may be brought in any Court of Common Pleas for a county in which that public employee resided or worked at the time the action was filed.
 - (b) An action naming the State or a political subdivision as a defendant may be brought in the Court of Common Pleas for any county in the State. However, if a public employee is also named as a defendant to the same action, then the action may only be brought in a Court of Common Pleas for a county in which that public employee resided or worked at the time the action was filed.

(C) Immunity Defenses Prohibited

- (1) In any action pursuant to this Section, no government actor shall enjoy or may rely upon any immunities or defenses which are only available to government actors or any subset thereof, including but not limited to:
 - (a) Qualified immunity;
 - (b) Sovereign immunity;
 - (c) Prosecutorial immunity; or
 - (d) Any immunity provided to the State, political subdivisions, or public employees by statute.

(D) Determination Of Liability

- (1) The person bringing an action pursuant to this Section may elect whether the action will be tried in a bench trial or jury trial.
 - (a) In a bench trial, the court's decision on any claim brought hereunder shall be supported by findings of facts and conclusions of law.
 - (b) In a jury trial, any party may submit interrogatories to the jury asking for its findings of fact and application of the court's instructions as to the law.
- (2) Any government actor is liable for the deprivation of a person's constitutional rights if it is proven by a preponderance of evidence that the government actor's acts or omissions caused the person to be deprived of any constitutional right.
- (3) In addition, if a public employee is found liable for the deprivation of a person's constitutional rights pursuant to subsection (D)(2), and it is proven by a preponderance of evidence that the public employee was acting on behalf of, under color of, or within the course or scope of authority granted by the State or political subdivision, then the State or political subdivision shall be held liable to that person for the conduct of the public employee.
- (4) Terminating a public employee shall not affect the liability of the State or political subdivision for the terminated public employee's conduct.

(E) Remedies Upon A Determination Of Liability

- (1) If a government actor is found liable for the deprivation of a person's constitutional rights, that person shall be entitled to any or all of the following relief:
 - (a) Compensation for economic and non-economic damages, without limitation;
 - (b) Equitable or injunctive relief;
 - (c) Recovery of reasonable attorney's fees, regardless of whether the attorney provided services on an hourly, contingent, or pro bono basis; and
 - (d) Any other remedies prescribed by State or federal law or available pursuant to common law.
- (2) In addition to the relief awarded to the person, the court shall order any government actor found liable for the deprivation of a person's constitutional rights to take reasonable measures to prevent a similar rights violation from re-occurring.

(F) Statute of Limitations

(1) A claim made under this Section shall be commenced no later than six years from the date that the deprivation of a constitutional right is alleged to have occurred.

(G) Termination of Contract, Agreement, or Employment

(1) A finding of liability against a public employee pursuant to this Section is just cause for termination of the employment, agreement, or contract giving rise to the public employee's status as a public employee.

(H) Severability Clause

(1) All provisions of this section shall be self-executing and severable.

(I) Effective Date

(1) This section shall take effect on January 1, 2025.