

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 849
3 entitled “An act relating to a civil action for damages for interference with
4 State or federal constitutional rights by any government official” respectfully
5 reports that it has considered the same and recommends that the bill be
6 amended by striking out all after the enacting clause and inserting in lieu
7 thereof the following:

8 Sec. 1. 12 V.S.A. chapter 205 is added to read:

9 CHAPTER 205. DEPRIVATION OF CONSTITUTIONAL RIGHTS

10 § 5797. CIVIL ACTION

11 (a) Every person who, under color of any statute, ordinance, regulation,
12 custom, or usage, subjects or causes to be subjected any citizen of the State of
13 Vermont or other person within the jurisdiction thereof to the deprivation of
14 any rights, privileges, or immunities secured by the Constitution of the United
15 States shall be liable to the party injured in an action at law, suit in equity, or
16 other proper proceeding for redress, except that in any action brought against a
17 judicial officer for an act or omission taken in the officer’s judicial capacity,
18 injunctive relief shall not be granted unless a declaratory decree was violated
19 or declaratory relief was unavailable.

20 (b) For purposes of this section, “color of any statute, ordinance,
21 regulation, custom, or usage” includes color of any statute, ordinance,

1 regulation, custom, or usage of the United States and of any U.S. state or
2 territory or the District of Columbia.

3 (c) Any defense available to a defendant under 42 U.S.C. § 1983 is
4 likewise and to the same extent available to any defendant in an action brought
5 under subsection (a) of this section. This subsection does not alter, amend,
6 create, or support a qualified or absolute immunity defense in any other action
7 or proceeding brought under any other provision of Vermont law.

8 (d) It is the intent of the General Assembly that, in construing this section,
9 the courts of this State will be guided by the construction of 42 U.S.C. § 1983,
10 as amended, as interpreted by the courts of the United States.

11 Sec. 2. EFFECTIVE DATE

12 This act shall take effect on July 1, 2026.

13 and that after passage the title of the bill be amended to read: “An act relating
14 to a civil action for damages for deprivation of federal constitutional rights by
15 any government official”

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20 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE