

Department of Planning and Budget

2022 Fiscal Impact Statement

1. Bill Number: HB609

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Bourne

3. Committee: Courts of Justice

4. Title: Civil action for the deprivation of rights; duties and liabilities of certain employers.

5. Summary: Creates a civil cause of action for the deprivation of any rights, privileges, or immunities pursuant to the constitutions and laws of the United States and the Commonwealth due to the acts or omissions of either a public employer or its employee and provides that a plaintiff may maintain an action to establish liability and recover compensatory damages, punitive damages, and equitable relief against the public employer and its employee. The bill provides that sovereign immunity is not a defense to such an action. The bill further provides that public employers owe a duty of reasonable care to third parties in the hiring, supervision, training, retention, and use of their employees and that a person who claims to have suffered injury or sustained damages caused, in whole or in part, by a breach of this duty may maintain an action to establish liability and recover compensatory damages, punitive damages, and equitable relief against such public employer.

6. Budget Amendment Necessary: See Item 8.

7. Fiscal Impact Estimates: Preliminary, Indeterminate

7a. Expenditure Impact: Office of the Attorney General

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2023	\$138,598.42	1	GF
2024	\$138,598.42	1	GF
2025	\$138,598.42	1	GF
2026	\$138,598.42	1	GF
2027	\$138,598.42	1	GF
2028	\$138,598.42	1	GF
2029	\$138,598.42	1	GF

8. Fiscal Implications: This bill creates causes of action against public employers and employees for violations of civil rights, and for negligent hiring, supervision, training, or retention. It also creates a waiver of sovereign immunity for public employers and employees and establishes the Commonwealth's consent to being sued for actions brought under this statute. The public employer, rather than employee, is liable to the injured party if the defendant establishes that his or her conduct was authorized by law, regulation, or employer

procedure, or if the conduct was ruled constitutional by a relevant court. Damages sought in lawsuits pursuant to this legislation are capped at \$10,000. The bill provides that a plaintiff who succeeds in bringing action under this legislation will be awarded reasonable attorney fees and costs.

Because this bill makes all state agencies subject to a cause of action, all state agencies could be subject to litigation expenses and be liable for damages, costs, and fees. The fiscal impact of this liability to state agencies is indeterminate at this time.

The Office of the Attorney General reports that this legislation will likely create more lawsuits that may result in jury trials, requiring extensive discovery and litigation. The Office of the Attorney General estimates that it will need at least one attorney to cover the increase in cases.

The Department of the Treasury Division of Risk Management (DRM) indicates that eliminating sovereign and qualified immunity will increase costs under the State Liability Plan to the Plans and Plan members. However, the exact impact is indeterminate at this time.

9. Specific Agency or Political Subdivisions Affected: All state agencies.

10. Technical Amendment Necessary: No.

11. Other Comments: None.