



# LAW ENFORCEMENT ACTION PARTNERSHIP

ADVANCING JUSTICE AND PUBLIC SAFETY SOLUTIONS

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Date: January 26, 2022

Re: HB 609 Enables citizens to bring lawsuits when their constitutional rights are violated

Position: SUPPORT

To: Virginia Courts of Justice Subcommittee #2

Dear Members of the Committee,

Thank you for the opportunity to testify today. As a Virginia resident and former police chief, I am writing to express my support for HB 609. This bill enables citizens to bring lawsuits when their constitutional rights are violated by employees who are not cut out for the job.

During my 25 years of service in law enforcement, in addition to being a chief, I served as a patrol officer and as a security forces supervisor with the United States Air Force. I learned that police accountability plays a vital role in building community trust and safety. When there is a lack of police accountability, we lose legitimacy in the eyes of those we serve, making community members less likely to cooperate with us. To restore this trust and strengthen relationships with the communities we serve, we need to prioritize governmental accountability.

To prevent and solve a crime, police need community members to cooperate and provide information about what they have witnessed. Folks will only cooperate if they trust us. Trust-building is not an optional, feel-good extracurricular activity for police, it is a core responsibility with a direct link to public safety.

One major reason that people lose trust in us is when officers engage in misconduct and their departments fail to take responsibility for it. When the public feels that we are [not holding officers accountable](#), they will not report crimes or come forward with key information. A key reason for this lack of trust is the sovereign immunity doctrine.

**LawEnforcementActionPartnership.org**

*Formerly known as Law Enforcement Against Prohibition*

State sovereign immunity says citizens cannot sue the state of Virginia or cities, towns, and counties within its borders for simple negligence. This can prevent legitimate cases from being heard when someone files a civil lawsuit because a police officer violated their constitutional rights.

The doctrine of sovereign immunity is derived from the federal doctrine of qualified immunity. Qualified immunity holds the state and its agencies harmless unless the officer's action has already been clearly established as a constitutional violation in that court's jurisdiction. For example, in *Jessop v City of Fresno*, police officers stole money, and the victims sued. The Ninth Circuit dismissed the lawsuit on qualified immunity grounds because no previous Ninth Circuit case specifically said that police stealing from plaintiffs is a violation of the Fourth Amendment. When such cases are dismissed, the media firestorm has a devastating impact on public trust in the justice system.

Qualified immunity is deeply unpopular. Two-thirds of Americans say that civilians need to have the power to sue police officers in order to hold them accountable for misconduct and excessive use of force, even if that makes police work more difficult. In fact, we believe it will make police work easier by helping us rebuild community trust.

Virginia cannot fix a federal issue, but state legislators have proposed legislation that would protect Virginia residents' constitutional rights through state court. House Bill 609 would prevent the government from escaping responsibility by invoking sovereign immunity. The bill gives Virginians the right to sue the state or local government for harms caused by negligent hiring, supervision, training, or retention.

Challenging the doctrine of sovereign immunity may cause anxiety for honest hard-working government employees and police officers. However, the bill would not leave government employees and officers vulnerable to a flood of frivolous lawsuits. House Bill 609 does not penalize employees for basic mistakes, only serious constitutional violations, and caps damages at \$10,000.

The bottom line is that House Bill 609 would not bring open season upon law enforcement. It would simply allow judges to hear the facts of the most egregious cases, which are currently causing the public perception that

police are above the law. By doing so, it would strengthen the ties between police and the people we swore an oath to protect and serve.

Thank you for considering this important issue.

Chief Rob Reyes (Fmr.)  
U.S. Department of Veterans Affairs Police Department  
Erie, PA  
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