
ALERT

Capitol Contact

Friday, January 29, 2021

Capitol Contact ALERT – Oppose SB 1440: Erosion of Governmental Immunity for Law Enforcement

[SB 1440 \(Surovell\)](#), which erodes governmental immunity for law enforcement, will be heard in the Senate Judiciary Committee on Monday, February 1, at 8 a.m.

VACo Members – please contact legislators on the [Senate Judiciary Committee](#) now to oppose SB 1440.

SB 1440 creates a civil cause of action for the unlawful use of force or failure to intervene by a correctional officer or law enforcement officer who violates [Chapter 7.1 of Title 19.2](#) (regarding use of force, failure to intervene, prohibited practices etc.) during the performance of their duties. An officer's public or private employer is liable if the events occur in the ordinary course of the employers' business. The bill provides for recovery of compensatory damages, punitive damages and attorney's fees and costs, and the language of the bill essentially negates the sovereign immunity defense. The effect of this bill is that a law enforcement officer may be sued for reasonable actions.

KEY POINTS

- Law Enforcement Hiring, Retention, and Training

- This would have a chilling effect on the hiring and retention of law enforcement/correctional officers.
- It will be impossible to train for an unspecified standard of care.
- **Drastic Increases in Costs**
 - Local Government would be vicariously liable for law enforcement and be subject to greater financial risk and increased frivolous litigation.
 - Law enforcement officers would have personal liability.
 - It will be extremely costly if not impossible to insure for this new unlimited liability.
- **Rippling Effects in the Community**
 - There would be a chilling effect on use of law enforcement for private or community events and businesses.
 - This includes private security at churches, high school sporting events, concerts, raceways, etc.
 - Substantial obstacle to the provision of needed public services.
 - In terms of officers doing their jobs, maintaining staffing #s, etc.
 - Officers will be less likely to initiate an encounter with a citizen because of the potential for personal liability.
 - Officers cannot be expected to be legal scholars or think through legal arguments when attempting to perform their duties.
- **Dramatic erosion of existing laws, which already provide the protections sought by these bills.**
 - Officers do not have absolute immunity, and they can be held liable when they violate a clearly established constitutional right.

Contact members of the Senate Judiciary Committee to **oppose SB 1440**.

KEY CONTACTS

[Senate Judiciary Committee](#) – email entire committee with one click

Senate Judiciary Committee: [Edwards \(Chair\)](#), [Saslaw](#), [Norment](#), [Lucas](#), [Obenshain](#), [McDougle](#), [Stuart](#), [Stanley](#), [Deeds](#), [Petersen](#), [Surovell](#), [McClellan](#), [Boysko](#), [Morrissey](#), [Peake](#)

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