2021 Regular Session

HOUSE BILL NO. 609

BY REPRESENTATIVE JORDAN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CIVIL/IMMUNITY: Provides with respect to liability for peace officers engaged in certain actions

1	AN ACT
2	To enact R.S. 9:2800.77 and to amend and reenact R.S. 14:134(A), relative to liability of
3	peace officers; to provide relative to immunity from civil liability for peace officers;
4	to provide for exceptions to immunity; to provide for causes of action; to provide for
5	attorney fees and costs; to provide for malfeasance; and to provide for related
6	matters.
7	Be it enacted by the Legislature of Louisiana:
8	Section 1. R.S. 9:2800.77 is hereby enacted to read as follows:
9	§2800.77. Limitation of qualified immunity for unreasonable force
10	A. Notwithstanding R.S. 9:2793.1, 2798.1, and 2800.10, no element of
11	qualified immunity shall be available to peace officers, as defined by R.S. 40:2402,
12	as a defense to liability for claims brought under the laws or the Constitution of
13	Louisiana or the Constitution of the United States of America for wrongful death,
14	physical injury, or personal injury inflicted by peace officers through any use of
15	physical force in a manner determined by the court to be unreasonable.
16	B.(1) Any individual seeking relief for an action provided by Subsection A
17	of this Section bears the burden of proving a violation of a right under the laws or the
18	Constitution of Louisiana or the Constitution of the United States of America by a
19	preponderance of the evidence.

Page 1 of 3

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(2) An action under this Section shall arise out of state law and pursuant to
2	Louisiana's laws and rules of civil procedure.
3	Section 2. R.S. 14:134(A) is hereby amended and reenacted to read as follows:
4	§134. Malfeasance in office
5	A. Malfeasance in office is committed when any public officer or public
6	employee shall does any of the following:
7	(1) Intentionally refuse or fail to perform any duty lawfully required of him,
8	as such officer or employee; or.
9	(2) Intentionally perform any such duty in an unlawful manner; or.
10	(3) Knowingly permit any other public officer or public employee, under his
11	authority, to intentionally refuse or fail to perform any duty lawfully required of him,
12	or to perform any such duty in an unlawful manner.
13	(4) If the individual is a full-time, part-time, or reserve peace officer, who
14	knowingly or with reckless disregard either refuses or fails to perform any duty
15	lawfully required of him as a peace officer or perform such duty in an unlawful
16	manner.
17	* * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 609 Original

2021 Regular Session

Jordan

Abstract: Prohibits qualified immunity from officers as a defense in certain cases

<u>Present law</u> (R.S. 9:2793.1) provides for civil liability immunity for officers for destruction of property caused while the officer was acting within the course and scope of employment and if necessary to abate a public emergency.

<u>Present law</u> (R.S. 9:2798.1) provides for civil liability immunity for policymaking or discretionary acts or omissions by public entities. <u>Present law</u> exempts acts or omissions not reasonably related to the legitimate governmental objective or to criminal or intentional misconduct.

<u>Present law</u> (R.S. 9:2800.10) provides for civil liability immunity for damages sustained by a perpetrator of a felony offense during the commission of the offense or while fleeing the scene. <u>Present law</u> exempts intentional acts involving the use of excessive force.

<u>Proposed law</u> (R.S. 9:2800.77) supersedes <u>present law</u> and provides that qualified immunity does not apply as a defense for claims of wrongful death, physical injury, or personal injury caused by law enforcement officers through the unreasonable use of physical force.

<u>Proposed law</u> (R.S. 9:2800.77) provides that individuals seeking relief bear the burden of proving a violation by preponderance of the evidence.

<u>Present law</u> (R.S. 14:134(A)) provides that malfeasance in office is committed when a public officer or employer does any of the following:

- (1) Intentionally refuses or fails to perform a required duty.
- (2) Intentionally performs the required duty in an unlawful manner.
- (3) Knowingly permits another public officer or employee under his authority to intentionally refuse or fail to perform any required duty or perform such duty in an unlawful manner.

<u>Proposed law</u> (R.S. 14:134(A)) retains <u>present law</u> and provides for malfeasance for a peace officer who knowingly or with reckless disregard either refuses or fails to perform any duty required of him or performs such duty in an unlawful manner.

(Adds R.S. 9:2800.77; Amends R.S. 14:134(A))