

SENATE JOINT RESOLUTION

No. 84

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 15, 2020

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

SYNOPSIS

Urges Congress and the President of the United States to withdraw qualified immunity for law enforcement officers in certain instances.

CURRENT VERSION OF TEXT

As introduced.



1 **A JOINT RESOLUTION** urging Congress and the President of the
2 United States to withdraw qualified immunity for law
3 enforcement officers in certain instances.
4
5 **WHEREAS**, In recent years, public concern over the use of force and
6 other civil rights violations by law enforcement officers in the
7 United States has continued to grow; and
8 **WHEREAS**, The “Civil Rights Act of 1871” grants United States
9 citizens the ability to sue public officials for civil rights violations;
10 and
11 **WHEREAS**, Because prosecutors may be reluctant to charge and juries
12 may be hesitant to convict law enforcement officers of criminal
13 offenses, many times the only remedy for victims to hold law
14 enforcement accountable is through a civil action; and
15 **WHEREAS**, The doctrine of qualified immunity provides law
16 enforcement officers a defense to civil lawsuits when their actions
17 do not violate a “clearly established” statutory or constitutional
18 right; and
19 **WHEREAS**, Qualified immunity, a doctrine with no common law basis,
20 was originally established by the judiciary with the intent to allow
21 law enforcement officers to perform essential duties without the
22 fear of constant frivolous claims for damages, and with the aim of
23 protecting all except those who knowingly violated the law; and
24 **WHEREAS**, The doctrine of qualified immunity has effectively
25 precluded individuals wishing to bring civil charges against law
26 enforcement officers from vindicating their rights by essentially
27 immunizing law enforcement officers from civil suit; and
28 **WHEREAS**, Civil rights organizations, political, and judiciary leaders
29 have spoken out against qualified immunity and called for the
30 doctrine’s abolition; and
31 **WHEREAS**, United States Senators Kamala D. Harris, Edward J.
32 Markey, and Cory Booker introduced a Senate resolution calling for
33 the elimination of qualified immunity for law enforcement officers;
34 and
35 **WHEREAS**, Supreme Court Justices Clarence Thomas, Ruth Bader
36 Ginsburg, and Sonia Sotomayor have recognized that the defense of
37 qualified immunity has no common law basis and have warned that
38 qualified immunity has become an absolute shield for law
39 enforcement; and
40 **WHEREAS**, On June 1, 2020, more than 400 civil rights organizations,
41 including the American Civil Liberties Union, Amnesty
42 International USA, and the National Association for the
43 Advancement of Colored People, sent a letter to congressional
44 leadership urging that they enact meaningful police reform
45 legislation that includes an end to qualified immunity doctrine; and
46 **WHEREAS**, The abolition of the doctrine of qualified immunity for law
47 enforcement officers who violate a federal, state, or local statute or
48 a constitutional right, and those whose conduct can be clearly

1 established as unlawful would be a tremendous step forward in the
 2 pursuit of protecting the civil rights of United States citizens; and
 3 **WHEREAS**, Abolishing qualified immunity would create a remedy for
 4 all civil rights violations by eliminating a barrier that arbitrarily
 5 prevents juries from hearing and deciding cases on their merits and
 6 also disincentivizing people from abusing their authority as law
 7 enforcement officers; now, therefore,

8
 9 **BE IT RESOLVED** *by the Senate and General Assembly of the*
 10 *State of New Jersey:*

11
 12 1. The Governor and the Legislature of the State of New Jersey
 13 urge Congress and the President of the United States to withdraw
 14 qualified immunity for law enforcement officers in certain
 15 instances.

16
 17 2. Copies of this resolution, as filed with the Secretary of State,
 18 shall be transmitted by the Clerk of the General Assembly or the
 19 Secretary of the Senate to the Office of the President of the United
 20 States, the Majority and Minority Leaders of the United State
 21 Senate, the Speaker and Minority Leader of the United States House
 22 of Representatives, and every member of Congress from this State

23
 24 3. This joint resolution shall take effect immediately.
 25

26
 27 STATEMENT
 28

29 This resolution urges Congress and the President of the United
 30 States to withdraw qualified immunity for law enforcement officers
 31 in certain instances.

32 In recent years, public concern over the use of force and other
 33 civil rights violations by United States law enforcement officers in
 34 the United States has continued to grow. While prosecutors may be
 35 reluctant to charge and juries may be hesitant to convict law
 36 enforcement officers of criminal offenses, the “Civil Rights Act of
 37 1871” grants United States citizens the ability to sue public officials
 38 for civil rights violations. The doctrine of qualified immunity
 39 provides law enforcement officers a defense to civil lawsuits when
 40 their actions do not violate a “clearly established” statutory or
 41 constitutional right. Qualified immunity, a doctrine with no
 42 common law basis, was originally established by the judiciary with
 43 the intent to allow law enforcement officers to perform essential
 44 duties without the fear of constant frivolous claims for damages,
 45 and with the aim of protecting all except those who knowingly
 46 violated the law.

47 The doctrine of qualified immunity has effectively precluded
 48 individuals wishing to bring civil charges against law enforcement

1 officers from vindicating their rights by essentially immunizing law
2 enforcement officers from civil suit. Numerous civil rights
3 organizations, political, and judiciary leaders have spoken out
4 against qualified immunity and called for the doctrine's abolition.
5 United States Senators Kamala D. Harris, Edward J. Markey, and
6 Cory Booker introduced a Senate resolution calling for the
7 elimination of qualified immunity for law enforcement officers.
8 Supreme Court Justices Clarence Thomas, Ruth Bader Ginsburg,
9 and Sonia Sotomayor have recognized that the defense of qualified
10 immunity has no common law basis and have warned that qualified
11 immunity has become an absolute shield for law enforcement. On
12 June 1, 2020, more than 400 civil rights organizations, including the
13 American Civil Liberties Union, Amnesty International USA, and
14 the National Association for the Advancement of Colored People,
15 sent a letter to congressional leadership urging that they enact
16 meaningful police reform legislation that includes an end to
17 qualified immunity doctrine.

18 Abolishing qualified immunity would create a remedy for all
19 civil rights violations by eliminating a barrier that arbitrarily
20 prevents juries from hearing and deciding cases on their merits and
21 also disincentivizing people from abusing their authority as law
22 enforcement officers. The abolition of the doctrine of qualified
23 immunity for law enforcement officers in the event they violate a
24 federal, state, or local statute or constitutional right or in the event
25 that their conduct can be clearly established as unlawful would be a
26 tremendous step forward for the civil rights of United States
27 citizens.