



NEW YORK STATE SENATOR

Zellnor Myrie

Senator Zellnor Y. Myrie to Introduce Bill to End Police “Qualified Immunity”

ZELLNOR MYRIE June 26, 2020

(Brooklyn, NY) New York State Senator Zellnor Y. Myrie will introduce a bill that would end “qualified immunity,” a legal shield that protects police officers from civil suits for misconduct.

Countless people in this country have been brutalized, injured and killed by police officers. The harms of this official abuse have primarily impacted black and brown people who are most vulnerable to that harm and least able to obtain redress under current law due to a legal doctrine known as “qualified immunity.” Senator Myrie’s bill would allow people who suffer unjustly at the hands of law enforcement to recover monetary damages in civil lawsuits against police officers under New York State law.

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“Victims of police brutality have been unable to receive relief because at every turn the courts have used the doctrine of qualified immunity to shield officers from liability,” said Senator Myrie. “In the absence of federal action, it is important for New York to step up and show the public that when police officers violate an individual’s rights, we will hold them accountable for their misconduct.”

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The bill places no limit on the amount of damages that can be awarded to the victim, Senator Myrie said. “There’s no ceiling because it allows the court to look at the facts of the case and award monetary damages or punitive damages to the victim accordingly,” Myrie added, “which is meant, at bottom, to prevent the misconduct in the first place.”

“Both liberal and conservative legal experts have agreed that this doctrine is antiquated and unfair,” said Senator Myrie. “Shoot first, ask questions later is no longer acceptable which is why qualified immunity can no longer protect that approach to law enforcement. This isn’t about taking away life-or-death discretion from our officers, it is about examining that discretion when it has been improperly used to violate an individual’s constitutional rights,” Myrie added. “If law enforcement has the legal protection to take someone’s life, victims should have the legal protection to get justice when their rights have been violated.”

The bill is intended to operate independently of federal law and the federal doctrine of qualified immunity to the extent that a staff official or officials are acting under the color of the state constitution and the law of the state.

Earlier this month, the New York Senate passed a sweeping package of police reforms, which included:

- Senate Bill S.8496: This legislation, sponsored by Senator Jamaal Bailey, will repeal section 50-a of the Civil Rights Law that provides additional protections to the personnel records of police officers, firefighters, and correction officers. This protection has been interpreted to include disciplinary records of law enforcement officers. This repeal would subject these records to FOIL, just as all other records kept by public agencies, while protecting the sensitive personal contact and health information of these officers.
- Senate Bill S.2574B: This legislation, sponsored by Senator Jamaal Bailey, will create an Office of Special Investigation within the Department of Law, under the Attorney

General, which will investigate, and, if warranted, prosecute any incident of a person whose death was caused by a police officer or peace officer.

- Senate Bill S.3253B: This legislation, sponsored by Senator Kevin Parker, will clarify that a person not under arrest or in the custody has the right to record police activity and to maintain custody and control of that recording, and of any property or instruments used to record police activities.
- Senate Bill S.6670B: This legislation, the "Eric Garner Anti-Chokehold Act," sponsored by Senator Brian Benjamin, will prohibit the use of chokeholds by law enforcement and establish the crime of aggravated strangulation as a Class-C felony.
- Senate Bill S.3595B: This legislation, sponsored by Senator Kevin Parker, will establish the Law Enforcement Misconduct Investigative Office within the Department of Law to review, study, audit and make recommendations regarding operations, policies, programs and practices of local law enforcement agencies. The goal of this legislation is to enhance the effectiveness of law enforcement, increase public safety, protect civil liberties and civil rights, ensure compliance with constitutional protections and local, state and federal laws, and increase the public's confidence in law enforcement.
- Senate Bill S.1830C: This legislation, sponsored by Senator Brad Hoylman, the Police Statistics and Transparency (STAT) Act, will require courts to compile and publish racial and other demographic data of all low-level offenses, including misdemeanors and violations. The bill also requires police departments to submit annual reports on arrest-related deaths to be submitted to the Department of Criminal Justice Services and to the Governor and the Legislature.
- Senate Bill S.8492: This legislation, sponsored by Senator Kevin Parker, establishes a private right of action for a member of a protected class when another person summons a police or peace officer on them without reason to suspect a crime or an imminent threat to person or property existed.

- Senate Bill S.6601A: This legislation, sponsored by Senator Jamaal Bailey, will amend the Civil Rights Law by adding a new section that affirms New Yorkers' right to medical and mental health attention while in custody.
- Senate Bill S.8493: This legislation, the New York State Police Body-Worn Cameras Program, sponsored by Senator Kevin Parker, will direct the Division of State Police to provide all State police officers with body-worn cameras that are to be used any time an officer conducts a patrol and prescribes mandated situations when the camera is to be turned on and recording.
- Senate Bill S.2575B: This legislation, sponsored by Senator Jamaal Bailey, will require state and local law enforcement officers, as well as peace officers, to report, within six hours, when they discharge their weapon where a person could have been struck, whether they were on or off duty.

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