



OPPOSE HB 1727

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Summary. This bill is the “Bad Apples in Law Enforcement Accountability Act of 2021”

- Eliminates qualified immunity for police officers.
- Does far more than eliminate qualified immunity, according to the IML and ILACP.
- ALSO removes all statutory immunities from police officers and creates an absolute liability for villages, cities, and counties.
- Does not actually eliminate “bad apples” but is punitive toward officers and municipalities.

Specific objections regarding qualified immunity, statutory immunities, and liabilities

- Section (a) singles out law enforcement or police officers for liability for a violation of rights in the Illinois Constitution. This focused liability is an unreasonable targeting of law enforcement and does not describe what current police practices might be considered violations of the Illinois Constitution.
- Section (b) abolishes sovereign immunity, statutory immunities and statutory limitations on liability. This is perhaps more damaging to the function of law enforcement than the abolition of qualified immunity. Current statutory immunities protect law enforcement officers from lawsuit for things like failing to apprehend a criminal, failing to solve a crime, failing to respond quickly to a criminal event. The bill doesn't distinguish between actions taken with or without lawful justification.
- Section (c) eliminates qualified immunity for law enforcement. ILACP is still awaiting the formation and deliberations of the Qualified Immunity Task Force, created by the SAFE-T Act early in 2021. Why the rush to pass this bill before the task force does its work?
- Section (d) allows a plaintiff suing the police to recover attorney's fees and costs from the defendant, which would lead to more frivolous cases with nominal damages – similar to the dynamic in federal courts now -- with attorneys hoping to recover fees, even from “settled” cases.
- Section (e) increases the statute of limitations from one year to five years for a civil action against the police. Statutes of limitations are established to ensure fair resolution of disputed cases before memories fade and while evidence and witnesses are still available.

Conclusion

- This bill unreasonably targets law enforcement for liabilities and lawsuits. The elimination of both qualified immunity and statutory liabilities would have a chilling effect on policing.
- The bill would encourage frivolous legal action against law enforcement officers and the municipalities where they serve. Municipalities would be at risk of deferring money from other vital services in order to respond to frivolous suits.
- Ultimately, the safety of Illinois communities will be compromised if officers find it legally reasonable to back off from engaging in enforcement activities.