

Committee: Judicial Proceedings

Testimony on: SB 346 Civil Actions - Violations of Constitutional Rights (No Kings Act)

Position: Favorable

Hearing Date: February 10, 2026

Chair Smith, Vice Chair Waldstreicher, and distinguished Members of this Committee, thank you for the opportunity to submit written testimony for your hearing today.

My name is Jane Bentrott, I am a Counsel at Protect Democracy United, a nonpartisan organization dedicated to protecting our freedom and confronting threats to our democracy. We encourage you to issue a favorable report on SB 346, the No Kings Act.

This legislation stands for a simple proposition. If any governmental officer violates your clearly established constitutional rights, you should have a remedy. That's feeling especially urgent in recent weeks.

That is already the law for Maryland's state and local officials. If they violate clearly established constitutional rights, they can be sued for money damages under federal Section 1983. But there is no similar law for federal officials. And the Supreme Court has all but eliminated *Bivens* actions, the judge-made remedy for federal officials' violations. Accordingly, Marylanders cannot sue federal officials—like ICE or FBI agents—for past harms that violated their constitutional rights.

The No Kings Act solves that problem by allowing Marylanders to sue any governmental officer—federal, state, or local—who violates their constitutional rights. For those rights to have meaning, there must be consequences for any government officer who violates them. That is why it is especially important that SB 346 is drafted to withstand federal judicial scrutiny. By treating all officers acting under color of law equally (while not singling out federal officials alone in the bill text), creating a procedural cause of action solely for the deprivation of U.S. constitutional rights, and maintaining defenses already enshrined in federal law, the bill is drafted to be legally resilient and withstand judicial challenges.

The very recent killings of Renee Good and Alex Pretti in Minnesota demonstrated in chilling detail why this accountability is so necessary. Whether their families should have a remedy for the loss of their loved ones

should turn on whether their constitutional rights were violated, not what badge the officers were carrying when they pulled the trigger.

But the No Kings Act can protect Marylanders' constitutional rights in many more contexts, as well. For example:

- if universities are subjected to pretextual funding cuts to punish behavior protected under the First Amendment;
- if businesses face weaponized regulatory scrutiny to influence corporate decision-making for corrupt or partisan objectives;
- if nonprofits are audited for clearly pretextual and retaliatory reasons; and
- if regular people are confronted with warrantless searches, vindictive prosecutions, or the use of excessive force,

they will be able to sue federal enforcement officers personally – no matter the badge of the officer who violated their rights.

Therefore, Protect Democracy United asks you to approve SB 346 so that no officer is above the law and the United States Constitution remains the supreme law of the land. Thank you.

For more information, contact:

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ABOUT US

Protect Democracy United is a nonpartisan, nonprofit group working to prevent American democracy from declining into a more authoritarian form of government.