

Committee: Judiciary

Testimony on: HB 332 Civil Actions - Violations of Constitutional Rights (No Kings Act)

- **Position: Favorable**

Hearing Date: February 18, 2026

Chair Bartlett, Vice Chair Davis, Delegate Charkoudian, and distinguished Members of this Committee, thank you for the opportunity to submit written testimony for your hearing today.

My name is Travis Bruner, and I am a policy strategist at Protect Democracy United, a nonpartisan organization dedicated to protecting the rule of law. We encourage you to issue a favorable report on HB 332, 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.

HB 332 solves that problem by allowing Marylanders to sue any governmental officer—federal, state, or local—who violates their constitutional rights. It is important that the Act regulate federal, state, and local officers equally because the intergovernmental immunity doctrine “prohibit[s] state laws that either regulat[e] the United States directly or discriminat[e] against the Federal Government or those with whom it deals.” *United States v. Washington*, 596 U.S. 832, 838 (2022) (cleaned up)). Thus, for example, a federal court recently invalidated a California anti-masking bill that applied to federal officers and local officers but not California state officers. See *United States v. California*, No. 2:25-CV-10999-CAS-AJR, 2026 WL 363346, at *13 (C.D. Cal. 2026). So by treating all officers acting under color of law equally, creating a procedural cause of action solely for the deprivation of U.S. constitutional rights, and maintaining defenses already enshrined in federal law, HB 332 should be legally resilient.

To the extent that the Committee is considering amendments to HB 332 to further strengthen it against judicial challenges, we would also suggest deleting "OR ALLOWS" on line 7 in Subsection (a)(1) to avoid any question as to whether the bill is introducing a new theory of vicarious constitutional liability beyond the current rule that "Government officials may not be held liable for the unconstitutional conduct of their subordinates under a theory of respondeat superior." *Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009).

The very recent killings of Renee Good and Alex Pretti in Minnesota demonstrated in chilling detail why accountability here is 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 this bill 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 retaliatory reasons; and
- if Marylanders are confronted with warrantless searches 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 HB 332 so that no officer is above the law. 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.