

119TH CONGRESS
1ST SESSION

S. 122

To amend the Revised Statutes to codify the defense of qualified immunity in the case of any action under section 1979, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2025

Mr. BANKS (for himself, Mr. BUDD, Mr. SCOTT of Florida, Mrs. BLACKBURN, Mr. SHEEHY, Mr. CRAPO, Mrs. HYDE-SMITH, Mr. MULLIN, and Mr. RISCH) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Revised Statutes to codify the defense of qualified immunity in the case of any action under section 1979, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Qualified Immunity
5 Act of 2025”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Qualified immunity is intended for all but
9 the plainly incompetent or those who knowingly vio-

1 late the law and is meant to give government offi-
 2 cials breathing room to make reasonable mistakes of
 3 fact and law.

4 (2) The Supreme Court of the United States
 5 has observed that qualified immunity balances 2 im-
 6 portant interests: The need to hold law enforcement
 7 officers accountable when they exercise power irre-
 8 sponsibly and the need to shield officers from har-
 9 assment, distraction, and liability when they perform
 10 their duties reasonably.

11 **SEC. 3. CODIFICATION OF QUALIFIED IMMUNITY.**

12 (a) IN GENERAL.—Section 1979 of the Revised Stat-
 13 utes (42 U.S.C. 1983) is amended—

14 (1) by striking “Every” and inserting “(a) IN
 15 GENERAL—Every”; and

16 (2) by adding at the end the following:

17 “(b) APPLICABILITY TO LAW ENFORCEMENT OFFI-
 18 CERS.—

19 “(1) DEFINITIONS.—In this subsection:

20 “(A) LAW ENFORCEMENT AGENCY.—The
 21 term ‘law enforcement agency’ means any Fed-
 22 eral, State, Tribal, or local public agency—

23 “(i) engaged in supervision, preven-
 24 tion, detection, investigation, or the incar-

ceration of any person for any violation of
law; and

“(ii) that has the statutory powers of
arrest or apprehension.

“(B) LAW ENFORCEMENT OFFICER.—The
term ‘law enforcement officer’—

“(i) means any Federal, State, Tribal,
or local official who—

“(I) is authorized by law to en-
gage in or supervise the prevention,
detection, investigation, or the incar-
ceration of any person for any viola-
tion of law; and

“(II) has the statutory powers of
arrest or apprehension; and

“(ii) includes police officers and other
agents of a law enforcement agency.

“(2) NO LIABILITY.—

“(A) LAW ENFORCEMENT OFFICERS.—A
law enforcement officer subject to an action
under this section in their individual capacity
shall not be found liable if such law enforce-
ment officer establishes that—

“(i) the right, privilege, or immunity
secured by the Constitution or Federal law

1 was not clearly established at the time of
2 their deprivation by the law enforcement
3 officer, or that at this time, the state of
4 the law was not sufficiently clear that any
5 reasonable law enforcement officer would
6 have understood that the conduct alleged
7 constituted a violation of the Constitution
8 or Federal law; or

9 “(ii) a court of competent jurisdiction
10 had issued a final decision on the merits
11 holding, without reversal, vacatur, or pre-
12 emption, that the specific conduct alleged
13 to be unlawful was consistent with the
14 Constitution and Federal laws.

15 “(B) LAW ENFORCEMENT AGENCIES AND
16 UNITS OF LOCAL GOVERNMENT.—A law en-
17 forcement agency or unit of local government
18 who employed a law enforcement officer subject
19 to an action under subsection (a), shall not be
20 liable for such action if the law enforcement of-
21 ficer—

22 “(i) is found not liable under para-
23 graph (1); and

24 “(ii) was acting within the scope of
25 their employment.”.

1 (b) EFFECTIVE DATE.—The amendments made
2 under subsection (a) shall take effect on the date that is
3 180 days after the date of enactment of this Act.

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