

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5600

By Delegates Garcia, Akers, Fluharty, Kirby, Steele,

Nestor, Smith, Phillips, and C. Pritt

[Introduced February 12, 2024; Referred to the

Committee on Political Subdivisions then the

Judiciary]

1 A BILL to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a
 2 new section, designated §55-7-32, relating to creating a private cause of action for the
 3 deprivation of a right granted by the state constitution or by state law.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. ACTIONS FOR INJURIES.

**§55-7-32. Private cause of action for deprivation of rights under the West Virginia
 Constitution and statutes.**

1 (a) Every person who, under color of any state statute, county or municipal ordinance,
 2 which causes any citizen of West Virginia or other person within the jurisdiction thereof to be
 3 subjected to the deprivation of any rights, privileges, or immunities secured by the West Virginia
 4 Constitution and statutes, shall be liable to the party injured in an action at law, suit in equity, or
 5 other proper proceeding for redress, including compensatory, nominal and punitive damages,
 6 except that in any action brought against a judicial officer for an act or omission taken in such
 7 officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was
 8 violated or declaratory relief was unavailable.

9 (b) In a private cause of action brought pursuant to this section, the court, in its discretion,
 10 may allow the prevailing party reasonable attorney fees and costs, including but not limited to
 11 expert fees.

NOTE: The purpose of this bill is to create a private cause of action for the deprivation of a right granted under the state constitution or statute.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.