

2021 Regular Session

HOUSE BILL NO. 609

BY REPRESENTATIVE JORDAN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CIVIL/IMMUNITY: Provides with respect to liability for peace officers engaged in certain actions

1 AN ACT

2 To enact R.S. 9:2800.77 and to amend and reenact R.S. 14:134(A), relative to liability of
3 peace officers; to provide relative to immunity from civil liability for peace officers;
4 to provide for exceptions to immunity; to provide for causes of action; to provide for
5 attorney fees and costs; to provide for malfeasance; and to provide for related
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 9:2800.77 is hereby enacted to read as follows:

9 §2800.77. Limitation of qualified immunity for unreasonable force

10 A. Notwithstanding R.S. 9:2793.1, 2798.1, and 2800.10, no element of
11 qualified immunity shall be available to peace officers, as defined by R.S. 40:2402,
12 as a defense to liability for claims brought under the laws or the Constitution of
13 Louisiana or the Constitution of the United States of America for wrongful death,
14 physical injury, or personal injury inflicted by peace officers through any use of
15 physical force in a manner determined by the court to be unreasonable.

16 B.(1) Any individual seeking relief for an action provided by Subsection A
17 of this Section bears the burden of proving a violation of a right under the laws or the
18 Constitution of Louisiana or the Constitution of the United States of America by a
19 preponderance of the evidence.

Proposed law (R.S. 9:2800.77) supersedes present law and provides that qualified immunity does not apply as a defense for claims of wrongful death, physical injury, or personal injury caused by law enforcement officers through the unreasonable use of physical force.

Proposed law (R.S. 9:2800.77) provides that individuals seeking relief bear the burden of proving a violation by preponderance of the evidence.

Present law (R.S. 14:134(A)) provides that malfeasance in office is committed when a public officer or employer does any of the following:

- (1) Intentionally refuses or fails to perform a required duty.
- (2) Intentionally performs the required duty in an unlawful manner.
- (3) Knowingly permits another public officer or employee under his authority to intentionally refuse or fail to perform any required duty or perform such duty in an unlawful manner.

Proposed law (R.S. 14:134(A)) retains present law and provides for malfeasance for a peace officer who knowingly or with reckless disregard either refuses or fails to perform any duty required of him or performs such duty in an unlawful manner.

(Adds R.S. 9:2800.77; Amends R.S. 14:134(A))