

116TH CONGRESS  
2D SESSION

# H. R. 9060

To amend section 1979 of the Revised Statutes of the United States to clarify that States are persons for purposes of liability under that section, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 31, 2020

Mr. KENNEDY introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend section 1979 of the Revised Statutes of the United States to clarify that States are persons for purposes of liability under that section, 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. FINDINGS.**

4 Congress finds the following:

5 (1) The United States Supreme Court has held  
6 that the Eleventh Amendment grants sovereign im-  
7 munity to States in Federal court absent a waiver  
8 by the State or congressional action.

1           (2) The United States Supreme Court has fur-  
2           ther held that a lawsuit brought under section 1979  
3           of the Revised Statutes of the United States (42  
4           U.S.C. 1983) against a government official for ac-  
5           tions taken in their official capacity is to be treated  
6           as a lawsuit against the entity of which the officer  
7           is an agent.

8           (3) Due to sovereign immunity, lawsuits for ac-  
9           tions brought under such section may be filed  
10          against a State government official in their personal  
11          capacity but not in their official capacity.

12          (4) This Act does not increase liability for gov-  
13          ernment officials in personal capacity cases in any  
14          way, but helps to ensure equitable and monetary re-  
15          lief for victims of civil rights violations.

16 **SEC. 2. LIABILITY OF STATES FOR ACTIONS UNDER COLOR**  
17 **OF LAW.**

18          Section 1979 of the Revised Statutes of the United  
19          States (42 U.S.C. 1983) is amended by adding at the end  
20          the following: “For purposes of this section, the term ‘per-  
21          son’ includes a State or Commonwealth, and a depart-  
22          ment, office, or officer acting in their official capacity,  
23          thereof.”

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