

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 103

By Senator Garcia

[Introduced January 14, 2026; referred
to the Committee on the Judiciary; and then to the
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,
2 designated §55-7-33, relating to actions for injuries; creating a private cause of action for
3 the deprivation of a right granted by the state constitution or by state law; creating
4 penalties; and providing for court costs and certain fees.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-33. Private cause of action for deprivation of rights under West Virginia law.

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

NOTE: The purpose of this bill is to create a private cause of action for the deprivation of rights granted by the state constitution or by state law.

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