

Model “Universal Constitutional Remedies Act” Statutory Text

Be it enacted by [the Legislature],

SECTION 1. SHORT TITLE.

This Act may be cited as the “Universal Constitutional Remedies Act”.

SEC. 2. CIVIL ACTION FOR THE DEPRIVATION OF RIGHTS.

Every person who, under color of any law, statute, ordinance, regulation, custom, or usage, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution of the United States, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. As used in this Act, “color of any law, statute, ordinance, regulation, custom, or usage” includes color of any statute, ordinance, regulation, custom, or usage, of the United States and of any State or Territory or the District of Columbia.

SEC. 3. IMMUNITY DEFENSES.

(a) **OFFICIAL IMMUNITY**—A defendant in an action under section 2 of this Act may assert a defense of absolute or qualified immunity to the same extent as a person sued under 42 U.S.C. 1983 under like circumstances.

(b) **SOVEREIGN IMMUNITY**—Nothing in this Act shall be construed to waive or abrogate any defense of sovereign immunity otherwise available to a party.

SEC. 4. ATTORNEY’S FEES AND COSTS

(a) **ATTORNEY’S FEES**—In any action or proceeding under this Act, the court, in its discretion, may allow a prevailing plaintiff a reasonable attorney’s fee as part of the costs, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity such

officer shall not be held liable for any costs, including attorney's fees, unless such action was clearly in excess of such officer's jurisdiction.

(b) EXPERT FEES—In awarding an attorney's fee under subsection (a) in any action or proceeding under this Act, the court, in its discretion, may include expert fees as part of the attorney's fee.

SEC. 5. TIME LIMITATION ON THE COMMENCEMENT OF ACTION.

A civil action under section 2 of this Act may not be commenced later than 2 years after the cause of action accrues.

SEC. 6. SEVERABILITY.

If any provision of this Act or the application of the provision to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to any other person or circumstance shall not be affected by that invalidation.

SEC 7. EFFECTIVE DATE.

(a) GENERAL RULE—This Act shall take effect on the date of the enactment of this Act.

(b) APPLICABILITY TO PROCEEDINGS—This Act shall apply to all civil actions and proceedings pending on, or filed on or after, the date of the enactment of this Act.