



Vermont legislators preparing bill to end qualified immunity

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Vermont policymakers will introduce legislation that would eliminate the defense of qualified immunity for police accused of civil rights violations. Qualified immunity has been widely criticized, in Vermont and nationwide, for barring victims of police abuse from seeking justice or holding police accountable even for extreme misconduct. The ACLU-Vermont held a virtual press conference supporting the legislation on Wednesday.

A growing number of states, including Colorado and New Mexico, limited or eliminated qualified immunity in the past year. Vermont's bill is expected to be introduced in January. The bill's co-sponsors are Senator Sears, Senator Balint, Senator Baruth, and Senator Ram Hinsdale.

Vermont State Senator, Richard Sears (D-Bennington) said: "Good law enforcement depends on community trust, and this reform is an important step towards building that trust in our communities. This legislation will ensure that victims of clear police misconduct aren't thrown out of court before their case can be heard."

Qualified immunity requires victims of police abuse seeking justice in a civil court to first show that police violated "clearly established law." That is, victims must be able to point to another, prior case with nearly identical circumstances, or else their case cannot go forward – even in cases where civil rights violations result in serious injury or death.

Sears said the Vermont bill is based on the Colorado law.

ACLU of Vermont Advocacy Director, Falko Schilling: "Vermonters expect police who abuse their power to be held accountable, and want victims to have access to justice when their civil rights are violated. Qualified immunity undermines those values and prevents those outcomes, and that's why so many people are calling for change."

Experts from across the political spectrum agree that qualified immunity is an extreme, court-created legal doctrine that effectively closes the courthouse doors before the merits of a victim's case can be heard. Ending qualified immunity has become a priority for conservative groups like [Americans for Prosperity](#)(link is external), and the [Institute for Justice](#)(link is external), as well as police reform advocates such as the [Cato Institute](#)(link is external), the NAACP, and the ACLU.

Jay Schweikert, Research Fellow, Cato Institute: "Qualified immunity is one of the most obviously unjustified legal doctrines in our nation's history. It has failed utterly as a matter of law, doctrine, and public policy."

A diverse coalition of Vermont organizations has worked to advance transformative police reforms in recent years, with ending qualified immunity at the top of the group's [ten-part plan](#)(link is external) to reimagine policing in Vermont.

Mia Schultz, President of NAACP Rutland Area Branch & Steffen Gillom, President of NAACP Windham County Branch: “Qualified immunity is incompatible with civil rights, and ending qualified immunity is a racial justice imperative. As with so much of our legal system, police misconduct impacts Black people in Vermont disproportionately, and qualified immunity is yet another systemic barrier standing between people of color and their ability to secure their rights. The Vermont branches of the NAACP are ready to do our part to ensure we see an end to qualified immunity in Vermont.”

The movement to end qualified immunity has broad public support in Vermont and nationwide. In [new polling](#)(link is external), three of every four Vermonters (74 percent) say they favor ending qualified immunity for police. That includes 85 percent of Democrats – more than half of whom say they “strongly” support ending qualified immunity – and 51 percent of Vermont Republicans. The poll's other findings include:

- 95 percent of Vermonters agree that when Vermont police violate someone's rights, they need to be held accountable.
- Three in four Vermonters (76 percent) think Vermont needs to do more to make sure police use force only when absolutely necessary.
- Support for ending qualified immunity extends to every part of the state, from 62 percent among Northeast Kingdom residents to 78 percent in central Vermont.

Many prominent members of the law enforcement community have also called for an end to qualified immunity and [refuted arguments](#)(link is external) raised in its defense. In a [letter to Congress](#)(link is external) earlier this year, members of the Law Enforcement Action Partnership (LEAP) wrote, “[W]e believe it is crucial to end a legal doctrine that has contributed to the erosion of public trust in the justice system and made all of us less safe: qualified immunity.” Lieutenant Diane Goldstein, LEAP: “Qualified immunity doesn't serve anybody – it just keeps bad cops entrenched, leading to widespread community distrust which makes it more difficult for the police to do our jobs. If we are going to build a better, more equitable system for all, we need to rebuild relationships with the communities that we serve in order to effectively serve them. That all begins with qualified immunity reform.”

In addition, [the list](#)(link is external) of business leaders who have come out in support of the national [Campaign to End Qualified Immunity](#)(link is external) features prominent members of Vermont's business community, including Ben Cohen, Jerry Greenfield, Donna Carpenter, Joey Bergstein, Mary Powell, Will Raap, Jen Kimmich, and others.

Ben & Jerry's Homemade founder Ben Cohen, with the Campaign to End Qualified Immunity, said: “As business owners, we know that accountability is everything. If you don't have accountability, you ain't got nothin'. If you want to recruit excellent law enforcement officers, support good cops, and build trust in public safety, then you have to hold rogue cops accountable.”

"If we want to have good cops, we need to prosecute bad cops," Cohen said.

The proposed legislation, currently in the drafting stage, would allow a person whose state constitutional or civil rights are violated by a law enforcement officer to bring a civil action for the violation, and eliminate qualified immunity as a defense.

Meanwhile, the Vermont League of Cities and Towns is one of those organizations opposing the legislation. They have said that the municipalities will simply indemnify their local police departments, thus creating local and piecemeal qualified immunity.

The major opposition to qualified immunity generally has been from the police officer unions.

Recent statewide poll results showing Vermonters' views on policing and qualified immunity are available [here](#)(link is external).

More about qualified immunity is available [here](#)(link is external).