



Privileges or Immunities Enforcement Act

A BILL

To enforce the Privileges or Immunities Clause of the Fourteenth Amendment and protect fundamental rights of citizenship.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Privileges or Immunities Enforcement Act”.

SEC. 2. FINDINGS.

(a) FINDINGS.—Congress finds the following:

- (1) **Constitutional Text.** The Fourteenth Amendment to the Constitution provides that “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.”
- (2) **Original Understanding.** The Privileges or Immunities Clause was intended to protect fundamental rights of national citizenship from State infringement, including rights essential to liberty and free society.
- (3) **Historical Underdevelopment.** Following the Supreme Court's decision in the Slaughter-House Cases, 83 U.S. 36 (1873), the Privileges or Immunities Clause has been given an unduly narrow interpretation, leaving fundamental rights inadequately protected.
- (4) **Renewed Recognition.** Recent Supreme Court decisions, including *McDonald v. City of Chicago*, 561 U.S. 742 (2010), and *Timbs v. Indiana*, 139 S. Ct. 682 (2019), have recognized the continuing vitality of the Privileges or Immunities Clause.
- (5) **Fundamental Rights at Risk.** State and local governments have increasingly enacted laws and regulations that infringe upon fundamental rights of citizenship, including:
 - (A) The right to interstate travel and migration.
 - (B) The right to access Federal and State courts.
 - (C) The right to make and enforce contracts.
 - (D) The right to acquire, possess, and dispose of property.

- (F) The right to pursue lawful occupations; and
- (G) Other rights essential to citizenship in a free society.

(b) INADEQUATE REMEDIES.—Current remedies under 42 U.S.C. § 1983 have been limited by judicial interpretations concerning qualified immunity, municipal liability, and other doctrines that impede enforcement of constitutional rights.

(c) CONGRESSIONAL AUTHORITY.—Section 5 of the Fourteenth Amendment grants Congress power to enforce the provisions of the Amendment by appropriate legislation.

(d) PATTERN OF STATE VIOLATIONS.—Congress finds a widespread pattern of State and local laws and practices that burden or deny privileges or immunities of national citizenship, including protectionist occupational licensing regimes, durational residency requirements, excessive fines and forfeitures, barriers to court access, and arbitrary restrictions on property use and contract rights, as documented in judicial decisions and legislative findings.

(e) NEED FOR LEGISLATIVE ACTION.—Federal legislation is necessary to provide effective remedies for violations of the Privileges or Immunities Clause and to clarify the scope of protected rights.

SEC. 3. DEFINITIONS.

In this Act:

(a) CITIZEN OF THE UNITED STATES.—The term “citizen of the United States” includes all persons born or naturalized in the United States and subject to the jurisdiction thereof.

(b) STATE.—The term “State” includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(c) PERSON ACTING UNDER COLOR OF STATE LAW.—The term “person acting under color of state law” means any person who acts or purports to act pursuant to State law, regulation, custom, usage, or governmental authority, including State and local officials, law enforcement officers, and any person exercising power possessed by virtue of State law.

(d) PRIVILEGES OR IMMUNITIES.—The term “privileges or immunities” includes all rights secured by the Privileges or Immunities Clause of the Fourteenth Amendment, including but not limited to those enumerated in Section 3 of this Act.

SEC. 4. PROTECTED PRIVILEGES OR IMMUNITIES.

The following rights have been recognized, historically understood, or judicially acknowledged as privileges or immunities of citizens of the United States protected by the Fourteenth Amendment and this Act:

(a) **RIGHT TO INTERSTATE TRAVEL.**—The right to travel from one State to another, to migrate to and settle in any State, and to be treated as a welcome citizen upon doing so, free from durational residency requirements or other restrictions that penalize the exercise of this right.

(b) **RIGHT TO ACCESS COURTS.**—The right to access the courts of the United States and of the several States for the redress of grievances and the vindication of rights, free from unreasonable filing fees, procedural obstacles, or other barriers that effectively deny access to justice.

(c) **RIGHT TO MAKE AND ENFORCE CONTRACTS.**—The right to make and enforce contracts, including employment contracts, commercial agreements, and other voluntary agreements, subject only to generally applicable and content-neutral regulations that do not substantially burden this right.

(d) **RIGHT TO ACQUIRE AND POSSESS PROPERTY.**—The right to acquire, possess, use, enjoy, dispose of, devise, and bequeath real property and personal property, subject only to generally applicable regulations that do not discriminate against particular persons or substantially burden the free use of property.

(e) **RIGHT TO PURSUE A LAWFUL OCCUPATION.**—The right to pursue any lawful occupation or profession, to earn an honest living by lawful means, and to engage in entrepreneurial activity, free from arbitrary or protectionist regulations that serve no legitimate public interest.

(f) **OTHER FUNDAMENTAL RIGHTS.**—Other rights recognized as fundamental to national citizenship, liberty, or free society, including those rights recognized by the Supreme Court as deeply rooted in the Nation's history and tradition.

SEC. 5. CAUSE OF ACTION.

(a) **CIVIL ACTION AUTHORIZED.**—Any citizen of the United States may bring a civil action for legal or equitable relief against any person acting under color of State law for the deprivation of any right, privilege, or immunity secured by the Privileges or Immunities Clause of the Fourteenth Amendment or by this Act.

(b) **JURISDICTION.**—The district courts of the United States shall have original jurisdiction over actions brought under this Act without regard to the amount in controversy.

(c) **BURDEN OF PROOF.**

(1) The plaintiff must demonstrate by a preponderance of the evidence that:

(A) The plaintiff possesses a right protected under Section 3 of this Act.

(B) The defendant, acting under color of State law, has deprived the plaintiff of such right; and

(C) Such deprivation was not justified under subsection (d).

- (2) Once the plaintiff meets this burden, the defendant may prevail only by demonstrating that the challenged action satisfies the applicable standard of review under subsection (d).

(d) VIOLATION.—A State action violates this Act if it materially interferes with a protected privilege or immunity unless the State demonstrates that the interference is reasonably necessary to achieve a legitimate and substantial public purpose and is not arbitrary, protectionist, or discriminatory in purpose or effect.

(e) REMEDIES.

- (1) Declaratory Relief. The court may declare rights, duties, or legal relations between the parties.
- (2) Injunctive Relief. The court may issue preliminary or permanent injunctions to prevent ongoing or threatened violations of this Act.
- (3) Monetary Damages. The court may award compensatory damages for actual injuries suffered as a result of violations of this Act. Punitive damages may be awarded upon a showing of intentional or reckless violations.
- (4) Attorney's Fees. The court shall award reasonable attorney's fees and costs to a prevailing plaintiff.

(f) NO QUALIFIED IMMUNITY DEFENSE.—In actions brought under this Act, the defense of qualified immunity shall not be available to defendants. Defendants may assert good-faith compliance with court orders or clearly established statutory requirements as an affirmative defense.

SEC. 6. STATE AND MUNICIPAL LIABILITY.

(a) STATE LIABILITY.—A State, and any agency or instrumentality thereof, may be held liable in actions brought under this Act for violations committed by its officers, employees, or agents acting within the scope of their official duties.

(b) MUNICIPAL LIABILITY.—A municipality or other local governmental entity may be held liable in actions brought under this Act when:

- (1) The violation was committed pursuant to an official policy, custom, or practice of the municipality; or
- (2) The violation was committed by a municipal policymaker or final decisionmaker acting within the scope of authority.

(c) ABROGATION OF SOVEREIGN IMMUNITY.—The sovereign immunity of States under the Eleventh Amendment is hereby abrogated with respect to actions brought under this Act, pursuant to Congress's authority under Section 5 of the Fourteenth Amendment.

SEC. 7. RELATIONSHIP TO OTHER REMEDIES.

(a) CUMULATIVE REMEDIES.—Remedies provided under this Act are cumulative and supplementary to any other remedies available under Federal or State law, including actions under 42 U.S.C. § 1983.

(b) NO PRECLUSION.—Nothing in this Act shall be construed to limit, preclude, or affect any other Federal or State remedy for violations of constitutional or statutory rights.

(c) ELECTION OF REMEDIES NOT REQUIRED.—A plaintiff need not elect between remedies under this Act and other available remedies and may pursue multiple remedies simultaneously.

SEC. 8. RULE OF CONSTRUCTION.

(a) LIBERAL CONSTRUCTION.—This Act shall be liberally construed to effectuate its purposes of protecting fundamental privileges and immunities of citizens.

(b) NO EXPANSION OF STATE POWER.—Nothing in this Act shall be construed to grant States any power not otherwise possessed to restrict the privileges or immunities of citizens.

(c) SEVERABILITY.— If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected.

SEC. 9. EFFECTIVE DATE.

This Act shall take effect 180 days after the date of enactment and shall apply to causes of action arising on or after such date.