

End Qualified Immunity in NY

What is Qualified Immunity?

Qualified immunity (QI) is a defense used by public officials in civil lawsuits for constitutional rights violations. In practice, the Supreme Court-invented doctrine is:

- **An undue burden on victims and survivors:** It creates insurmountable barriers to justice for victims of state violence and acts as a near-total shield from civil liability. It requires victims and survivors of state violence to produce – increasingly narrowly defined – “clearly established law,” or a prior case with nearly identical circumstances.
- **A pass to violate our rights:** A public official whose conduct may be deemed criminally unlawful or a constitutional violation by the courts can be granted QI simply because plaintiffs are not able to produce an identical case in the same jurisdiction.

Why Do We Need to End Qualified Immunity in NY?

- The Supreme Court’s decision to undo Roe v. Wade has put all of our civil rights on the chopping block, from reproductive, immigrant, and disability rights to same-sex and interracial marriage. As our constitutional rights continue to be eroded at the federal level, New Yorkers must have a mechanism to protect their civil rights here at home – regardless of who violates them.
- No public official should be above the law or protected when they violate our rights. We should not have two systems of justice in NYS.
- QI leaves victims and their families without justice. Ending QI will allow victims and their families to have their day in civil court and their cases heard and decided on the merits.
- QI leaves the culture of police brutality unchecked and therefore erodes trust between communities and law enforcement. That makes everyone less safe.
- By eliminating QI, New York will take a monumental step toward holding public officials accountable in order to prevent systemic violence that disproportionately affects Black, brown, and poor New Yorkers.

The Bill to End Qualified Immunity in NY: s182 (Jackson) / a710 (Hunter)

- **Creates a state cause of action** to bring civil suits against government officials for civil rights violations.
- **Prohibits the use of qualified immunity** as a defense for violations of the state or federal constitution and explicitly addresses immunities granted to corrections officers in NYS corrections law.
- **Indemnifies officers**, meaning the public entity pays. This would contribute to positive systemic change and ensure that prevailing plaintiffs receive their awards.
- Provides attorneys fees in a way that **incentivizes attorneys** to take on civil rights cases and **catalyzes systemic change**.

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**END
Qi
NY**

Who supports

The Bill to End Qualified Immunity

(As of February 2023)

Nearly 2/3 of New York's registered voters support ending qualified immunity

source: YouGov Poll, Feb 2022

65+

150+

Law Professors from law schools across NY

23

NYS Senate Cosponsors

46

NYS Assembly Cosponsors

National, state-wide, and local law enforcement, legal, gun violence, public safety, political, and civil rights organizations including:

The New York State and New York City Bar Associations, The National Police Accountability Project, Citizen Action, the Center for Community Alternatives, the NY Immigration Coalition, Innocence Project, the Legal Aid Society, the Players Coalition, and VOCAL-NY

Qualified immunity presents an immediate barrier to accountability, which exacerbates distrust between law enforcement and the communities they serve. This distrust creates an additional barrier to communities reporting and officers solving other violent crimes. **We urge the legislature to do away with qualified immunity to help ensure accountability, rebuild trust and keep our communities safe.**

— Everytown for Gun Safety & NY Chapter of Moms Demand Action

Trust between police and the communities we serve is not just a preference; it is a requirement for public safety... **People have so little trust in us that a majority of violent crimes go unreported, even by victims themselves.** Our agencies are failing to protect and serve; many people would rather take matters into their own hands or suffer in silence.

One major reason that people do not trust law enforcement is that they believe police are not held accountable to the law. A key reason for this belief is qualified immunity.

— Law Enforcement Action Partnership

Take Action

to End Qualified Immunity

1. Text "endqiny" to 50409 to send a letter in under a minute to your NYS Senator, Assembly Member and Governor Hochul urging them to co-sponsor S182/A710
2. Visit the **TAKE ACTION** page on **EndQINY.org** to see our most up to date calls for action.