



Lawyers' Committee For Rhode Island

Testimony in SUPPORT of House Bill 7202
The Rhode Island Federal Constitution Defense Act
(Rep. Potter)

Joe Gaeta, Chair, Legislation and Policy Committee
Lawyers Committee for Rhode Island

Hearing of the Rhode Island House Judiciary Committee
March 4, 2026

House Bill 7202, the Rhode Island Federal Constitution Defense Act, creates a state law cause of action against federal officials who violate a person's rights under the United States Constitution. That means a private individual can file a lawsuit in the Rhode Island Superior Court for damages against a federal official who has violated his or her federal constitutional rights. Successful lawsuits under this law will impose a cost and send a signal: if a federal officer violates your constitutional rights in Rhode Island, the federal government will be held accountable.

Let me explain that with an example. Masked ICE agents enter your home without your permission and without a warrant to arrest your spouse. ICE has been sloppy and, facing pressure to move quickly, they have mistaken your spouse for an undocumented individual. They search around, break your furniture, and leave you and your children terrorized. The Fourth Amendment protects every person's right to be secure in their homes against unreasonable searches and seizures. Most judges and juries would conclude that your family's rights have been violated. Where there is a wrong, there should be a remedy. When you have been injured, you should get damages.

Under the law today, that is far easier said than done. Because federal agents entered your home in violation of the Federal Constitution, you might turn to the federal courts. But the federal courts have made it nearly impossible to get damages against federal officials in circumstances like these.

House Bill 7202 creates a new path for Rhode Islanders to get relief under state law. This avoids the obstacles that make many federal lawsuits ineffective. Importantly, this bill does not create immunities that block judges and juries from deciding whether a federal officer violated the Constitution.



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Legal experts agree that states have the power to hold federal officers accountable for their unconstitutional actions. States are not pre-empted by federal law or the Constitution for these claims. We are submitting legal scholarship documenting the historical and legal bases for this bill to the committee and committee legal counsel.

In short, federal officials are never authorized to violate the United States Constitution, so there is no federal interest to protect them from being held responsible when they do. A Federal law, the Westfall Act, specifically permits lawsuits against federal officials who violate the United States Constitution. A few states already have laws on the books that allow these kinds of suits. Several more are, like Rhode Island, considering them now. This is a legal power states have had in their arsenal all along. Now more than ever before, we need to use it.

This law applies to anyone acting under color of federal law. Let's look at what has happened to one federal agency, ICE, to see why it is needed:

- According to the Brennan Center for Justice, last year Congress gave ICE \$75 billion over four years in addition to the \$10 billion Congress already appropriated. ICE now has \$28.7 billion at its disposal this year, nearly triple ICE's entire budget for FY24.¹
- That whopping budget increase allows ICE to hire as many as 10,000 new officers. According to the Boston Globe, about half of new recruits cannot pass an open-book, open-notes exam that covers immigration law and the Fourth Amendment, and more than a third fail a basic physical fitness test.²
- Agents are being deployed into situations for which they have not been properly trained. Congressional testimony last week by ICE whistleblower Ryan Schwank, a former assistant general counsel for the agency, was both shocking and unsurprising. According to Mr. Schwank, ICE has cut:

"240 hours of vital classes from a 584-hour program, classes that teach the Constitution, our legal system, firearms training, the use of force, lawful arrests, proper detention, and the limits of officers' authority. For example, they ceased all of the legal instructions regarding use of force. This means that cadets are not taught what it means to be objectively reasonable, the very standard which the law requires them to meet when deciding whether or not to use deadly force."³

¹Margy O'Herron, "[Big Budget Act Creates a "Deportation-Industrial Complex."](#) Brennan Center for Justice, August 13, 2025.

²Elizabeth Svoboda, "[When ICE sends its people, they're not sending their best,](#)" Boston Globe, Dec. 28, 2025

³ [Statement of Ryan Schwank](#), Congressional Spotlight Forum, Feb. 23, 2026.



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- Multiple sources, including Mr. Schwank, have reported that new ICE policy authorizes agents to physically enter homes without consent or a proper warrant.⁴ **There is no other way to say it: it is now the official policy of ICE to violate the Constitution.**

Poorly trained, unfit agents lured by signing bonuses, are being rushed onto our streets and directed to ignore the Constitution. That is the world that we are living in right now. House Bill 7202 gives Rhode Islanders a response.

The Rhode Island Federal Constitution Defense Act puts Rhode Island among the leading states using state power to respond to a federal government that fails to respect our rights. The Lawyers Committee thanks Rep. Potter for his leadership in introducing this bill, and the Committee for considering it.

⁴ [Anonymous Whistleblower Disclosure](#), Whistleblower Aid, Jan. 7, 2026.