

# ***BIVENS ACT***

## SEC. 1. Findings

- (a) The U.S. Supreme Court has a long-standing tradition of enforcing the U.S. Constitution and especially the Bill of Rights against violating government actions. *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971); *Bell v. Hood*, 327 U.S. 678 (1946)
- (b) However, the Court has indicated that *Bivens* actions to enforce the Constitution in the absence of congressional action will be narrowly construed. This is not consistent with the purpose of the Bill of Rights or any part of the U.S. Constitution. *Bivens* actions should be liberally created to give full effect to the Bill of Rights and other constitutional protections. However, it is within the power of the Court to not do so and narrow the scope of the *Bivens* action against 233 years of constitutionally limited government. Even *Marbury v. Madison* should show that the Constitution will be applied to government to limit it and remove the tendency toward tyranny and overreach. *Marbury v. Madison*, 5 U.S. 137 (1803)
- (c) *Bivens* actions are already narrow and the Supreme Court will not expand these actions and have not added any new categories for decades. This is true even when *a death* is involved. *Hernández v. Mesa*, 137 S. Ct. 2003, 2005 (2017).
- (d) Thus, Congress must act to protect constitutional and legal rights and provide an exception to sovereign immunity and the doctrine against extraterritoriality so that the Constitution and laws have full impact, as the Founders intended. Government has no business operating outside the restrictions found in the Constitution and this law is meant to give life to that policy. Am. IX, X.

SEC. 2. Title. This Act shall be known as the “*Bivens Act*.”

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## SEC. 3. Scope.

- (a) All statutes and regulations and actions of federal government officers and agencies shall be covered by this Act with no exceptions. A plaintiff may sue either individual officers of government who violate constitutional provisions or violating agencies of all branches of government, legislative, executive, and judicial, or both.
- (b) The U.S. Constitution applies to state and federal governments, as described in the Constitution. Violations of the Constitution shall not be allowed simply because the actions took place outside the territory of the United States. The U.S. Constitution binds government officers wherever they are and they do not have a power to act lawlessly just because of their location.
- (c) All entitlements giving any benefit shall be governed and controlled by the U.S. Constitution without regard to location of the applicant. No government benefit granted to U.S. citizens, U.S. nationals, or permanent residents, or others lawfully present in the United States, shall be denied based on the location of the applicant, even when the location is in a foreign country.
- (d) The doctrine of extraterritoriality is hereby abolished so that the U.S. Constitution and laws of the United States will govern all actions of government officers and agencies no matter where they are or which branch of government they are.
- (e) All civil rights laws shall apply to all federal government officers and agencies and no discrimination based on any category recognized under federal law (such as the ADA or the Rehabilitation Act) shall be allowed. Discrimination is a due process violation, may represent a property takings, and is a violation of equal protection, and thus actionable under this *Bivens* Act as constitutional violations.

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- (f) Sovereign immunity is hereby abolished such that all claims based on the U.S. Constitution and U.S. laws and treaties and regulations are enforceable both in the United States and anywhere else.
  
- (g) All poverty-prevention and entitlement programs of the United States and any state shall not be denied based on the fact that an applicant is outside the United States. This includes all Social Security and Medicare and Medicaid and SNAP (Food Stamps) and HUD programs, as well as all other entitlement programs. It is especially important for those who paid into entitlement programs with their taxes not to be denied simply because they choose to live outside the United States. There is a strong presumption that denying a person based on location violates the constitutional right to live where a person chooses or travel without the interference of the government or punishment for that choice. This world-wide statement of scope shall not be limited except for the express exclusion of terrorist states, which shall be determined by the State Department.

### SEC. 4. Actions Authorized.

- (a) An action is hereby authorized with **sovereign immunity expressly waived** and **all other immunity expressly waived** to enforce the U.S. Constitution, U.S. laws, Treaties ratified by the U.S. Senate, and regulations by any agency of the federal government, any branch of government. Any individual right that can be inferred from these laws shall be grounds for such an action. Judges shall not be immune and their actions in federal court cases may be analyzed if these laws were violated. Individual judges' immunity from suit is not affected and suits for a judge's actions shall be against the United States.

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- (b) Any officer from any branch of the federal government, including the judicial branch, who receives a salary from the United States or has authority to act from the United States shall be a covered defendant.
- (c) Any person may pursue such an action with the minimal standing requirement of tester standing to enforce the laws. In this sense, enforcement is a *qui tam* style of action. If any law or the U.S. Constitution has been violated by any government officer or any agency, standing is allowed without regard to any feature or circumstance of the plaintiff. All are equal and have a sufficient interest in the lawfulness of government to have standing for a *Bivens* Act case. This action is available whether the action appears to be in tort or contract or any other type of case. No such action shall be dismissed using any theory that defeats the purpose of this expansive law to compensate for the lack of a *Bivens* action in most cases. This law is remedial in nature and must be liberally construed.
- (d) Both money damages (compensatory and punitive) and all equitable relief shall be available to correct the violations. Declaratory relief is also allowed.
- (e) No individual shall pay the damages from this action, but instead the money shall be paid from the Judgment Fund.

### SEC. 5. Statute of Limitations.

- (a) There is no statute of limitations or any statute of repose. These actions shall commence with the creation and ratification of the U.S. Constitution in 1788.

### SEC. 6. Venue & Jurisdiction.

- (a) *Bivens* Act actions may be filed at the U.S. Court of Federal Claims.

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- (b) Any exclusion of torts at the U.S. Court of Federal Claims shall not apply to *Bivens* Act cases.
- (c) Any exclusion under 28 U.S.C. § 1500 shall not apply to *Bivens* Act cases.
- (d) Any exclusion of reviewing other courts' proceedings shall not apply to *Bivens* Act cases because individual judicial immunity remains and payment of damages comes from the Judgment Fund against the United States.
- (e) Any exclusions for equitable relief shall not apply.
- (f) Standing shall be liberally provided and tester standing shall always be assumed to prevail. If it appears that the U.S. Constitution and laws or regulations of the United States have been violated, standing shall be recognized.
- (g) *Bivens* Act cases may only be filed if they include damages above \$20,000 or equitable relief.
- (h) *Bivens* Act claims may also be filed in any U.S. District Court and venue shall not be questioned or challenged or the case transferred without the consent of the plaintiff. If an MDL is created to deal with such cases, the plaintiff shall always be allowed the choice to opt out and opting out is presumed until otherwise stated in writing.