

# State of Wisconsin



2021 Assembly Bill 885

Date of enactment:  
Date of publication\*:

## 2021 WISCONSIN ACT

AN ACT to create 893.828 of the statutes; relating to: eliminating immunity for public campus administrators from liability for violations of individual expressive rights under the declaration of rights in the Wisconsin Constitution.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 893.828 of the statutes is created to read:  
**893.828 Violations of state constitutional expressive rights.** (1) In this section, "campus administrator" means a University of Wisconsin System or technical college district board employee who is an academic staff member in an academic administrator, administrative director, or administrative officer position or a position with similar duties of authority to determine policy or administer violations.

(2) A campus administrator who, under color of law, subjects or causes to be subjected, including failing to intervene, any other person to the deprivation of any individual expressive rights secured by the declaration of rights under article I of the Wisconsin Constitution on a University of Wisconsin System or technical college system campus, specifically rights under article I, section 1, 3, or 4, is liable to the injured party for legal or equitable relief or any other appropriate relief.

(3) For claims brought under this section, none of the following may be applied or used as a defense to liability:

(a) Statutory immunity granted under s. 893.80 (4).

(b) Any statutory limitations on damages, including those under ss. 893.80 (3) and 893.82.

(c) Any claim that the rights, privileges, or immunities secured by article I of the Wisconsin Constitution or the U.S. Constitution were not clearly established at the time of their deprivation by the defendant.

(d) Any claim that the defendant acted in good faith or believed his or her conduct to be lawful at the time when the conduct was committed, or that the defendant did not intend to cause a deprivation of the rights, privileges, or immunities secured by article I of the Wisconsin Constitution or the U.S. Constitution.

(4) In any action brought under this section, notwithstanding s. 814.04 (1), a court shall award reasonable attorney fees and costs to a prevailing plaintiff. In actions for injunctive relief, a court shall deem a plaintiff to have prevailed if the plaintiff's suit was a substantial factor or significant catalyst in obtaining the results sought by the litigation. When a judgment is entered in favor of a defendant, the court may, notwithstanding s. 814.04 (1), award reasonable costs and attorney fees to the defendant for defending any claims the court finds frivolous.

(5) A civil action brought under this section must be commenced within 2 years after the cause of action accrues.

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\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."