

HOUSE BILL 2 –THE EMPLOYMENT LAW UNIFORMITY ACT

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I. INDIVIDUAL SUPERVISOR LIABILITY NEEDS TO GO

A. Bad legal policy for Ohio

1. Example—Human Resources professionals are exposed to being sued personally over *all* of their Company’s hiring, termination and other adverse employment decisions in which they participate—but, these are the very people who are trained to ensure that discrimination does not occur!
2. Individuals who make employment decisions *for a Company* are acting for the Company and not in their personal capacity

B. Bad business policy for Ohio

1. Surprises many in-state and out-of-state employers—*e.g.*, “What, I can be sued individually? Someone can try to take away my house?”
2. Makes managers and supervisors gun shy about participating in and making difficult but entirely legitimate and needed employment decisions.
3. Unsubstantiated employment discrimination lawsuits can be used as PR weapons and personal vendettas against former bosses to coerce unjustified settlements

C. Individual managers and supervisors can still be sued for committing criminal acts outside the scope of their employment, such as sexual assault, assault and battery, stalking, and other criminal acts

1. R. C. 2370.60—“Anyone injured in person or property by a criminal act may recover full damages in a civil action,” which can include the recovery of attorneys’ fees and punitive damages where authorized by law
2. Ohio Attorney General’s victim of crimes fund also allows for recovery of certain economic losses

II. THE 6-YEAR STATUTE OF LIMITATIONS NEEDS TO GO

- A. Good grief--let's finally end the *six-year* madness!
- B. Labor and employment law policy has long promoted a quick resolution to workplace disputes
- C. A one-year limitations period is reasonable and a huge improvement. But, established employment and labor laws and policies will support even a shorter 180-day limitations period

III. OHIO DOES NOT NEED 4 SEPARATE AGE DISCRIMINATION ACTIONS

- A. Because tort actions under R. C. 4112.99 were judicially created by the *Elek* case in 1991, this resulted in an unintended overlap within R. C. Chapter 4112 of multiple and duplicative avenues for legal relief for age discrimination claims.
- B. 4 separate Ohio age discrimination remedies has never made any sense—especially since age discrimination claims can also be brought under federal ADEA law.
- C. House Bill 2 finally cleans up this unnecessary and confusing statutory overlap.

IV. AVOIDING DUAL FILED AND SIMULTANEOUS ADMINISTRATIVE AND COURT ACTION

- A. This will bring Ohio in line with federal discrimination laws.
- B. Separate and simultaneous legal proceedings create unnecessary and confusing duplication, and increase legal expense.

V. AFFIRMATIVE DEFENSE

- A. Finally! Instead of only imposing punishments on Ohio employers, let's *incentivize* and *reward* Ohio's "good" employers for implementing proactive—and often expensive--measures to prevent hostile environment harassment
- B. Consider extending this defense to other types of discrimination claims to further incentivize employers to promote robust policies and training
- C. Consider other incentives—like the elimination of punitive damages—for employers who implement robust anti-discrimination policies and training