



OHIO ALLIANCE FOR CIVIL JUSTICE



SEPTEMBER 10, 2019

HOUSE CIVIL JUSTICE COMMITTEE

HOUSE BILL 249 – INTERESTED PARTY TESTIMONY

Chairman Hambley, Vice Chair Patton, and Ranking Member Brown. My name is Kevin Shimp and I am here on behalf of the Ohio Alliance for Civil Justice.

The Ohio Alliance for Civil Justice (OACJ) was founded in the mid-1980s to promote a common-sense civil justice system in Ohio. The OACJ is comprised of representatives from dozens of Ohio trade and professional associations, small and large businesses, medical groups, farmers, non-profit organizations and local government associations for a combined representation of more than 100,000 individuals and businesses. Our leadership team includes representatives from the following organizations: NFIB, Ohio Chamber of Commerce, Ohio Council of Retail Merchants, Ohio Hospital Association, Ohio Manufacturers' Association, Ohio Society of CPAs, and Ohio State Medical Association.

I am here today to provide interested party testimony on HB 249. Under HB 249, certain causes of actions that have been extinguished by Ohio's current statute of limitation will be revived. The Alliance believes this result does not promote a common-sense civil justice system.

Statutes of limitation play an important role in any legal system because they create certainty, discourage unnecessary delays, and protect the integrity of the judiciary by setting the outer most limit of time for a valid legal claim to be filed. Like its name suggests, statutes of limitation are a creature of statute, which means the timeframe to bring a valid legal claim is a decision made by a legislative body. In Ohio, there are statutes of limitation in both civil and criminal actions and the timeframe to bring these actions varies by the claim. For example, in accordance with Ohio law, most felonies must be brought by a prosecutor within six years and a civil action for fraud must generally be brought within four years.

The Alliance advocates for statutes of limitation because without setting an outer limit for when a claim can be brought then potential liability has no end date. Moreover, statutes of limitation lead to predictability and finality in the legal system by requiring lawsuits to be filed within a certain period of time. In addition to encouraging the timely filing of claims, statutes of limitation help assure that evidence has not been lost, witnesses are available, and accurate testimony can be given since an individual's memory may fade over time.

Additionally, statutes of limitation must strike the appropriate balance between a person's ability to bring a valid claim and the ability to mount a fair defense against the claim. The Alliance believes creating the potential of endless liability is not the appropriate balance because it only considers one party's interests.

The passage of HB 249 would undermine the important goals of statutes of limitation by reviving certain claims that were not filed in civil or criminal court within the timeframe required by statute. By reviving the claim, the bill would allow claims that were once barred by the statute of limitation to be brought forward again.

The Alliance opposes reviving claims already barred by the applicable statute of limitation because it will create disorder in Ohio's business and legal climates. For Ohio's courts, the decision to revive certain claims will call into question what other types of claims could be revived in the future. This slippery slope is harmful to the legal climate by eroding at the predictability and finality of a judge's order.

Reviving time-barred claims is also detrimental to Ohio employers because they can no longer rely on a statute of limitation ending potential liability. A statute of limitation allows for employers to make sound decisions regarding insurance products, acquisitions, mergers, and other issues since employers can predict and account for potential risk. Without the certainty created by a statute of limitation, these employers will face higher costs and will be operating in a business climate with less predictability.

Lastly, the Alliance is committed to working with the legislature to continue making Ohio's legal climate more stable and predictable because we believe the legal reforms enacted by the General Assembly over the last twenty years are a major contributor to why more companies are calling Ohio home. In fact, these reforms helped lead Ohio to a top fifteen ranking in CNBC's "America's Top States for Business" in 2018.

Thank you for the opportunity to testify today and I can answer any questions from the committee.