



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 249
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Hillyer

Aida S. Montano, Research Associate

SUMMARY

- Permits a victim to bring a civil action for damages against a land grant university for injury or loss to person or property and proximately caused by sexual misconduct committed within a specified period by a physician who was a university employee and while acting within the physician's employment if certain conditions are met.
- Requires such action to be stayed during the parties' engagement in good faith mediation and requires the court to enter judgment in accordance with the mediation's resolution of the dispute.
- Provides that any damages suffered by a victim who brings a civil action against a land grant university under the bill are recoverable to the extent provided in the limitation of damages law, and are also recoverable against an insurer of that land grant university to the extent of the applicable liability insurance coverage.
- Provides that there is no period of limitations for such civil action notwithstanding any Revised Code provision.

DETAILED ANALYSIS

Civil action for damages against land grant university

The bill permits any "victim" to bring a civil action against a "land grant university" to recover damages for any injury or loss to person or property suffered by the victim and proximately caused by "sexual misconduct" against the victim committed between January 1, 1978, and December 31, 2000, by a physician who was an employee of the university

during that period and while acting within the scope of the physician's employment or official responsibilities if all of the following conditions, as applicable, are met:¹

- 25 or more victims, including the victim bringing the action described above, seek to bring such an action against the land grant university.
- The physician employed by the land grant university was in a position of authority over the victims as their physician.
- If the civil action is based upon sexual misconduct that would constitute "sexual activity," the physician used the position of authority over the victims to coerce them to submit to the sexual misconduct.

The bill defines the following:²

- "**Victim**" means any person who suffered injury or loss to person or property proximately caused by sexual misconduct committed against the person between January 1, 1978, and December 31, 2000, by a physician who was an employee of a land grant university during that period.
- "**Land grant university**" means a "state institution of higher education," as defined in R.C. 3345.011, that is designated a land grant college under the federal "Morrill Act of 1862," 7 U.S.C. 301 *et seq.*, or the "Agricultural College Act of 1890," 7 U.S.C. 321 *et seq.*, or any subsequent act of the United States Congress.³
- "**Sexual misconduct**" means either: (a) conduct that would constitute "sexual activity," or (b) conduct that would constitute the offense of voyeurism.
- "**Sexual activity**" means sexual conduct or sexual contact, or both. "**Sexual conduct**" means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse. "**Sexual contact**" means any touching of an erogenous zone of another, including the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

Civil action stayed during mediation

The bill requires any civil action described above to be stayed while the parties in the action are engaged in good faith mediation to resolve the dispute involved. If the mediation

¹ R.C. 2307.48(B).

² R.C. 2307.48(A) and by reference to R.C. 2907.01, 2907.08, and 3345.011, not in the bill.

³ Ohio has two land grant universities: the Ohio State University and Central State University.

results in resolving the dispute among the parties, the court must enter judgment in accordance with that resolution.⁴

Recoverable damages

Any damages suffered by a victim who brings a civil action against a land grant university under the bill are recoverable to the extent provided in the limitation of damages law, which provides no limitation on compensatory damages that represent the “actual loss of the person who is awarded the damages,” but, except in wrongful death actions, damages arising from the same cause of action, transaction, or occurrence, or series of transactions or occurrences and that do *not* represent the actual loss of the person cannot exceed \$250,000 in favor of any one person.

Any damages are also recoverable against an insurer of that land grant university to the extent of the applicable liability insurance coverage as provided by the university board of trustees.⁵

No statute of limitations

The bill provides that notwithstanding any Revised Code section, there is no period of limitations for a civil action brought by a victim under the bill.⁶

HISTORY

Action	Date
Introduced	05-16-19

H0249-I-133/ec

⁴ R.C. 2307.48(E).

⁵ R.C. 2307.48(D).

⁶ R.C. 2307.48(C).