



# Ohio Legislative Service Commission

## 122nd House Bill Analysis

### Sub. H.B. 547

122nd General Assembly  
(As Passed by the House)

**Reps. Grendell, Thomas, Netzley, Cates, Weston, Opfer, Thompson, Garcia, Hood, Whalen, Pringle, Lucas, Young, Krupinski, Batchelder, Reid, Mottley, Buchy, Vesper, Wachtmann, Haines, Ford, Jones, Carey, Mottl, Bender, Healy, Krebs, Winkler, Myers, Gardner, Clancy, O'Brien, Willamowski, Prentiss, Colonna, Verich, Salerno**

- Bars recovery on a claim for relief in a tort action by a person or a person's legal representative if the person has been convicted of a misdemeanor that is an offense of violence arising out of criminal conduct that was a proximate cause of the injury or loss for which relief is claimed.

## CONTENT AND OPERATION

### Civil action for damages by criminal offender against victim of the offense

#### Existing law

Under existing law, anyone injured in person or property by a criminal act has, and may recover full damages in, a civil action unless specifically excepted by law. The person may recover the costs of maintaining the civil action and attorney's fees if authorized by the Rules of Civil Procedure, a section of the Revised Code, or the common law of Ohio and may recover punitive or exemplary damages if authorized by the Punitive or Exemplary Damages Law or another law. A record of a conviction, unless obtained by confession in open court, cannot be used as evidence in such a civil action. (R.C. 2307.60(A).)

Existing law bars recovery on a claim for relief in a "tort action" (see below) by any person or the person's legal representative if the person has been convicted of or has pleaded guilty to a felony offense arising out of criminal conduct that was a proximate cause of the injury or loss for which relief is claimed in the action. This provision does not apply, however, to civil claims based upon alleged intentionally tortious conduct, alleged violations of the United States Constitution, or alleged violations of federal statutes pertaining to civil rights. (R.C. 2307.60(B)(2) and (3).)

For purposes of the law described in the preceding paragraph, existing law defines "tort action" as a civil action for damages for injury, death, or loss to person or property, including a product liability claim but not including a civil action for damages for a breach of contract or another agreement between persons. Existing law defines "harm" as injury, death, or loss to person or property. (R.C. 2307.60(B)(1).)

#### Operation of the bill

The bill expands the provision that bars recovery on a claim for relief in a tort action by a person or a person's legal representative if the person has been convicted of or has pleaded guilty to a *felony* arising out of criminal conduct that was a proximate cause of the injury or loss for which relief is claimed in the action. Under the bill, recovery also is barred if the person has been convicted of a *misdemeanor that is an offense of violence* (see **COMMENT**) arising out of criminal conduct that was a proximate cause of the injury or loss for which relief is claimed in the action. The new provision does not apply if the claim for relief is based upon alleged intentionally tortious conduct, an alleged violation of the United States Constitution, or an alleged violation of federal statutes pertaining to civil rights. (R.C. 2307.60(B)(2) and (3).)

The bill modifies the definition of "tort action" to specify that, in addition to a product liability claim, it also includes an action for wrongful death and an action based on derivative claims for relief. It repeals an existing definition of "trier of fact"; that term is not used in the provisions in question. (R.C. 2307.60(B)(1).)

## COMMENT

"Offense of violence," as defined in existing law (R.C. 2901.01(A)(9), not in the bill), means any of the following:

(1) Aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, aggravated assault, assault (a misdemeanor unless certain conditions are met), aggravated menacing (misd.), menacing by stalking (a misdemeanor unless the offender previously was convicted of menacing by stalking), menacing (misd.), kidnapping, abduction, extortion, rape, sexual battery, gross sexual imposition, aggravated arson, arson (a misdemeanor under certain circumstances), aggravated robbery, robbery, aggravated burglary, inciting to violence (a misdemeanor under certain circumstances), aggravated riot, riot (misd.), inducing panic (a misdemeanor except when the violation results in physical harm to a person), domestic violence (a misdemeanor unless the offender previously was convicted of domestic violence or certain assault or stalking offenses involving a household member), intimidation, intimidation of an attorney, victim, or witness in a criminal case (a misdemeanor under certain circumstances), escape (a misdemeanor under certain circumstances), improperly discharging a firearm at or into a habitation or school, burglary in certain instances, or the former offense of felonious sexual penetration;

(2) A violation of an existing or former municipal ordinance or law of Ohio, any other state, or the United States, substantially equivalent to any offense listed in (1);

(3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of Ohio, any other state, or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(4) A conspiracy or attempt to commit, or complicity in committing, any offense described in (1), (2), or (3).

## **HISTORY**

### **ACTION DATE JOURNAL ENTRY**

Introduced 07-23-97 p. 1521

Reported, H. Criminal Justice 02-11-98 pp. 2185-2186

Passed House (97-0) 02-18-98 p. 2199

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**State of Ohio**