

**As Introduced**

**135th General Assembly**

**Regular Session**

**2023-2024**

**H. B. No. 179**

**Representatives Mathews, Stewart**

**Cosponsors: Representatives Hillyer, Seitz**



**A BILL**

To amend section 2305.15 and to enact section 1  
2307.241 of the Revised Code relative to 2  
vicarious liability in tort actions and to 3  
provide that the tolling of the limitations 4  
period during the defendant's absence or 5  
concealment does not apply to statutes of 6  
repose. 7

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 2305.15 be amended and section 8  
2307.241 of the Revised Code be enacted to read as follows: 9

**Sec. 2305.15.** ~~(A) When~~ (A) (1) Except as provided in 10  
division (A) (2) of this section, when a cause of action accrues 11  
against a person, if the person is out of the state, has 12  
absconded, or conceals self, the period of limitation for the 13  
commencement of the action as provided in sections 2305.04 to 14  
2305.14, 1302.98, and 1304.35 of the Revised Code does not begin 15  
to run until the person comes into the state or while the person 16  
is so absconded or concealed. After the cause of action accrues 17  
if the person departs from the state, absconds, or conceals 18

self, the time of the person's absence or concealment shall not 19  
be computed as any part of a period within which the action must 20  
be brought. 21

(2) Division (A)(1) of this section does not apply to 22  
statutes of repose, including, but not limited to, those 23  
contained in any of the following: 24

(a) Division (C) of section 2305.10 of the Revised Code; 25

(b) Division (C) or (D) of section 2305.113 of the Revised 26  
Code; 27

(c) Division (B) of section 2305.115 of the Revised Code; 28

(d) Division (B) or (C) of section 2305.117 of the Revised 29  
Code; 30

(e) Section 2305.131 of the Revised Code. 31

(B) When a person is imprisoned for the commission of any 32  
offense, the time of the person's imprisonment shall not be 33  
computed as any part of any period of limitation, as provided in 34  
section 2305.09, 2305.10, 2305.11, 2305.113, or 2305.14 of the 35  
Revised Code, within which any person must bring any action 36  
against the imprisoned person. 37

**Sec. 2307.241.** (A) As used in this section, "chiropractic 38  
claim," "chiropractor," "dental claim," "dentist," "medical 39  
claim," "optometric claim," "optometrist," "physical therapist," 40  
"physician," and "podiatrist" have the same meanings as in 41  
section 2305.113 of the Revised Code. 42

(B) In a tort action alleging respondeat superior or 43  
vicarious liability, the following apply: 44

(1) If liability arises against both a principal and 45

agent, master and servant, employer and employee, or other 46  
persons having a vicarious liability relationship, the injured 47  
party may sue either the primarily liable agent, servant, 48  
employee, or person or the secondarily liable principal, master, 49  
employer, or person, or both. 50

(2) For the injured party to prevail in a tort action 51  
alleging respondeat superior or vicarious liability against a 52  
secondarily liable principal, master, employer, or other person, 53  
both of the following apply: 54

(a) A primarily liable agent, servant, employee, or person 55  
committed the act or omission on which the tort action is based, 56  
while in the course of, and within the scope of, that agent's, 57  
servant's, employee's, or person's agency or servant 58  
relationship with, or employment by, the secondarily liable 59  
principal, master, employer, or other person. 60

(b) A primarily liable agent, servant, employee, or person 61  
is not a necessary party to the tort action alleging respondeat 62  
superior or vicarious liability against a secondarily liable 63  
principal, master, employer, or other person, unless the tort 64  
action is any of the following: 65

(i) An action upon a medical claim against a physician, 66  
podiatrist, or physical therapist; 67

(ii) An action upon a dental claim against a dentist; 68

(iii) An action upon an optometric claim against an 69  
optometrist; 70

(iv) An action upon a chiropractic claim against a 71  
chiropractor; 72

(v) An action upon a legal malpractice claim against an 73

attorney. 74

(C) Nothing in this section precludes the injured party in 75  
a tort action from satisfying the necessary standard of proof 76  
for the liability of the primarily liable agent, servant, 77  
employee, or person or the liability of the secondarily liable 78  
principal, master, employer, or person, in a vicarious liability 79  
relationship. 80

**Section 2.** That existing section 2305.15 of the Revised 81  
Code is hereby repealed. 82

**Section 3.** The General Assembly, in amending section 83  
2305.15 of the Revised Code, hereby declares that the purpose of 84  
that amendment is to expressly overrule the decision of the Ohio 85  
Supreme Court in the case of *Elliot v. Durrani*, 2022-Ohio-4190. 86