

As Reported by the Senate Judiciary Committee

135th General Assembly

Regular Session

2023-2024

Am. H. B. No. 179

Representatives Mathews, Stewart

Cosponsors: Representatives Hillyer, Seitz, Click, Brennan, Brewer, Cutrona, Dell'Aquila, Dobos, Forhan, Ghanbari, Isaacsohn, Mohamed, Oelslager, Peterson, Piccolantonio, Schmidt, Stein, Swearingen, Thomas, C., Upchurch, Williams, Willis, Young, T.

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 agent, master and servant, employer and employee, or other persons having a vicarious liability relationship, the injured party may sue either the primarily liable agent, servant, employee, or person or the secondarily liable principal, master, employer, or person, or both. 45
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(2) For the injured party to prevail in a tort action alleging respondeat superior or vicarious liability against a secondarily liable principal, master, employer, or other person, both of the following apply: 51
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(a) A primarily liable agent, servant, employee, or person committed the act or omission on which the tort action is based, while in the course of, and within the scope of, that agent's, servant's, employee's, or person's agency or servant relationship with, or employment by, the secondarily liable principal, master, employer, or other person. 55
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(b) A primarily liable agent, servant, employee, or person is not a necessary party to the tort action alleging respondeat superior or vicarious liability against a secondarily liable principal, master, employer, or other person, unless the tort action is any of the following: 61
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(i) An action upon a medical claim against a physician, podiatrist, or physical therapist; 66
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(ii) An action upon a dental claim against a dentist; 68

(iii) An action upon an optometric claim against an optometrist; 69
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(iv) An action upon a chiropractic claim against a chiropractor; 71
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(v) An action upon a legal malpractice claim against an attorney. 73
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(C) Nothing in this section modifies the legal principle that the respondeat superior or vicarious liability of a principal, master, employer, or person is derivative of the liability of an agent, servant, employee, or person. In order for a principal, master, employer, or person to be found liable for the act or omission on which a tort action is based, an agent, servant, employee, or person shall have committed such act or omission while in the course of, or within the scope of, the agent's, servant's, employee's, or person's agency or servant relationship with, or employment by, the principal, master, employer, or other person. 75
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Section 2. That existing section 2305.15 of the Revised Code is hereby repealed. 86
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Section 3. The General Assembly, in amending section 2305.15 of the Revised Code, hereby declares that the purpose of that amendment is to expressly overrule the decision of the Ohio Supreme Court in the case of *Elliot v. Durrani*, 2022-Ohio-4190. 88
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