

To the Honorable Members of the Ohio House Judiciary Committee:

Thank you for the opportunity to submit this written testimony in *opposition* to Ohio House Bill 441 (“HB 441”), which proposes to amend Ohio Revised Code § 2305.11 by making clear that the one-year statute of limitations for bringing libel or slander claims begins at the time of publication or utterance, regardless of when the injured party discovers the defamatory matter.

Why HB 441 is deeply problematic

Under current Ohio law, an action for libel or slander must be commenced within one year after the cause of action accrued (i.e., the date of publication for libel or the date spoken for slander). The very effect of HB 441 is to eliminate or sharply limit any “discovery rule” in defamation claims—that is, someone might only discover the defamatory publication long after it occurs—and yet would have no longer than one year from the moment of publication to bring suit.

Such a limitation disadvantages claimants who, through no fault of their own, may not learn of the publication or the damage it caused until later. For example: an employee who is unaware that a false and defamatory email was distributed about them inside their workplace, only to learn later that the email circulated widely and caused them to lose their job, would under HB 441 likely find that their cause of action is already time-barred. That is deeply unfair.

Brief Reflection on *Weidman v. Hildebrant*, 2024-Ohio-2931

Justice Donnelly, joined by Justices Fischer, Brunner, and visiting Judge Mayle, of the Sixth District Court of Appeals, sat for Justice Deters, succinctly described our perspective of statutes of limitations and the need for a discovery rule in Paragraph 20:

Statutes of limitations are a shield, not a sword. Here, according to Weidman, the delay in his discovering the alleged injury to his reputation was deliberately manufactured by Hildebrant. Private email communications used to defame someone are inherently not discoverable by the defamed person until the communication is disclosed publicly. Statutes of limitations are enacted to ensure fairness to defendants, encourage prompt prosecution of causes of action, suppress stale claims, and avoid difficulties of proof because of lost or eroded evidence. Browne v. Artex Oil Co., 2019-Ohio-4809, ¶ 32. Applying the discovery rule to cases such as the one before us offends none of these goals. Rather, it reflects the understanding that a tortfeasor should not be permitted to secretly injure a person and avoid liability for that injury by hiding behind a statute of limitations.

This decision justly enables accountability. Covert misbehavior can now be discovered, and time is no longer a shield for rumor-mongers.

Why this matters for Ohio workers and justice

- Many defamation victims in the workplace or in closed systems (internal emails, intranet, personnel file disclosures) do not immediately learn of the publication or the full scope of damage. Requiring them to act before they know their injury is fundamentally unfair.

- Defamation causes real harms: job loss, damage to professional reputation, emotional distress, difficulty finding new employment. The law should allow a fair opportunity to seek redress when the harm and publication become known.
- HB 441 risks encouraging “quiet” internal publications of harmful material, knowing that once a year passes from publication the victim’s claim is gone—even if the victim never discovered it. That undermines incentives for responsible behavior.
- From a public-policy viewpoint, shortening or rigidifying the limitations period in this way signals that Ohio is less welcoming to justice for people harmed by defamation—it sends a message that the victim must be hyper-vigilant, rather than the publisher.
- Ohio’s current statute already draws a one-year limit for libel and slander under § 2305.11. What HB 441 proposes is a shift in when the accrual date begins—removing flexibility of discovery and thereby potentially barring meritorious claims.

We oppose HB 441, but we also believe compromise is possible. At minimum, amendments should preserve a discovery-rule or delayed-accrual framework for defamation claims, so that the one-year period begins when the injured party knows (or reasonably should know) of the defamatory matter and the resulting damage. Without that, Ohio risks denying justice to persons harmed by covert defamation. Alternatively, HB 441 could be amended to include a statute of repose, similar to medical malpractice cases rather than amending the statute of limitations.

Thank you for your time and consideration.

Respectfully submitted,
Lindsay Lawrence, President of the Ohio Justice Association

Fred Gittes, Ohio Employment Lawyers Association