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The Honorable Jim Butler
Chair, House Civil Justice Committee
Ohio House of Representatives

Dear Chairman Butler, Vice Chair Hughes and Ranking Member Boggs and members,

The Ohio Association for Justice, the state bar association for trial attorneys, is pleased to proclaim its support for House Bill 419. The bill protects innocent bystanders by holding political subdivisions accountable for negligent and reckless operation of its emergency vehicles under certain circumstances.

Under current Ohio law, innocent bystanders have no recourse for property damage, wage loss, uncovered medical expense, funeral expense and other injuries when a carelessly, or even recklessly-operated emergency vehicle strikes their car or hits them as a pedestrian if the operator is "responding to an emergency." The Ohio Supreme Court broadly defined an "emergency" as any situation involving an officer's "professional obligation" in *Colbert vs City of Cleveland* (2003) 99 Ohio St. 3d 215. In the *Colbert* decision, two officers responding to a crime that was not in progress failed to activate their lights or siren. Their police car struck an innocent motorist who had the right of way at an intersection. Because this was found to be "an emergency," the Supreme Court said the City of Cleveland was not responsible to the innocent bystander for the officers' carelessness.

HB 419 will remedy situations like this by restoring an innocent bystander's 7th Amendment rights and giving back their ability to seek legal recourse in limited circumstances.

HB 419 does not impose absolute liability on political subdivisions. An innocent bystander must still prove that the emergency vehicle operator was careless. In addition, the bill says a political subdivision is still immune from civil liability when the emergency vehicle's lights are flashing and the sirens are blaring. And under Ohio comparative negligence law, a political subdivision is not liable if the bystander is 50% or more at fault.

Further, political subdivisions are still shielded by Ohio's cap on noneconomic damages and can still deduct the value of recovery from any and all collateral sources. (see Revised Code 2744.05) HB 419 does not change those provisions.

In conclusion, while HB 419 does not provide innocent bystanders with as much legal protection as Ohio's neighboring states in circumstances where the negligent operations of emergency vehicles causes injury or damage, the bill is a step in the right direction. OAJ supports HB 419 and urges you to report the bill with a favorable recommendation for passage.

Thank you for your attention. I'd be happy to answer any questions.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "John Van Doorn". The signature is fluid and cursive.

John Van Doorn