

AN ACT

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

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 2305.15 be amended and section 2307.241 of the Revised Code be enacted to read as follows:

Sec. 2305.15. ~~(A) When (A)(1) Except as provided in division (A)(2) of this section, when a~~ cause of action accrues against a person, if the person is out of the state, has absconded, or conceals self, the period of limitation for the commencement of the action as provided in sections 2305.04 to 2305.14, 1302.98, and 1304.35 of the Revised Code does not begin to run until the person comes into the state or while the person is so absconded or concealed. After the cause of action accrues if the person departs from the state, absconds, or conceals self, the time of the person's absence or concealment shall not be computed as any part of a period within which the action must be brought.

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

- (a) Division (C) of section 2305.10 of the Revised Code;
- (b) Division (C) or (D) of section 2305.113 of the Revised Code;
- (c) Division (B) of section 2305.115 of the Revised Code;
- (d) Division (B) or (C) of section 2305.117 of the Revised Code;
- (e) Section 2305.131 of the Revised Code.

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

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

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

(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.

(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:

(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.

(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:

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

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

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

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

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

(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.

SECTION 2. That existing section 2305.15 of the Revised Code is hereby repealed.

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.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. H. B. No. 179

135th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____