

As Passed by the House

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
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 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 modifies the legal principle 75
that the respondeat superior or vicarious liability of a 76
principal, master, employer, or person is derivative of the 77
liability of an agent, servant, employee, or person. In order 78
for a principal, master, employer, or person to be found liable 79
for the act or omission on which a tort action is based, an 80
agent, servant, employee, or person shall have committed such 81
act or omission while in the course of, or within the scope of, 82
the agent's, servant's, employee's, or person's agency or 83
servant relationship with, or employment by, the principal, 84
master, employer, or other person. 85

Section 2. That existing section 2305.15 of the Revised 86
Code is hereby repealed. 87

Section 3. The General Assembly, in amending section 88
2305.15 of the Revised Code, hereby declares that the purpose of 89
that amendment is to expressly overrule the decision of the Ohio 90
Supreme Court in the case of *Elliot v. Durrani*, 2022-Ohio-4190. 91