



Aida S. Montano

*Bill Analysis*  
*Legislative Service Commission*

## **Sub. H.B. 255**

124th General Assembly  
(As Reported by H. Civil and Commercial Law)

**Reps. Young, Brinkman, Cirelli, Collier, Damschroder, Flowers, Jerse, Jones, Lendrum, Reidelbach, Rhine, Roman, Schaffer, Seaver, Seitz, Strahorn, Webster, Willamowski, Grendell, Sulzer, Latta**

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### **BILL SUMMARY**

- Bars the recovery of damages in a tort action commenced by a person or the person's legal representative if the person suffered the injury or loss for which relief is claimed while committing or attempting to commit, or while fleeing immediately after committing or attempting to commit, a felony or a misdemeanor offense of violence, regardless of whether the person has been convicted of or pleaded guilty to or has been charged with the offense.
- Bars a person or the person's legal representative from the recovery of damages in a tort action against a victim of a felony or a misdemeanor offense of violence if the injury or loss for which relief is claimed arises out of criminal conduct committed against the victim, regardless of whether the person has been convicted of or pleaded guilty to or has been charged with committing that criminal conduct.
- Provides that the bar against the recovery of damages does not apply to civil claims based upon alleged intentionally tortious conduct, alleged violations of the United States Constitution, or alleged violations of United States civil rights statutes.

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### **CONTENT AND OPERATION**

#### **Recovery of damages for a criminal act**

Under continuing law, anyone injured in person or property by a criminal act has, and may recover full damages in, a civil action unless specifically excepted by law, may recover the costs of maintaining the civil action and attorney's fees if authorized by any provision of the Rules of Civil Procedure or

another section of the Revised Code or under the common law of Ohio, and may recover punitive or exemplary damages if authorized by R.C. 2315.21 (see **COMMENT**) or another section of the Revised Code. A record of a conviction, unless obtained by confession in open court, cannot be used as evidence in that civil action. (R.C. 2307.60(A).)

The bill bars a recovery of damages on a claim for relief in a *tort action* (see "**Definition**," below) by any person or the person's legal representative if the person suffered the injury or loss for which relief is claimed in the tort action while committing or attempting to commit, or while fleeing immediately after committing or attempting to commit, a felony or a misdemeanor that is an offense of violence, regardless of whether the person has been convicted of or pleaded guilty to or has been charged with committing the felony or misdemeanor (R.C. 2307.60(B)(2)).

Under the bill, recovery against a victim of a felony or a misdemeanor that is an offense of violence on a claim for relief in a tort action is barred to any person or the person's legal representative if the injury or loss for which relief is claimed in the tort action arises out of criminal conduct committed against that victim, regardless of whether the person has been convicted of or pleaded guilty to or has been charged with committing that criminal conduct (R.C. 2307.60(B)(3)).

The above provisions barring recovery on a claim for relief in a tort action do not apply to civil claims based upon alleged intentionally tortious conduct, alleged violations of the United States Constitution, or alleged violations of statutes of the United States pertaining to civil rights (R.C. 2307.60(C)).

### **Definition**

For purposes of the provisions barring recovery on a claim for relief in a tort action as described above, the bill defines "tort action" as a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons. "Tort action" includes, but is not limited to, a product liability claim, an action for wrongful death under R.C. Chapter 2125., and an action based on derivative claims for relief. (R.C. 2307.60(B)(1).)

### **Miscellaneous**

The bill makes conforming changes in R.C. 2307.61, 2307.62, and 4399.18.

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## COMMENT

Under R.C. 2315.21, not in the bill, subject to certain exclusions and limitations, punitive or exemplary damages are *not* recoverable from a defendant in question in a tort action unless *both* of the following apply:

(1) The actions or omissions of the defendant demonstrate malice, aggravated or egregious fraud, oppression, or insult, or the defendant as principal or master authorized, participated in, or ratified actions or omissions of an agent or servant that so demonstrate.

(2) The plaintiff has adduced proof of actual damages that resulted from actions or omissions as described in (1), above.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-15-01	p. 425
Reported, H. Civil & Commercial Law	02-20-02	p. 1432

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