



Aida S. Montano

Bill Analysis
Legislative Service Commission

Sub. S.B. 107

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

Sens. Armbruster, Jacobson, Johnson, Blessing, Austria, Amstutz, Hottinger, DiDonato, Harris, Spada, Mumper, Ryan

Reps. Willamowski, Seitz, Latta

BILL SUMMARY

- Bars the recovery of damages on a claim for relief in a tort action commenced by a person or the person's legal representative if the person has been convicted of or has pleaded guilty to a felony that was a proximate cause of the injury or loss for which relief is claimed in the action or if the person has been convicted of or has pleaded guilty to a misdemeanor offense of violence that was a proximate cause of the injury or loss for which relief is claimed in the action.

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 either of the following apply (R.C. 2307.60(B)(2)):

(1) The person has been convicted of or has pleaded guilty to a felony arising out of criminal conduct that was a proximate cause of the injury or loss for which relief is claimed in the tort action.

(2) The person has been convicted of or has pleaded guilty to a misdemeanor that is an offense of violence arising out of criminal conduct that was a proximate cause of the injury or loss for which relief is claimed in the tort action.

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(B)(3)).

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).)

Other changes

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

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.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-08-01	p. 351
Reported, S. Judiciary on Civil Justice	06-21-01	p. 687
Passed Senate (32-0)	06-26-01	p. 706
Reported, H. Civil and Commercial Law	02-14-02	p. 1403

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