



Aida S. Montano

*Bill Analysis*  
Legislative Service Commission

## **H.B. 316**

125th General Assembly  
(As Introduced)

**Reps. Wolpert, McGregor, Hughes, Reidelbach, Cirelli, Raussen, Kearns, Williams, Latta, Brinkman, Seitz, Willamowski, D. Evans**

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### **BILL SUMMARY**

- Requires the officer having charge of a county correctional facility who intends to have prisoners work outside the facility on a work detail to give advance written notice of certain information relating to the work detail to the chief executive officer of any municipal corporation and the township clerk of any township in which the prisoners will be working.
- If all prisoners working on a work detail administered by a county correctional facility and outside the facility have volunteered for the work detail and are imprisoned in the facility for an offense other than an offense of violence, grants a sheriff, deputy sheriff, or county correctional officer qualified civil immunity for injury, death, or loss to person or property caused or suffered by a prisoner working on the work detail.

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### **CONTENT AND OPERATION**

#### **Notice of prisoner work detail**

The bill requires the officer having charge of a county correctional facility,<sup>1</sup> whenever the officer intends to have prisoners work outside the facility on a work detail, to give advance written notice to the chief executive officer of any municipal corporation and the township clerk of any township in which the

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<sup>1</sup> The bill defines "county correctional facility" by reference to the definition of that term in R.C. 341.42(A)(4), not in the bill, as a county jail, county workhouse, minimum security jail, joint city and county workhouse, municipal-county correctional center, multicounty-municipal correctional center, municipal-county jail or workhouse, or multicounty-municipal jail or workhouse (R.C. 341.27(A)(1)).

prisoners will be working on the work detail of the date or dates on which, and the approximate locations at which, the work will be performed, the nature of the work, and the approximate number of prisoners who will be working on the work detail (R.C. 341.27(B)).

### **Qualified immunity**

The bill provides that if all the prisoners working on a work detail administered by a county correctional facility and outside the facility have volunteered for the work detail and are imprisoned in that facility for an offense other than an offense of violence, no sheriff, deputy sheriff, or county correctional officer<sup>2</sup> is liable for civil damages for injury, death, or loss to person or property caused or suffered by a prisoner working on the work detail *unless* the injury results from the gross negligence, malice, or wanton or reckless misconduct of the sheriff, deputy sheriff, or county correctional officer (R.C. 341.27(C)).

### **Background law--political subdivision general liability/nonliability; political subdivision and employee defenses and immunities**

For the purposes of R.C. Chapter 2744., the Political Subdivision Sovereign Immunity Law, the functions of political subdivisions are classified as governmental functions and proprietary functions. (See **COMMENT 1**.)

In a civil action brought against a political subdivision or a political subdivision employee to recover damages for injury, death, or loss to persons or property allegedly caused by any act or omission in connection with a governmental or proprietary function, certain defenses or immunities may be asserted to establish nonliability. (See **COMMENT 2**.) In addition to any immunity or defense referred to in paragraph (f) of **COMMENT 2** and in circumstances not covered by that provision or other specified provisions, *the employee is immune from liability unless one of the following applies: (1) the employee's acts or omissions were manifestly outside the scope of the employee's employment or official responsibilities, (2) the employee's acts or omissions were with malicious purpose, in bad faith, or in a wanton or reckless manner, or (3) liability is expressly imposed upon the employee by a section of the Revised Code.* The immunities and defenses of an employee referred to above do not affect or

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<sup>2</sup> The bill defines "county correctional officer" by reference to R.C. 341.41(A)(3), not in the bill, as a person who is employed by a county as an employee or officer of a county jail, county workhouse, minimum security jail, joint city and county workhouse, municipal-county correctional center, multicounty-municipal correctional center, municipal-county jail or workhouse, or multicounty-municipal jail or workhouse (R.C. 341.27(A)(2)).

limit any liability of a political subdivision for an act or omission of the employee as provided in R.C. 2744.02, as described in **COMMENT 1**. (R.C. 2744.03(A)(6) and (B).)

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## **COMMENT**

1. Generally, except as specifically provided in statute, a political subdivision is not liable in damages in a civil action for injury, death, or loss to person or property allegedly caused by any act or omission of the political subdivision or an employee of the political subdivision in connection with a governmental or proprietary function. However, subject to specific statutory defenses and immunities (see **COMMENT 2**, below, and "*Background law . . .*," above), and to specified limitations on the damages that may be awarded, a political subdivision is liable in damages in a civil action in specified circumstances (R.C. 2744.02(A) and (B) and 2744.05--not in the bill).

2. These defenses or immunities include the following (R.C. 2744.03(A)(1) to (5) and (A)(7)--not in the bill):

(a) The political subdivision is immune from liability if the employee involved was engaged in the performance of a judicial, quasi-judicial, prosecutorial, legislative, or quasi-legislative function.

(b) The political subdivision is immune from liability if the conduct of the employee involved that gave rise to the claim of liability: (i) was not negligent conduct and was required or authorized by law, or (ii) was necessary or essential to the exercise of powers of the political subdivision or employee.

(c) The political subdivision is immune from liability if the action or failure to act by the employee involved that gave rise to the claim of liability was within the employee's discretion with respect to policy-making, planning, or enforcement powers by virtue of the duties and responsibilities of the employee's office or position.

(d) The political subdivision is immune from liability if the action or failure to act by the political subdivision or employee involved that gave rise to the claim of liability resulted in injury or death to a person who had been convicted of or pleaded guilty to a criminal offense or was found to be a delinquent child and who, at the time of the injury or death, was performing, in specified circumstances, community service work.

(e) The political subdivision is immune from liability if the injury, death, or loss to persons or property resulted from the exercise of judgment or discretion in determining whether to acquire, or how to use, equipment, supplies, materials,

personnel, facilities, and other resources unless the judgment or discretion was exercised with malicious purpose, in bad faith, or in a wanton or reckless manner.

(f) The political subdivision, and a county prosecuting attorney, city director of law, village solicitor, or similar chief legal officer of a political subdivision, an assistant of any such person, or a judge of an Ohio court is entitled to any defense or immunity available at common law or established by the Revised Code.

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>	<b>JOURNAL ENTRY</b>
Introduced	10-28-03	p. 1149

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