



# Ohio Legislative Service Commission

## Bill Analysis

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### H.B. 290\*

130th General Assembly  
(As Reported by S. Civil Justice)

**Reps.** Stebelton, Becker, Smith, Huffman, Grossman, J. Adams, Terhar, Blessing, Scherer, Hood, Buchy, Brenner, Fedor, Perales, Maag, Antonio, Baker, Barnes, Beck, Burkley, Driehaus, Green, Milkovich, Phillips, Sheehy, Stautberg, Batchelder

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## BILL SUMMARY

### Use of school premises

- For purposes of the continuing requirement for a school district to make its schoolhouses, facilities, and school grounds available to community members for educational, religious, civic, social, or recreational purposes, replaces all references to schoolhouses, facilities, and school grounds with the term "school premises."
- Specifies that recreational uses of the school premises are all indoor and outdoor games or physical activities, either organized or unorganized, that are undertaken for exercise, relaxation, diversion, sport, or pleasure.
- Grants school districts and their employees, schools in those districts and their employees, and members of those districts' boards of education qualified immunity from liability in a civil action for damages allegedly arising from the use of school premises by others in the manner described above.

### Continued orderly operation of courts in case of a disaster or other extraordinary circumstances

- Provides that, in the event of a natural or man-made disaster, civil disorder, or any extraordinary circumstance that interrupts the orderly operation of a municipal court, county court, court of common pleas, or court of appeals, the administrative judge may issue an order authorizing the court to operate at a temporary location.

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\* This analysis was prepared before the report of the Senate Civil Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Provides that the temporary location of the court can be inside or outside the territorial jurisdiction of the court.
- Establishes procedures for the operation of the court at a temporary location that the administrative judge of the court must follow.

### **Limitation of claims arising out of a medical claim or skilled nursing care or personal care services provided in a home**

- Modifies the definition of "medical claim," for the purpose of the statute of limitations, to include a "plan of care" under certain specified circumstances and to include claims that arise out of skilled nursing care or personal care services provided in a home pursuant to the plan of care, medical diagnosis, or treatment.

### **Use of nursing home inspections and surveys in advertising**

- Prohibits the use of results of an inspection of a nursing home or the results of a Medicare or Medicaid survey of a nursing facility in an advertisement unless certain information is provided.

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## **CONTENT AND OPERATION**

### **Use of school premises by community members**

Current law requires a school district to make its schoolhouses, facilities, and school grounds available on an impartial basis to community members for educational, religious, civic, social, or recreational purposes, including use as polling places. A district's board of education must adopt a policy on those uses and may charge a reasonable fee.

The bill replaces all references to schoolhouses, facilities, and school grounds in this law with the term "school premises," which is defined as "all indoor and outdoor structures, facilities, and land owned, rented, or leased by a school or school district."<sup>1</sup> It also specifies that recreational uses of the school premises (which continuing law describes as "recreational meetings and entertainments") are all indoor or outdoor games or physical activities, either organized or unorganized, that are undertaken for exercise, relaxation, diversion, sport, or pleasure. Finally, it refers to the "general public" who may use school premises as members of the community, including students during

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<sup>1</sup> R.C. 3313.75, 3313.76, 3313.77, and 3313.78.

on-school hours and school employees when not working in their scope of employment.<sup>2</sup>

### **Qualified immunity from civil liability**

School districts and their employees acting within the scope of employment generally have immunity from civil liability for damages in the performance of governmental functions, including functions that the General Assembly mandates districts and schools to perform, under the state Political Subdivision Sovereign Immunity Law.<sup>3</sup>

Nonetheless, the bill explicitly provides that city, local, and exempted village school districts and their employees, schools in those districts and their employees, and members of those districts' boards of education are not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from the use of school premises by others in the manner described above. However, that immunity does not apply if the injury, death, or loss to person or property results from willful or wanton misconduct by the school district, school, employee, or board member or if the board of education of the city, exempted village, or local school district charges a fee for the use of school premises that significantly exceeds the costs incurred for the operation of the school premises. The bill also specifies that its provisions do not eliminate, limit, or reduce any other immunity or defense that may be available under the Political Subdivision Sovereign Immunity Law, any other provision of the Revised Code, or the common law of Ohio.<sup>4</sup>

### **Continued orderly operation of courts in case of a disaster or other extraordinary circumstances**

The bill provides that, in the event of a natural or man-made disaster, civil disorder, or any extraordinary circumstance that interrupts or threatens to interrupt the orderly operation of a municipal court, county court, court of common pleas, or court of appeals, within the territorial jurisdiction of the court, the administrative judge of the court may issue an order authorizing the court to operate at a temporary location inside or outside the territorial jurisdiction of the court. The order must identify the temporary location at which the court must operate and the date on which operations

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<sup>2</sup> R.C. 3313.77.

<sup>3</sup> R.C. Chapter 2744.

<sup>4</sup> R.C. 3313.791.



will commence at the temporary location. The court must operate at the temporary location until the administrative judge withdraws, cancels, or rescinds the order.<sup>5</sup>

Under the bill, the authority of an administrative judge to issue an order authorizing the court to operate at a temporary location is independent of and cannot be conditioned upon a declaration of a judicial emergency issued by the chief justice of the Ohio Supreme Court pursuant to Rule 14 of the Rules of Superintendence for the Courts of Ohio.<sup>6</sup>

For the period during which a court operates in a temporary location, the court must continue to have the territorial jurisdiction set forth in Ohio law and the court must have jurisdiction to hear actions and conduct proceedings the same as if the court were operating within that territorial jurisdiction.<sup>7</sup>

As soon as practicable following the issuance of an order authorizing the court to operate at a temporary location, both of the following must occur:<sup>8</sup>

- The administrative judge of the court must provide notice and a copy of the order by regular or electronic mail to all of the following:

(1) The chief justice and administrative director of the Ohio Supreme Court;

(2) The legislative authorities of the local funding authorities of the court;

(3) All appropriate law enforcement agencies, prosecuting authorities, public defender agencies, and local bar associations within the territorial jurisdiction of the court.

- If the court operates and maintains a website, the website must provide notification of the operation of the court at the temporary location, including the site of the temporary location and the date on which operations will commence at the temporary location.

As soon as practicable following the withdrawal, cancellation, or rescission of an order authorizing the court to operate at a temporary location, notice must be provided, in the same manner and to the same parties of the operation of the court at the

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<sup>5</sup> R.C. 1901.028(A), 1907.04(A), 2301.04(A), and 2501.20(A).

<sup>6</sup> R.C. 1901.028(B), 1907.04(B), 2301.04(B), and 2501.20(B).

<sup>7</sup> R.C. 1901.028(C), 1907.04(C), 2301.04(C), and 2501.20(C).

<sup>8</sup> R.C. 1901.028(D), 1907.04(D), 2301.04(D), and 2501.20(D).



permanent location of the court, including the site of the permanent location and the date on which operations will commence at the permanent location.<sup>9</sup>

The bill also modifies existing law by providing an exception to the general rule that the trial of a criminal case in Ohio must be held in the territory of which the offense or any element of the offense was committed. Under the bill, this general requirement does not apply in the case of an emergency in the territory of a municipal court, county court, court of common pleas, or court of appeals.<sup>10</sup>

### **Limitation of claims arising out of a medical claim or skilled nursing care, or personal care services provided in a home**

The bill, for the purposes of the statute of limitations for an action upon a medical, dental, optometric, or chiropractic claim, modifies the definition of "medical claim" to include the following:<sup>11</sup>

- Derivative claims for relief that arise from the plan of care of a person.
- Claims that arise out of the plan of care of any person and to which either the claim results from acts or omissions in providing medical care or the claim results from the hiring, training, supervision, retention, or termination of caregivers providing medical diagnosis, care, or treatment.
- Claims that arise out of the plan of care of any person that are brought as a grievance regarding a violation of the rights of a resident of a nursing home, residential care facility, county home, district home, hospital long term care unit, or veteran's home.
- Claims that arise out of skilled nursing care or personal care services provided in a home pursuant to the plan of care, medical diagnosis, or treatment.

The bill references the definitions for "skilled nursing care" and personal care services from the law regarding nursing homes and residential care facilities.<sup>12</sup>

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<sup>9</sup> R.C. 1901.028(E), 1907.04(E), 2301.04(E), and 2501.20(E).

<sup>10</sup> R.C. 2901.12(A).

<sup>11</sup> R.C. 2305.113(E)(3).

<sup>12</sup> R.C. 2305.113(E)(20).



## Use of nursing homes inspections and surveys in advertising

The bill prohibits the use of the results of an inspection or investigation of a nursing home, residential care facility, veteran's home, skilled nursing facility, nursing facility, or county home or district home (hereafter "home") that is or has been licensed as a residential care facility, or the use of the results of a Medicare or Medicaid survey of a nursing facility, including any statement of deficiencies and the findings and deficiencies cited in that statement in an advertisement, unless the advertisement includes all of the following:<sup>13</sup>

- The date the inspection, investigation, or survey was conducted;
- A statement that the Director of Health inspects all homes at least one every 15 months or, in the case of a nursing facility, that the Department of Health conducts a survey of all nursing facilities at least once every 15 months;
- If a finding or deficiency cited in the statement or deficiencies has been substantially corrected, a statement that the finding or deficiency has been substantially corrected and the date that the finding or deficiency was substantially corrected;
- The number of findings and deficiencies cited in the statement of deficiencies on the basis of the inspection, investigation, or survey;
- The average number of findings and deficiencies cited in a statement of deficiencies on the basis of an inspection, investigation, or survey during the same calendar year as the inspection, investigation, or survey used in the advertisement;
- A statement that the advertisement is neither authorized nor endorsed by the Department of Health or any other government agency.

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## HISTORY

ACTION	DATE
Introduced	10-10-13
Reported, H. Education	03-12-14
Passed House (90-0)	05-14-14
Reported, S. Civil Justice	---

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<sup>13</sup> R.C. 3721.02(F)(1) and 5165.67.

