



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 379*

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

Reps. Blessing and Landis, J. Adams, Becker, Butler, Grossman, Hackett, Scherer, Sprague, Young, Conditt, DeVitis, R. Adams, Amstutz, Anielski, Baker, Beck, Brenner, Brown, Buchy, Burkley, Damschroder, Green, Hall, Johnson, McClain, Milkovich, Perales, Ruhl, Terhar, Wachtmann, Batchelder

BILL SUMMARY

- Grants qualified immunity from civil liability to a volunteer who is an architect, contractor, engineer, surveyor, or tradesperson for any acts, errors, or omissions conducted in the performance of professional services or construction services for a structure, building, piping, or other engineered system during a declared emergency and 90 days thereafter.
- Provides that if the Governor extends the period of declared emergency, the immunity applies to services provided not more than 90 days after the end of the extended period.
- 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.
- 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.

* 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.

CONTENT AND OPERATION

Immunity for volunteer professional services provided during a declared emergency

The bill provides that a volunteer who is an architect, contractor, engineer, surveyor, or tradesperson is not liable in damages in a lawsuit for any injury, loss to person or property, or wrongful death related to the volunteer's acts, errors, or omissions in the performance of professional services or construction services for a publicly or privately owned structure, building, piping, or other engineered system.¹ Under the bill, a "volunteer" is an individual who, at the request of, or with the approval of, a national, state, or local public official, law enforcement official, public safety official, or building inspection official acting in an official capacity, voluntarily, without compensation, provides professional services or construction services without a written contract in relation to a declared national, state, or local emergency caused by a major earthquake, hurricane, tornado, fire, explosion, collapse, or other catastrophic event.²

This immunity does not apply to wanton, willful, or intentional misconduct. Also, this immunity only applies to professional services or construction services provided during a declared emergency and to professional services or construction services provided not more than 90 days after the end of the period of declared emergency. If the Governor extends the period of declared emergency, the immunity applies to services provided not more than 90 days after the end of the extended period.³

For purposes of the immunity, the bill defines the following terms:⁴

--"Architect" means an individual who is certified as an architect under the Architects Law.

--"Building inspection official" means any appointed or elected federal, state, or local official with overall executive responsibility for coordinating building inspections in the jurisdiction in which a declared emergency has occurred.

¹ R.C. 2305.2310(A).

² R.C. 2305.2310(D)(12).

³ R.C. 2305.2310(B) and (C).

⁴ R.C. 2305.2310(D).



--"Construction services" includes any construction, improvement, renovation, repair, or maintenance performed by a contractor or tradesperson, but does not include services provided by an individual who is not qualified to provide those services.

--"Contractor" has the same meaning as in the Construction Industry Licensing Board Law.

--"Engineer" means an individual registered as a professional engineer under the Professional Engineers and Professional Surveyors Law.

--"Law enforcement official" means an appointed or elected federal, state, or local official responsible for coordinating law enforcement in the jurisdiction in which a declared emergency has occurred.

--"Professional services" means architectural, engineering, or surveying services provided by an architect, engineer, or surveyor, respectively, but does not include services provided by an individual who is not qualified to provide those services.

--"Public official" means any elected federal, state, or local official with overall executive responsibility in the jurisdiction in which a declared emergency has occurred.

--"Public safety official" means any appointed or elected official with overall executive responsibility to coordinate public safety in the jurisdiction in which a declared emergency has occurred.

--"Surveyor" means an individual who is registered as a professional surveyor under the Professional Engineers and Professional Surveyors Law.

--"Tradesperson" has the same meaning as in the Construction Industry Licensing Board Law.

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

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

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.⁶

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.⁷

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:⁸

- 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

⁵ R.C. 1901.028(A), 1907.04(A), 2301.04(A), and 2501.20(A).

⁶ R.C. 1901.028(B), 1907.04(B), 2301.04(B), and 2501.20(B).

⁷ R.C. 1901.028(C), 1907.04(C), 2301.04(C), and 2501.20(C).

⁸ 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.⁹

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.¹⁰

HISTORY

ACTION	DATE
Introduced	12-10-13
Reported, H. Commerce, Labor & Technology	03-12-14
Passed House (90-0)	04-02-14
Reported, S. Civil Justice	---

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⁹ R.C. 1901.028(E), 1907.04(E), 2301.04(E), and 2501.20(E).

¹⁰ R.C. 2901.12(A).

