

Executive

As Reported by House Finance and Appropriations

CLACD2

Wrongful Imprisonment Claims

R.C. 309.09, 2305.02, 2743.48, 2953.32

- (1) Provides that a determination that a person is a wrongfully imprisoned individual must be made in a separate civil action in the court of common pleas associated with the person's conviction.
- (2) Requires the prosecuting attorney to defend those civil actions.
- (3) Removes the right for a wrongfully imprisoned individual to have counsel of that individual's choice in the civil action in the Court of Claims to recover damages from the state.
- (4) Removes the phrase "an error in procedure that resulted in the individual's release" from the possible criteria a person must satisfy to be considered a wrongfully imprisoned individual.
- (5) Requires that a person seeking to be determined a wrongfully imprisoned individual, prove during a civil proceeding in the court of common pleas associated with the person's conviction that at the time of the offense the person was not engaging in any other criminal conduct arising out of that offense.
- (6) Provides that if the individual at the time of the wrongful imprisonment was serving concurrent sentences on other convictions that were not vacated, dismissed, or reversed on appeal, then the individual is not eligible for compensation for any portion of wrongful imprisonment that occurred during such a concurrent sentence.

R.C. 309.09, 2305.02, 2743.48, 2953.32

- (1) Same as the Executive except that the civil action must be filed in the court of common pleas in the county where the underlying criminal action was initiated and adds that the criteria for an individual being determined a "wrongfully imprisoned individual" be proven by clear and convincing evidence.
- (2) Same as the Executive.
- (3) Same as the Executive.
- (4) Same as the Executive.
- (5) Same as the Executive, but making it one of the criteria for determining whether a person is a "wrongfully imprisoned individual."
- (6) Same as the Executive.

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(7) Provides that in order for a wrongfully imprisoned individual to be eligible to recover, the individual cannot have been convicted of a felony, other than the felony that is the subject of the civil action, or a misdemeanor offense of violence within 10 years prior to the filing of the civil action to be declared a wrongfully imprisoned individual or be convicted of a felony during the pendency of that action or the civil action in the Court of Claims.

(7) No provision.

(8) Provides that a prosecuting attorney or the Attorney General, or their assistants, may inspect sealed records for the purpose of defending a civil action to determine if a person is a wrongfully imprisoned individual.

(8) Same as the Executive.

**Fiscal effect: Courts of common pleas may experience an increase in costs related to the provision described in (1) above. County prosecutors could experience an increase in costs related to the provision described in (2) above. As a result of the provisions described in (3), (4), (5), (6) and (7) above, the state could experience a decrease in annual GRF expenditures related to compensation payments to wrongfully imprisoned individuals. The potential magnitude of these savings however is unknown as such claims, both in number and award amount, vary greatly from year to year. Provision (8) described above may give prosecutors or the Attorney General access to pertinent information more quickly than might have otherwise been the case under current law and practice.**

**Fiscal effect: Same as the Executive except the potential estimated decrease in annual GRF expenditures related to compensation payments to wrongfully imprisoned individuals may not be as large as it may have been under the Executive version of the bill.**

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CLACD1            Administrative Decisions under \$10,000

R.C.        2743.02, 2743.10

Increases the threshold below which a civil action against the state must be determined administratively by the Clerk of the Court of Claims from \$2,500 to \$10,000.

**Fiscal effect: This change will have no effect on the number of cases filed annually with the Court of Claims. However, it may decrease the time needed to adjudicate certain cases, thus creating efficiencies for the Court.**

R.C.        2743.02, 2743.10

Same as the Executive.

**Fiscal effect: Same as the Executive.**

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**DOTCD5            Determinations of Liability in Civil Actions Against the Department of Transportation**

**R.C.        2743.021, 2743.01, 2743.02, 2743.022**

Exempts from the criteria used to determine the state's liability in accordance with the rules of law applicable to actions between private parties the determination of liability of the Ohio Department of Transportation (ODOT) in actions against the Department under the Court of Claims Law. Instead specifies that ODOT's liability is determined based on the governmental and proprietary functions of the Department.

Defines the governmental and proprietary functions of ODOT for the purposes of determining the Department's liability in civil actions, and specifies that ODOT is not liable for damages in civil actions related to ODOT's governmental and proprietary functions unless otherwise specified.

Specifies that ODOT is liable in damages for injury, death, or loss to person or property shown to be caused by a preponderance of the evidence by (1) the negligent operation of a motor vehicle by an officer or employee within the scope of the person's employment or authority; (2) the negligent performance of acts with respect to ODOT's proprietary functions; (3) the negligent failure to keep roads or highways in repair or to remove obstructions; (4) negligence and patent defects in buildings or grounds used in a governmental function; or (5) if civil liability is otherwise imposed on ODOT by statute.

Specifies that ODOT is immune from liability for damages for injury, death, or loss to person or property in a civil action if (1) the officer or employee involved was engaged

**R.C.        2743.021, 2743.01, 2743.02, 2743.022**

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in a prosecutorial, quasi-judicial, or quasi-legislative function; (2) the conduct of the officer or employee involved was not negligent and was required or authorized by law, or was necessary or essential to the exercise of the powers of ODOT or the officer or employee; (3) the action or failure to act of an officer or employee was within the person's discretion with respect to policymaking, planning, or enforcement powers by virtue of the person's official duties or responsibilities; or (4) the injury, death, or loss to person 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.

Specifies that an officer or employee of ODOT is immune from liability for damages for injury, death, or loss to person or property in a civil action unless (1) the person's acts or omissions were manifestly outside the scope of the person's employment or official responsibilities; (2) the person's acts or omissions were with malicious purpose, in bad faith, or in a wanton or reckless manner; or (3) civil liability is expressly imposed upon the officer or employee by a section of the Revised Code.

Specifies that an immunity or defense conferred upon an officer or employee of ODOT does not affect any liability of the Department for an act or omission of the officer or employee

**Fiscal effect: This limits the circumstances under which the Department of Transportation might be required to pay damages or other liability costs in the event of civil actions against the Department or its officers and employees.**

Same as the Executive.

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**Fiscal effect: Same as the Executive.**