

Courts

Am. Sub. H.B. 7

Reps. Cupp, Becker, Hambley, R. Smith, Huffman, Schaffer, Stein, Anielski, Ginter, Green, Lang, Pelanda, Reineke, Roegner, Romanchuk, Scherer, Schuring, Seitz, Wiggam, Young

Sens. Bacon, Burke, Eklund, Gardner, Hackett, Kunze, Terhar, Uecker, Wilson

Effective date: March 20, 2019

Qualified immunity for health care providers and EMTs in a disaster

- Generally, grants qualified civil immunity to specific types of health care providers and to emergency medical technicians (EMTs) who provide only emergency medical services, first-aid treatment, or other emergency professional care as a result of a disaster and through the disaster's duration.
- Stipulates that the act does not create a new cause of action or substantive right against a health care provider or EMT and does not affect any civil immunities or defenses to which a provider or EMT may be entitled in providing those services or that treatment or care.
- Stipulates that the act does not grant immunity from civil liability to a health care provider or EMT for actions that are outside the provider's or EMT's authority nor affect a provider's or EMT's legal responsibility to comply with Ohio laws and rules.
- Specifies that the immunity does not apply to a tort action alleging wrongful death against a health care provider or EMT who provides emergency medical services, first-aid treatment, or other emergency professional care as a result of a disaster.

Immunity for behavior of mental health patients

- Grants immunity to certain health care professionals or hospitals for failing to discharge from a facility a patient whom the professional or hospital believes in good faith professional judgment, according to appropriate standards of professional practice, has a mental health condition threatening the patient's or others' safety.
- Grants immunity to certain health care professionals or hospitals for discharging a patient whom the professional or hospital believes in good faith professional judgment, according to appropriate standards of professional practice, not to have a mental health condition that threatens the patient's or others' safety.

Medical Malpractice Law

- Clarifies the definition of "medical claim" and applies the provisions described below to civil actions based on a medical claim.

Complaint asserting a medical claim

- Specifies the manner of sending, before the limitation period for the claim expires, to a person who is the subject of a medical claim the written notice of the claimant's intent to bring that claim.
- Specifically requires the plaintiff to file with the complaint, pursuant to Civil Rule 10(D), an affidavit of merit as to each defendant or a motion to extend the period to file the affidavit.
- Permits the parties, within the period described in the second succeeding dot point, to seek to discover potential medical claims not included in the complaint.
- Permits the plaintiff, within the period described in the succeeding dot point, to join any additional claim if the one-year limitation period for that claim had not expired prior to filing the original claim.
- Provides that if a complaint is filed prior to the one-year limitation period, the parties may conduct discovery and the plaintiff may join additional claims during the balance of any days remaining from the filing of the complaint to the expiration of that limitation period, plus 180 days from the filing of the complaint.
- Specifies that the provisions allowing for additional claims do not modify or affect any Revised Code provision, common law rule, or Rule of Civil Procedure that applies to the commencement of the limitation period for medical claims asserted after the 180-day period specified in the preceding dot point.

Unanticipated outcome of medical care

- Renders inadmissible as evidence of an admission of liability a health care provider's, employee's, or representative's statements expressing error or fault that relate to the victim's injury or death made to the victim of an unanticipated outcome of medical care or the victim's relative or representative.
- Provides that if any statements described above or any statements of apology in continuing law are included in the victim's medical record, only the portions of the record that include those statements are inadmissible as evidence of an admission of liability.
- Generally, renders inadmissible as evidence any communications between a health care provider, employee, or representative and a victim, victim's relative, acquaintance, or representative following an unanticipated outcome of medical care and made as part of a good faith review into the cause of the unanticipated outcome.

Standards in federal laws not admissible

- Provides that any guideline or standard under the "Patient Protection and Affordable Care Act" or the "Social Security Act" dealing with Medicare and Medicaid cannot be

construed to establish a health care provider's standard or duty of care owed to a patient and is not admissible as evidence in a medical claim.

Insurer's reimbursement policies not admissible

- Provides that any insurer's reimbursement policies or determinations or regulations of the U.S. Centers for Medicare and Medicaid Services or the Ohio Department of Medicaid regarding the health care services provided to a patient are not admissible as evidence and may not be used to establish a standard of care.

H.B. 354

Reps. Reineke, Gavarone, Goodman, Sprague, Manning, Rezabek, Celebrezze, Galonski, Lang, Rogers, Anielski, Blessing, Boyd, Brown, Faber, Green, T. Johnson, Lepore-Hagan, Patton, Riedel, Ryan, Schaffer, Seitz, Sheehy, R. Smith, Strahorn, Sweeney

Sens. Eklund, Hackett, Hoagland, McColley, Oelslager, Schiavoni, Tavares, Terhar, Yuko

Effective date: August 1, 2018

- Grants the Tiffin-Fostoria Municipal Court and the Seneca County Court of Common Pleas concurrent jurisdiction in certain criminal proceedings in which the offender is admitted to a drug recovery program.
- Specifies criminal proceedings in which the Tiffin-Fostoria Municipal Court does not have concurrent jurisdiction with the Seneca County Court of Common Pleas.
- Provides that the concurrent jurisdiction expires August 1, 2023, unless renewed or made permanent by the General Assembly.

Sub. H.B. 411

Reps. Seitz and Sykes, Galonski, Miller, Strahorn, Boggs, Celebrezze, K. Smith, Kent, Craig, West, Holmes, Barnes, Blessing, Boyd, Brinkman, Brown, Dever, Fedor, Howse, Kelly, Lepore-Hagan, Ramos, Rezabek, Sheehy, Young

Sens. Eklund, Bacon, Beagle, Brown, Burke, Coley, Gardner, Hackett, Hoagland, Hottinger, Huffman, Kunze, Lehner, McColley, Obhof, O'Brien, Oelslager, Peterson, Schiavoni, Skindell, Sykes, Tavares, Terhar, Thomas, Williams, Yuko

Effective date: March 22, 2019

Recovery for wrongful imprisonment

- Modifies the criteria that an individual must satisfy to be determined a wrongfully imprisoned individual, and provides for retroactive application of the changes to the "error in procedure" criterion.
- Requires the Court of Claims to deduct any known debts owed by a wrongfully imprisoned individual to the state or a political subdivision, or any award or recovery

from a related civil rights action that the individual actually collected, from the money the individual otherwise would be awarded, and pay those deducted amounts to the state or political subdivision.

- Requires an individual to reimburse the state for:
 - The amount of any award or recovery in a related civil rights action that the individual actually collected after the Court of Claims enters judgment in the individual's favor for wrongful imprisonment;
 - The entire award for wrongful imprisonment if the individual is later convicted of an offense that is based on any act associated with the conviction that was vacated, reversed, or dismissed on appeal and that was the basis of the person being determined wrongfully imprisoned.

Violation sanction centers

- Changes the nature and purposes of violation sanctions centers that the Department of Rehabilitation and Correction is authorized to operate or contract for private operation.

Sub. H.B. 595

Reps. Cupp and Rezabek, Seitz, Riedel, Manning, Anielski, Ashford, Blessing, Brown, Craig, Dever, Ginter, Green, Hambley, Holmes, Leland, Miller, Perales, Rogers, Wiggam, Wilkin

Sens. Coley, Bacon, Brown, Dolan, Gardner, Hackett, Huffman, Kunze, McColley, Obhof, O'Brien, Peterson, Sykes, Tavares, Terhar, Thomas, Williams, Wilson, Yuko

Effective date: March 22, 2019

Coroner's duties

- Specifies the coroner's duties with regards to a deceased person, including notifying the person who has been assigned the rights of disposition for the deceased person of the death, and the disposition of the deceased person's property, including a firearm.
- Requires the person who receives the deceased person's possessions from the coroner to deliver them to the executor or administrator of the deceased person's estate or to any other person legally entitled to any of them.

Benefiting from another's death

- Disqualifies a person who is convicted of involuntary manslaughter that is not a proximate result of a felony aggravated vehicular homicide or vehicular homicide offense from in any way benefiting by the death of the victim of that offense.

Wills and trusts

- Provides that if a will incorporates a trust instrument only in the event that a bequest or device is ineffective, the trust instrument must be deposited in the probate court not later than 30 days after the determination that the bequest or device is ineffective.
- Specifies terms that must be used if a testator intends to incorporate a trust instrument in a will.
- Specifies that a will's compliance with the law of the jurisdiction in which the testator was physically present at the time of its execution applies to determine the admissibility of a will to probate in Ohio.
- Specifies that the exception to the antilapse provisions for wills and trusts only applies to multigenerational class gifts.
- Allows for the creation of a trust for the benefit of a minor beneficiary if the minor is entitled to money or property whether by settlement for personal injury or damage to tangible or intangible property, inheritance, or otherwise.
- Provides a procedure for certain eligible persons to file an application with the probate court to release the decedent's medical and medical billing records for the limited purpose of deciding whether or not to file a wrongful death, personal injury, or survivorship claim.
- Specifies that a provision in the terms of a trust, except a testamentary trust, that requires the arbitration of disputes, other than disputes of the validity of all or part of a trust instrument, is enforceable and unless otherwise specified, the arbitration is presumed to be binding.
- Relocates the provisions regarding determining the validity of a will before the testator's death and creates a procedure for determining the validity of a trust.
- Specifies that the probate division of the common pleas court has exclusive jurisdiction to render declaratory judgments regarding the validity of a will or trust, but may transfer the proceeding to the general division of the common pleas court.
- Generally, prohibits a person from contesting the validity of a trust as to facts decided if the trust was submitted to the probate court by the settlor during the settlor's lifetime and was declared valid by the court.
- Allows a person to contest the validity of a trust described in the preceding dot point if the person should have been named a party defendant in the action in which the trust was declared valid and was not named a defendant and properly served in that action.

- Provides that authenticated copies of wills "of persons not domiciled in this state," executed and proved according to the laws of any state or territory, relative to property in Ohio, may be admitted to record in the probate court of a county where a part of that property is situated.
- Permits nonelderly, disabled applicants or Medicaid recipients or their spouses to establish their own special needs trust on or after December 13, 2016.

Fiduciaries and guardianship services

- Provides that any communication between an attorney and a client who is acting as a fiduciary is privileged and protected from disclosure to third parties to whom the fiduciary owes fiduciary duties to the same extent as if the client was not acting as a fiduciary.
- Eliminates a requirement that the probate court approve a transfer of funds received by a fiduciary in the fiduciary's name as such fiduciary to the fiduciary's attorney for deposit in an interest on lawyer's trust account (IOLTA) and allows such a transfer if nominal in amount or if to be held for a short time.
- Allows for the creation of the county probate court guardianship services fund, the multicounty probate court guardianship services fund, and the county or multicounty guardianship services board.

Courts

- Provides a uniform process to determine that a person is an indigent litigant for purposes of collecting additional fees in a civil action, paying for special court projects, furnishing security for costs, or other purposes, and provides for the waiver of certain court costs and fees for indigent litigants.
- Prohibits a juvenile court from exercising jurisdiction in certain cases to determine custody or child support if certain conditions apply relating to whether or not the child's parents are married or are parties to a pending divorce, dissolution of marriage, annulment, or legal separation.
- Provides that the act's prohibition on juvenile court jurisdiction does not affect the authority, in certain cases, to grant custody of a child to a relative or place a child in kinship care.
- Permits a juvenile court to transfer jurisdiction over a support or custody action or order to a domestic relations court if certain conditions apply relating to whether or not the child's parents are married; are parties to a pending divorce, dissolution, annulment, or legal separation; or are subject to both support and protection orders.
- Provides that jurisdiction over a transferrable action or order must be transferred and the receiving court has exclusive jurisdiction if certain requirements are met.

- Provides that a juvenile court's ability and requirement to transfer jurisdiction under the act applies to all orders in effect, and all actions or proceedings pending or initiated, on or after the act's effective date.
- If a child is subject to a support order of a domestic relations court, requires a juvenile court to notify the domestic relations court and child support enforcement agency if the juvenile court makes certain adjudications and grants custody to a person other than one designated by the domestic relations court.
- States that nothing in the act can be construed to prevent a domestic relations court from certifying a case to a juvenile court in certain situations, and a juvenile court's consent is not required for certification.
- Defines "domestic relations matters" regarding jurisdiction of domestic relations courts.