

AN ACT

To enact sections 2305.236 to 2305.239 of the Revised Code to confer two distinct qualified immunities from tort liability upon a shelter for victims of domestic violence and its directors, owners, trustees, officers, employees, victim advocates, and volunteers for harm that family or household members cause to victims of domestic violence or other persons on the shelter's premises, or on premises other than the shelter's premises, under specified circumstances.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 2305.236, 2305.237, 2305.238, and 2305.239 of the Revised Code be enacted to read as follows:

Sec. 2305.236. As used in sections 2305.236 to 2305.239 of the Revised Code:

(A) "Conduct" means actions or omissions.

(B) "Domestic violence," "shelter," and "shelter for victims of domestic violence" have the same meanings as in section 3113.33 of the Revised Code.

(C) "Perpetrator" means a person who allegedly has committed domestic violence and who bears one of the relationships specified in division (B) of section 3113.33 of the Revised Code to a victim of domestic violence who is a shelter client.

(D) "Harm" means injury, death, or loss to person or property.

(E) "Political subdivision" has the same meaning as in section 2744.01 of the Revised Code.

(F) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons.

(G) "Volunteer" means an individual who provides any service at a shelter for victims of domestic violence without the expectation of receiving and without receiving any compensation or other form of remuneration.

either directly or indirectly, for the provision of the service.

(H) "Shelter client" means a person who is a victim of domestic violence and who is seeking to use or is using the services or facilities of a shelter for victims of domestic violence.

(I) "Victim advocate" means a person from a crime victim service organization who provides support and assistance for a victim of a crime during court proceedings and recovery efforts related to the crime.

(J) "Crime victim service organization" means any organization that is not organized for profit and that is organized and operated to provide, or to contribute to the support of organizations or institutions organized and operated to provide, services and assistance for victims of crime.

Sec. 2305.237. (A) Except as provided in division (B) of this section and subject to section 2305.239 of the Revised Code, a shelter for victims of domestic violence and a director, owner, trustee, officer, employee, victim advocate, or volunteer of the shelter are not liable in damages in a tort action for harm that a shelter client or other person who is on the shelter's premises allegedly sustains as a result of tortious conduct of a perpetrator that is committed on the shelter's premises if the perpetrator is not a director, owner, trustee, officer, employee, victim advocate, or volunteer of the shelter and if any of the following situations applies:

(1) The perpetrator illegally entered and illegally remained on the premises at the time the perpetrator's tortious conduct allegedly caused the harm sustained by a shelter client or other person who is on the premises.

(2) The perpetrator legally entered the premises; a director, owner, trustee, officer, employee, victim advocate, or volunteer of the shelter instructed the perpetrator to leave the premises, and took reasonable steps under the circumstances to cause the perpetrator to leave the premises, before the perpetrator allegedly caused the harm sustained by a shelter client or other person who is on the premises; and, despite those reasonable steps, the perpetrator remained on the premises and committed the tortious conduct that allegedly caused the harm sustained by a shelter client or other person who is on the premises.

(3) The perpetrator legally entered the premises; a director, owner, trustee, officer, employee, victim advocate, or volunteer of the shelter granted the perpetrator permission to remain on the premises after taking either of the following precautionary steps; and, despite taking either of those steps, the perpetrator committed the tortious conduct that allegedly caused the harm sustained by a shelter client or other person who is on the premises:

(a) The director, owner, trustee, officer, employee, victim advocate, or

volunteer of the shelter asks a person entering the premises whether the person is related by consanguinity or affinity to or has resided with a shelter client; the person responds that the person is not so related and has not so resided; and the director, owner, trustee, officer, employee, victim advocate, or volunteer, in exercising the reasonable judgment and discretion of a prudent person under similar circumstances, believes that the person is not so related and has not so resided.

(b) The director, owner, trustee, officer, employee, victim advocate, or volunteer of the shelter asks a person entering the premises whether the person is related by consanguinity or affinity to or has resided with a shelter client; the person responds that the person is so related or has so resided; and the director, owner, trustee, officer, employee, victim advocate, or volunteer, in exercising the reasonable judgment and discretion of a prudent person under similar circumstances, determines that granting the person permission to remain on the premises does not appear to pose a threat of harm to a shelter client or other person who is on the premises.

(B) The immunity from tort liability conferred by division (A) of this section is not available to a shelter for victims of domestic violence or a director, owner, trustee, officer, employee, victim advocate, or volunteer of the shelter if the plaintiff in a tort action establishes, by clear and convincing evidence, that a director, owner, trustee, officer, employee, victim advocate, or volunteer of the shelter contributed to the harm sustained by a shelter client or other person who is on the shelter's premises, by an action or omission that involved malicious purpose, bad faith, or wanton or reckless conduct. For purposes of this division, "reckless conduct" includes the release of confidential information that pertains to a shelter client.

Sec. 2305.238. (A) Except as provided in division (B) of this section and subject to section 2305.239 of the Revised Code, a shelter for victims of domestic violence and a director, owner, trustee, officer, employee, victim advocate, or volunteer of the shelter are not liable in damages in a tort action for harm that a shelter client or other person who is on the premises allegedly sustains as a result of tortious conduct of a perpetrator that is committed on premises other than the shelter's premises if the perpetrator is not a director, owner, trustee, officer, employee, victim advocate, or volunteer of the shelter and if both of the following apply when the harm is caused:

(1) A director, owner, trustee, officer, employee, victim advocate, or volunteer of the shelter is providing assistance to a shelter client, including, but not limited to, accompanying the client to a health care practitioner's or attorney's office.

(2) The director, owner, trustee, officer, employee, victim advocate, or volunteer of the shelter is engaged in the course of that director's, owner's, trustee's, officer's, employee's, victim advocate's, or volunteer's employment, official responsibilities, or authorized services for the shelter.

(B) The immunity from tort liability conferred by division (A) of this section is not available to a shelter for victims of domestic violence or a director, owner, trustee, officer, employee, victim advocate, or volunteer of the shelter if the plaintiff in a tort action establishes, by clear and convincing evidence, that a director, owner, trustee, officer, employee, victim advocate, or volunteer of the shelter contributed to the harm sustained by a shelter client or other person who is on the premises, by an action or omission that involved malicious purpose, bad faith, or wanton or reckless conduct. For purposes of this division, "reckless conduct" includes the release of confidential information that pertains to a shelter client.

Sec. 2305.239. (A) Sections 2305.237 and 2305.238 of the Revised Code do not create a new cause of action or substantive legal right against a shelter for victims of domestic violence or a director, owner, trustee, officer, employee, victim advocate, or volunteer of the shelter.

(B) Sections 2305.237 and 2305.238 of the Revised Code do not affect any immunities from civil liability or defenses established under section 2305.234, 2744.02, or 2744.03 or another section of the Revised Code or available at common law to which a shelter for victims of domestic violence, a director, owner, trustee, officer, employee, victim advocate, or volunteer of the shelter, or a political subdivision associated with the shelter may be entitled in connection with alleged tort liability of third parties or in connection with circumstances not covered by section 2305.237 or 2305.238 of the Revised Code.

SECTION 2. Sections 2305.236 to 2305.239 of the Revised Code, as enacted by this act, apply only to causes of action for harm that shelter clients or other persons allegedly sustain on or after the effective date of this act on or off the premises of a shelter for victims of domestic violence.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. S. B. No. 131

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____