

As Introduced

**124th General Assembly
Regular Session
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S. B. No. 131

SENATORS Austria, Spada, Robert Gardner, White, Furney

A B I L L

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, and volunteers for harm that family or household members cause to victims of domestic violence 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," "family or household member," "shelter," and "shelter for victims of domestic violence" have the same meanings as in section 3113.33 of the Revised Code.

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

(D) "Political subdivision" has the same meaning as in section 2744.01 of the Revised Code. 20
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(E) "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. 22
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(F) "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. 26
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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, or volunteer of the shelter are not liable in damages in a tort action for harm that a victim of domestic violence allegedly sustains as a result of tortious conduct of a family or household member of the victim that is committed on the shelter's premises if the family or household member is not a director, owner, trustee, officer, employee, or volunteer of the shelter and if any of the following situations apply: 31
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(1) The family or household member illegally entered and illegally remained on the shelter's premises at the time the family or household member's tortious conduct allegedly caused the harm that the victim of domestic violence sustained on the shelter's premises. 42
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(2) The family or household member legally entered the shelter's premises; a director, owner, trustee, officer, employee, or volunteer of the shelter informed the family or household member to leave the shelter's premises, and took reasonable steps 47
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under the circumstances to cause the family or household member to
leave the shelter's premises, prior to the family or household
member allegedly causing the harm that the victim of domestic
violence sustained on the shelter's premises; and, despite those
reasonable steps, the family or household member remained on the
shelter's premises and committed the tortious conduct that
allegedly caused the harm that the victim of domestic violence
sustained on the shelter's premises.

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(3) The family or household member legally entered the
shelter's premises; a director, owner, trustee, officer, employee,
or volunteer of the shelter granted the family or household member
permission to remain on the shelter's premises after taking either
of the following precautionary steps; and, despite taking either
of those steps, the family or household member committed the
tortious conduct that allegedly caused the harm that the victim of
domestic violence sustained on the shelter's premises:

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(a) The director, owner, trustee, officer, employee, or
volunteer of the shelter inquires, at the time of the entry of the
shelter's premises, whether the individual so entering is a family
or household member of a victim of domestic violence on the
shelter's premises; the individual responds that the individual is
not a family or household member of that nature; and the director,
owner, trustee, officer, employee, or volunteer, in exercising the
reasonable judgment and discretion of a prudent person under
similar circumstances, believes that the individual is not a
family or household member of that nature.

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(b) The director, owner, trustee, officer, employee, or
volunteer of the shelter inquires, at the time of the entry of the
shelter's premises, whether the individual so entering is a family
or household member of a victim of domestic violence on the
shelter's premises; the individual responds that the individual is
a family or household member of that nature; and the director,

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owner, trustee, officer, employee, or volunteer, in exercising the
reasonable judgment and discretion of a prudent person under
similar circumstances, determines that granting the individual
permission to remain on the shelter's premises does not appear to
pose a threat of harm to the victim of domestic violence.

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(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, or volunteer of the shelter if the plaintiff in a tort
action establishes, by clear and convincing evidence, that the
harm that a victim of domestic violence sustains on the shelter's
premises as a result of a family or household member's tortious
conduct was contributed to by an action or omission of a director,
owner, trustee, officer, employee, or volunteer of the shelter
that involves 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 the
victim of domestic violence.

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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, or volunteer of the shelter are not
liable in damages in a tort action for harm that a victim of
domestic violence allegedly sustains as a result of tortious
conduct of a family or household member of the victim that is
committed on premises other than the shelter's premises if the
family or household member is not a director, owner, trustee,
officer, employee, or volunteer of the shelter and if both of the
following apply at the time the family or household member's
tortious conduct allegedly causes the harm that the victim
sustains on premises other than the shelter's premises:

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(1) A director, owner, trustee, officer, employee, or 114
volunteer of the shelter is providing assistance to the victim, 115
including, but not limited to, accompanying the victim to a health 116
care practitioner's or attorney's office. 117

(2) The director, owner, trustee, officer, employee, or 118
volunteer of the shelter is engaged in the course of that 119
director's, owner's, trustee's, officer's, employee's, or 120
volunteer's employment, official responsibilities, or authorized 121
services for the shelter. 122

(B) The immunity from tort liability conferred by division 123
(A) of this section is not available to a shelter for victims of 124
domestic violence or a director, owner, trustee, officer, 125
employee, or volunteer of the shelter if the plaintiff in a tort 126
action establishes, by clear and convincing evidence, that the 127
harm that a victim of domestic violence sustains on premises other 128
than the shelter's premises as a result of a family or household 129
member's tortious conduct was contributed to by an action or 130
omission of a director, owner, trustee, officer, employee, or 131
volunteer of the shelter that involves malicious purpose, bad 132
faith, or wanton or reckless conduct. For purposes of this 133
division, reckless conduct includes the release of confidential 134
information that pertains to the victim of domestic violence. 135

Sec. 2305.239. (A) Sections 2305.237 and 2305.238 of the 136
Revised Code do not create a new cause of action or substantive 137
legal right against a shelter for victims of domestic violence or 138
a director, owner, trustee, officer, employee, or volunteer of the 139
shelter. 140

(B) Sections 2305.237 and 2305.238 of the Revised Code do not 141
affect any immunities from civil liability or defenses established 142
under section 2305.234, 2744.02, or 2744.03 or another section of 143
the Revised Code or available at common law to which a shelter for 144

victims of domestic violence, a director, owner, trustee, officer, 145
employee, or volunteer of the shelter, or a political subdivision 146
associated with the shelter may be entitled in connection with 147
alleged tort liability based upon the tortious conduct of third 148
parties or in connection with circumstances not covered by section 149
2305.237 or 2305.238 of the Revised Code. 150

Section 2. Sections 2305.236 to 2305.239 of the Revised Code, 151
as enacted by this act, apply only to causes of action for harm 152
that victims of domestic violence allegedly sustain on or after 153
the effective date of this act on or off the premises of a shelter 154
for victims of domestic violence. With respect to causes of action 155
that are not barred by a statute of limitations and that are for 156
harm that victims of domestic violence allegedly sustained prior 157
to the effective date of this act on or off the premises of a 158
shelter for victims of domestic violence, the liability or 159
immunity from liability of, and defenses available to, the shelter 160
or the director, owner, trustee, officer, employee, or volunteer 161
of the shelter shall be determined as if this act had not been 162
enacted. 163