

**As Reported by the Senate State and Local Government and
Veterans Affairs Committee**

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

SENATORS Austria, Spada, Robert Gardner, White, Furney, McLin, Mumper

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," "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

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in division (B) of section 3113.33 of the Revised Code to a victim of domestic violence who is a shelter client.

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

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

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(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.

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(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.

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

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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 shelter client 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, or volunteer of the shelter and if any of the following situations applies:

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(1) The perpetrator illegally entered and illegally remained on the premises at the time the perpetrator's tortious conduct

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allegedly caused the harm sustained by a shelter client. 50

(2) The perpetrator legally entered the premises; a director, owner, trustee, officer, employee, 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; 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. 51
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(3) The perpetrator legally entered the premises; a director, owner, trustee, officer, employee, 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: 60
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(a) The director, owner, trustee, officer, employee, 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, 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. 67
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(b) The director, owner, trustee, officer, employee, 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, or volunteer, in exercising the 76
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reasonable judgment and discretion of a prudent person under 82
similar circumstances, determines that granting the person 83
permission to remain on the premises does not appear to pose a 84
threat of harm to a shelter client. 85

(B) The immunity from tort liability conferred by division 86
(A) of this section is not available to a shelter for victims of 87
domestic violence or a director, owner, trustee, officer, 88
employee, or volunteer of the shelter if the plaintiff in a tort 89
action establishes, by clear and convincing evidence, that a 90
director, owner, trustee, officer, employee, or volunteer of the 91
shelter contributed to the harm sustained by a shelter client, by 92
an action or omission that involved malicious purpose, bad faith, 93
or wanton or reckless conduct. For purposes of this division, 94
"reckless conduct" includes the release of confidential 95
information that pertains to a shelter client. 96

Sec. 2305.238. (A) Except as provided in division (B) of this 97
section and subject to section 2305.239 of the Revised Code, a 98
shelter for victims of domestic violence and a director, owner, 99
trustee, officer, employee, or volunteer of the shelter are not 100
liable in damages in a tort action for harm that a shelter client 101
allegedly sustains as a result of tortious conduct of a 102
perpetrator that is committed on premises other than the shelter's 103
premises if the perpetrator is not a director, owner, trustee, 104
officer, employee, or volunteer of the shelter and if both of the 105
following apply when the harm is caused: 106

(1) A director, owner, trustee, officer, employee, or 107
volunteer of the shelter is providing assistance to a shelter 108
client, including, but not limited to, accompanying the client to 109
a health care practitioner's or attorney's office. 110

(2) The director, owner, trustee, officer, employee, or 111
volunteer of the shelter is engaged in the course of that 112

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director's, owner's, trustee's, officer's, employee's, or 113
volunteer's employment, official responsibilities, or authorized 114
services for the shelter. 115

(B) The immunity from tort liability conferred by division 116
(A) of this section is not available to a shelter for victims of 117
domestic violence or a director, owner, trustee, officer, 118
employee, or volunteer of the shelter if the plaintiff in a tort 119
action establishes, by clear and convincing evidence, that a 120
director, owner, trustee, officer, employee, or volunteer of the 121
shelter contributed to the harm sustained by a shelter client, by 122
an action or omission that involved malicious purpose, bad faith, 123
or wanton or reckless conduct. For purposes of this division, 124
"reckless conduct" includes the release of confidential 125
information that pertains to a shelter client. 126

Sec. 2305.239. (A) Sections 2305.237 and 2305.238 of the 127
Revised Code do not create a new cause of action or substantive 128
legal right against a shelter for victims of domestic violence or 129
a director, owner, trustee, officer, employee, or volunteer of the 130
shelter. 131

(B) Sections 2305.237 and 2305.238 of the Revised Code do not 132
affect any immunities from civil liability or defenses established 133
under section 2305.234, 2744.02, or 2744.03 or another section of 134
the Revised Code or available at common law to which a shelter for 135
victims of domestic violence, a director, owner, trustee, officer, 136
employee, or volunteer of the shelter, or a political subdivision 137
associated with the shelter may be entitled in connection with 138
alleged tort liability of third parties or in connection with 139
circumstances not covered by section 2305.237 or 2305.238 of the 140
Revised Code. 141

Section 2. Sections 2305.236 to 2305.239 of the Revised Code, 142

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as enacted by this act, apply only to causes of action for harm 143
that shelter clients allegedly sustain on or after the effective 144
date of this act on or off the premises of a shelter for victims 145
of domestic violence. 146