

**As Reported by the House Civil and Commercial Law Committee**

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**Sub. H. B. No. 316**

**Representatives Wolpert, McGregor, Hughes, Reidelbach, Cirelli, Raussen,  
Kearns, Williams, Latta, Brinkman, Seitz, Willamowski, D. Evans, Widener**

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**A B I L L**

To amend sections 9.87, 2743.01, and 2743.02 and to 1  
enact sections 341.27 and 753.06 of the Revised 2  
Code to provide sheriffs, deputy sheriffs, 3  
municipal police officers, county and municipal 4  
correctional officers, community-based 5  
correctional facility officers, and halfway house 6  
facility officers and counties, municipal 7  
corporations, and townships in which prisoners 8  
work on a work detail and that employ the officers 9  
supervising the work detail with qualified 10  
immunity from damages caused by outside work 11  
details consisting of prisoners or adult offenders 12  
imprisoned or residing in a halfway house facility 13  
for nonviolent offenses who volunteer for the work 14  
detail and to adopt the public duty rule for 15  
lawsuits against the state in the Court of Claims 16  
pursuant to which the state is generally immune 17  
from liability in any civil action or proceeding 18  
involving the performance or nonperformance of a 19  
public duty. 20

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

Section 1. That sections 9.87, 2743.01, and 2743.02 be 21  
amended and sections 341.27 and 753.06 of the Revised Code be 22  
enacted to read as follows: 23

Sec. 9.87. (A) The state, except as provided in division (B) 24  
of this section, shall indemnify an officer or employee from 25  
liability incurred in the performance of ~~his~~ official duties by 26  
paying any judgment in, or amount negotiated in settlement of, any 27  
civil action arising under federal law, the law of another state, 28  
or the law of a foreign jurisdiction. The reasonableness of the 29  
amount of any consent judgment or settlement is subject to the 30  
review and approval of the attorney general and of the director, 31  
administrative chief, or governing body of the employer of the 32  
officer or employee who is to be indemnified. The maximum 33  
aggregate amount of indemnification paid directly from state funds 34  
to or on behalf of any officer or employee pursuant to this 35  
division shall be one million dollars per occurrence, regardless 36  
of the number of persons who suffer damage, injury, or death as a 37  
result of the occurrence. 38

(B) The state shall not indemnify an officer or employee 39  
under any of the following circumstances: 40

(1) To the extent the officer or employee is covered by a 41  
policy of insurance for civil liability purchased by the state; 42

(2) When the officer or employee acts manifestly outside the 43  
scope of ~~his~~ the officer's or employee's employment or official 44  
responsibilities, with malicious purpose, in bad faith, or in a 45  
wanton or reckless manner, as determined by the employer of the 46  
officer or employee or by the attorney general. 47

(3) For any portion of a judgment that represents punitive or 48  
exemplary damages, except that this prohibition does not apply if 49  
the employer of the officer or employee and the attorney general 50

determine that the acts or omissions of the officer or employee 51  
were not within the terms of division (B)(2) of this section; 52

(4) For any portion of a consent judgment or settlement that 53  
is unreasonable. 54

(C) The director of administrative services may purchase a 55  
policy or policies of insurance on behalf of officers and 56  
employees of the state from an insurer or insurers licensed to do 57  
business in this state providing coverage for amounts in excess of 58  
one million dollars per occurrence incurred in connection with any 59  
civil action, demand, or claim against the officer or employee by 60  
reason of an act or omission by the officer or employee occurring 61  
in the performance of ~~his~~ the officer's or employee's duties and 62  
not coming within the terms of division (B)(2) of this section. 63

(D) This section does not affect any of the following: 64

(1) The waiver arising under division (A)(1) of section 65  
2743.02 of the Revised Code; 66

(2) Any defense that would otherwise be available in an 67  
action alleging personal liability of an officer or employee; 68

(3) The operation of section 9.83 of the Revised Code. 69

(E) The indemnification of officers or employees against 70  
judgments or settlements pursuant to this section shall be 71  
accomplished only through the following procedure: 72

(1) If the employer of the defendant officer or employee to 73  
be indemnified determines that the actions or omissions of its 74  
officer or employee giving rise to the claim were not within the 75  
terms of division (B)(2) of this section, an indemnity agreement 76  
shall be prepared by the attorney general, specifying that the 77  
employer will indemnify the officer or employee from a particular 78  
judgment that has been rendered or a particular settlement amount 79  
that has been negotiated. The agreement shall name the person or 80

entity to whom payment by the state of the judgment or settlement 81  
amount will be made, and the agreement shall not be effective 82  
until it is approved by the officer or employee to be indemnified, 83  
the director, administrative chief, or other governing body of the 84  
employer, and by the attorney general. The attorney general shall 85  
approve the indemnity agreement, unless ~~he~~ the attorney general 86  
finds that division (B) of this section prohibits the state from 87  
indemnifying the officer or employee, or prohibits the state from 88  
indemnifying the officer or employee for a portion of a judgment 89  
or settlement and the indemnity agreement would indemnify the 90  
officer or employee for all or a part of that portion. 91

(2) The attorney general shall forward a copy of the 92  
agreement to the director of budget and management. 93

(3) Any indemnification paid shall be charged by the director 94  
of budget and management against available unencumbered moneys in 95  
the appropriations of the employer of the officer or employee to 96  
be indemnified. The director of budget and management shall have 97  
sole discretion to determine whether or not unencumbered moneys in 98  
a particular appropriation are available for payment of the 99  
indemnification. 100

(4) The director of budget and management shall, upon receipt 101  
of the agreement from the attorney general pursuant to division 102  
(E)(2) of this section, provide for payment to the person or 103  
entity named in the agreement, in the amount specified in the 104  
agreement. 105

(5) If the director of budget and management determines that 106  
sufficient unencumbered moneys do not exist in the particular 107  
appropriations to pay the indemnification, ~~he~~ the director shall 108  
make application for payment of the indemnification out of the 109  
emergency purposes account or any other appropriation for 110  
emergencies or contingencies, and payment out of this account or 111  
other appropriation shall be authorized if there are sufficient 112

moneys greater than the sum total of then pending emergency 113  
purposes account requests, or requests for releases from the other 114  
appropriation. 115

(6) If sufficient moneys do not exist in the emergency 116  
purposes account or any other appropriation for emergencies or 117  
contingencies to pay the indemnification, the employer named in 118  
the agreement shall request the general assembly to make an 119  
appropriation sufficient to pay the indemnification, and no 120  
payment shall be made until the appropriation has been made. The 121  
employer shall make this appropriation request during the current 122  
biennium and during each succeeding biennium until a sufficient 123  
appropriation is made. 124

(7) If the indemnification is to be made by an employer whose 125  
funds are not handled by the director of budget and management, 126  
the employer shall pay the person or entity named in the 127  
agreement. 128

If the employer determines that sufficient unencumbered 129  
moneys do not exist to pay the indemnification, the employer shall 130  
make application for payment of the indemnification out of the 131  
emergency purposes account or any other appropriation for 132  
emergencies or contingencies, and payment out of this account or 133  
other appropriation shall be authorized if there are sufficient 134  
moneys greater than the sum total of then pending emergency 135  
purposes account requests, or requests for releases from the other 136  
appropriation. 137

If sufficient moneys do not exist in the emergency purposes 138  
account or any other appropriation for emergencies or 139  
contingencies to pay the indemnification, the employer named in 140  
the agreement shall request the general assembly to make an 141  
appropriation sufficient to pay the indemnification, and no 142  
payment shall be made until such an appropriation has been made. 143  
The employer shall make this appropriation request during the 144

current biennium and during each succeeding biennium until a 145  
sufficient appropriation is made. 146

(F)(1) Subject to division (F)(2) of this section, if an 147  
employer or the attorney general fails to approve indemnification 148  
or limits indemnification of an officer or employee of the 149  
employer, the officer or employee may commence an action against 150  
the employer in the court of claims pursuant to sections 2743.01 151  
to 2743.20 of the Revised Code to prove that ~~he~~ the officer or 152  
employee is entitled to indemnification pursuant to division (A) 153  
of this section and that division (B) of this section does not 154  
prohibit or limit ~~his~~ the officer's or employee's indemnification 155  
and seeking either a judgment against the employer for a sum of 156  
money that the officer or employee has paid to satisfy a judgment 157  
or settlement or an order directing the employer to pay a judgment 158  
or settlement against the officer or employee that has not been 159  
satisfied. Section 109.365 of the Revised Code does not prohibit 160  
any information obtained by the attorney general in ~~his~~ the 161  
attorney general's investigation conducted pursuant to division 162  
(A) of section 109.362 of the Revised Code to determine whether to 163  
defend the officer or employee from being admitted as evidence in 164  
any action brought pursuant to this section. 165

An action brought pursuant to division (F)(1) of this section 166  
shall be commenced no later than two years after the cause of 167  
action arising under division (F)(1) of this section accrues. A 168  
cause of action arising under this section accrues upon the entry 169  
of a money judgment against the officer or employee if the time 170  
for filing an appeal in the action lapses without the filing of an 171  
appeal, upon the conclusion of the final appeal in any action in 172  
which a money judgment is entered against the officer or employee 173  
if an appeal is filed in the action, or upon execution of any 174  
settlement agreement requiring payment of money by the officer or 175  
employee. 176

(2) Notwithstanding division (F)(1) of this section, an officer or employee may not commence an action against the employer in the court of claims or in any other court regarding a refusal of the employer or the attorney general to indemnify punitive or exemplary damages pursuant to this section.

**Sec. 341.27. (A) As used in this section:**

(1) "County correctional facility" has the same meaning as in section 341.42 of the Revised Code.

(2) "County correctional officer" has the same meaning as in section 341.41 of the Revised Code.

(3) "Community-based correctional facility" means a community-based correctional facility or a district community-based correctional facility established pursuant to sections 2301.51 to 2301.56 of the Revised Code.

(4) "Community-based correctional facility officer" means a person who is appointed by a judicial corrections board as the director or an employee of a community-based correctional facility pursuant to section 2301.55 of the Revised Code.

(5) "Halfway house facility" means a facility, including a community residential facility, licensed as a suitable facility for the care and treatment of adult offenders by the division of parole and community services of the department of rehabilitation and correction pursuant to section 2967.14 of the Revised Code.

(6) "Halfway house facility officer" means a person who is employed as the director or an employee of a halfway house facility.

(B) Whenever the officer having charge of a county correctional facility, a community-based correctional facility, or a halfway house facility intends to have prisoners or adult offenders work outside the facility on a work detail, the officer

shall give advance written notice or notice by electronic mail to 207  
the chief executive officer of any municipal corporation and the 208  
township clerk of any township in which the prisoners or adult 209  
offenders will be working on the work detail of the date or dates 210  
on which, and the approximate locations at which, the work will be 211  
performed, the nature of the work, and the approximate number of 212  
prisoners or adult offenders who will be working on the work 213  
detail. 214

(C) If all the prisoners or adult offenders working on a work 215  
detail administered by a county correctional facility, a 216  
community-based correctional facility, or a halfway house facility 217  
and outside the facility have volunteered for the work detail and 218  
are imprisoned or reside in that facility for an offense other 219  
than an offense of violence and if the applicable county 220  
correctional officer, community-based correctional officer, or 221  
halfway house facility officer complies with division (D) of this 222  
section, both of the following apply: 223

(1) No sheriff, deputy sheriff, county correctional officer, 224  
community-based correctional facility officer, or halfway house 225  
facility officer is liable for civil damages for injury, death, or 226  
loss to person or property caused or suffered by a prisoner or 227  
adult offender working on the work detail unless the injury, 228  
death, or loss results from malice or wanton or reckless 229  
misconduct of the sheriff, deputy sheriff, county correctional 230  
officer, community-based correctional facility officer, or halfway 231  
house facility officer. 232

(2) The county in which the prisoners work on the work detail 233  
and that employs the sheriff, deputy sheriff, county correctional 234  
officer, community-based correctional facility officer, or halfway 235  
house facility officer is not liable for civil damages for injury, 236  
death, or loss to person or property caused or suffered by a 237  
prisoner or adult offender working on the work detail unless the 238

injury results from malice or wanton or reckless misconduct of the 239  
sheriff or any deputy sheriff, county correctional officer, 240  
community-based correctional facility officer, or halfway house 241  
facility officer. 242

(D) To qualify for the immunity described in division (C)(1) 243  
of this section, a county correctional officer, a community-based 244  
correctional facility officer, or a halfway house facility officer 245  
shall do all of the following for each prisoner or adult offender 246  
on a work detail prior to having the prisoners or adult offenders 247  
of the county correctional facility, the community-based 248  
correctional facility, or the halfway house facility work outside 249  
the facility on a work detail: 250

(1) Determine, in good faith, that the prisoner or adult 251  
offender is mentally capable of volunteering for the work detail 252  
and is not subject to duress or under undue influence; 253

(2) Inform the prisoner or adult offender of the provisions 254  
of this section, including notifying the prisoner or adult 255  
offender that, by volunteering for the work detail, the prisoner 256  
or adult offender cannot hold the sheriff, deputy sheriff, county 257  
correctional officer, community-based correctional facility 258  
officer, or halfway house facility officer or county liable for 259  
civil damages for injury, death, or loss to person or property 260  
unless the injury, death, or loss results from malice or wanton or 261  
reckless misconduct of the sheriff, deputy sheriff, county 262  
correctional officer, community-based correctional facility 263  
officer, or halfway house facility officer; 264

(3) Obtain a written waiver, signed by the prisoner or adult 265  
offender, that states that the prisoner or adult offender is 266  
mentally competent to volunteer for the work detail and is not 267  
subject to duress or under undue influence. A written waiver under 268  
division (D)(3) of this section shall state clearly and in 269

conspicuous type that the prisoner or adult offender who signs the 270  
waiver is signing it with full knowledge that, by volunteering for 271  
the work detail, the prisoner or adult offender cannot hold the 272  
sheriff, deputy sheriff, county correctional officer, 273  
community-based correctional facility officer, or halfway house 274  
facility officer or municipal corporation or township liable for 275  
civil damages for injury, death, or loss to person or property 276  
unless the injury, death, or loss results from malice or wanton or 277  
reckless misconduct of the sheriff, deputy sheriff, county 278  
correctional officer, community-based correctional facility 279  
officer, or halfway house facility officer. 280

Sec. 753.06. (A) As used in this section: 281

(1) "Municipal correctional facility" has the same meaning as 282  
in section 753.32 of the Revised Code. 283

(2) "Municipal correctional officer" has the same meaning as 284  
in section 753.31 of the Revised Code. 285

(B) Whenever the officer having charge of a municipal 286  
correctional facility intends to have prisoners work outside the 287  
facility on a work detail, the officer shall give advance written 288  
notice or notice by electronic mail to the chief executive officer 289  
of any municipal corporation and the township clerk of any 290  
township in which the prisoners will be working on the work detail 291  
of the date or dates on which, and the approximate locations at 292  
which, the work will be performed, the nature of the work, and the 293  
approximate number of prisoners who will be working on the work 294  
detail. 295

(C) If all the prisoners working on a work detail 296  
administered by a municipal correctional facility and outside the 297  
facility have volunteered for the work detail and are imprisoned 298  
in that facility for an offense other than an offense of violence 299

and if the applicable municipal correction officer complies with 300  
division (D) of this section, both of the following apply: 301

(1) No member of the organized police department of the 302  
municipal corporation and no municipal correctional officer is 303  
liable for civil damages for injury, death, or loss to person or 304  
property caused or suffered by a prisoner working on the work 305  
detail unless the injury, death, or loss results from malice or 306  
wanton or reckless misconduct of the member of the organized 307  
police department of the municipal corporation or the municipal 308  
correctional officer. 309

(2) A municipal corporation or township in which the 310  
prisoners work on the work detail and that employs the member of 311  
the organized police department or the municipal corrections 312  
officer is not liable for civil damages for injury, death, or loss 313  
to person or property caused or suffered by a prisoner working on 314  
the work detail unless the injury results from malice or wanton or 315  
reckless misconduct of the member of the organized police 316  
department of the municipal corporation or a municipal corrections 317  
officer. 318

(D) To qualify for the immunity described in division (C)(1) 319  
of this section, a municipal correctional officer shall do all of 320  
the following for each prisoner on a work detail prior to having 321  
the prisoners of the municipal correctional facility work outside 322  
the facility on a work detail: 323

(1) Determine, in good faith, that the prisoner is mentally 324  
capable of volunteering for the work detail and is not subject to 325  
duress or under undue influence; 326

(2) Inform the prisoner of the provisions of this section, 327  
including notifying the prisoner that, by volunteering for the 328  
work detail, the prisoner cannot hold any member of the organized 329  
police department of the municipal corporation or any municipal 330

correctional officer liable for civil damages for injury, death, 331  
or loss to person or property unless the injury, death, or loss 332  
results from malice or wanton or reckless misconduct of the member 333  
of the organized police department of the municipal corporation or 334  
the municipal correctional officer; 335

(3) Obtain a written waiver, signed by the prisoner, that 336  
states that the prisoner is mentally competent to volunteer for 337  
the work detail and is not subject to duress or under undue 338  
influence. A written waiver under division (D)(3) of this section 339  
shall state clearly and in conspicuous type that the prisoner who 340  
signs the waiver is signing it with full knowledge that, by 341  
volunteering for the work detail, the prisoner cannot hold any 342  
member of the organized police department of a municipal 343  
corporation or a municipal correctional officer liable for civil 344  
damages for injury, death, or loss to person or property unless 345  
the injury, death, or loss results from malice or wanton or 346  
reckless misconduct of the member of the organized police 347  
department of the municipal corporation or the municipal 348  
correctional officer. 349

**Sec. 2743.01.** As used in this chapter: 350

(A) "State" means the state of Ohio, including, but not 351  
limited to, the general assembly, the supreme court, the offices 352  
of all elected state officers, and all departments, boards, 353  
offices, commissions, agencies, institutions, and other 354  
instrumentalities of the state ~~of Ohio~~. "State" does not include 355  
political subdivisions. 356

(B) "Political subdivisions" means municipal corporations, 357  
townships, counties, school districts, and all other bodies 358  
corporate and politic responsible for governmental activities only 359  
in geographic areas smaller than that of the state to which the 360  
sovereign immunity of the state attaches. 361

(C) "Claim for an award of reparations" or "claim" means a claim for an award of reparations made under sections 2743.51 to 2743.72 of the Revised Code.

(D) "Award of reparations" or "award" means an award made under sections 2743.51 to 2743.72 of the Revised Code.

(E)(1) "Public duty" includes, but is not limited to, any statutory, regulatory, or assumed duty concerning any action or omission of the state involving any of the following:

(a) Permitting, certifying, licensing, inspecting, investigating, supervising, regulating, auditing, monitoring, law enforcement, or emergency response activity;

(b) Supervising, rehabilitating, or liquidating corporations or other business entities.

(2) "Public duty" does not include any action of the state under circumstances in which a special relationship can be established between the state and an injured party as provided in division (A)(3) of section 2743.02 of the Revised Code.

**Sec. 2743.02.** (A)(1) The state hereby waives its immunity from liability, except as provided for the office of the state fire marshal in division (G)(1) of section 9.60 and division (B) of section 3737.221 of the Revised Code and subject to division (H) of this section, and consents to be sued, and have its liability determined, in the court of claims created in this chapter in accordance with the same rules of law applicable to suits between private parties, except that the determination of liability is subject to the limitations set forth in this chapter and, in the case of state universities or colleges, in section 3345.40 of the Revised Code, and except as provided in division (A)(2) or (3) of this section. To the extent that the state has previously consented to be sued, this chapter has no

applicability. 392

Except in the case of a civil action filed by the state, 393  
filing a civil action in the court of claims results in a complete 394  
waiver of any cause of action, based on the same act or omission, 395  
which the filing party has against any officer or employee, as 396  
defined in section 109.36 of the Revised Code. The waiver shall be 397  
void if the court determines that the act or omission was 398  
manifestly outside the scope of the officer's or employee's office 399  
or employment or that the officer or employee acted with malicious 400  
purpose, in bad faith, or in a wanton or reckless manner. 401

(2) If a claimant proves in the court of claims that an 402  
officer or employee, as defined in section 109.36 of the Revised 403  
Code, would have personal liability for the officer's or 404  
employee's acts or omissions but for the fact that the officer or 405  
employee has personal immunity under section 9.86 of the Revised 406  
Code, the state shall be held liable in the court of claims in any 407  
action that is timely filed pursuant to section 2743.16 of the 408  
Revised Code and that is based upon the acts or omissions. 409

(3)(a) Except as provided in division (A)(3)(b) of this 410  
section, the state is immune from liability in any civil action or 411  
proceeding involving the performance or nonperformance of a public 412  
duty, including the performance or nonperformance of a public duty 413  
that is owed by the state in relation to any action of an 414  
individual who is committed to the custody of the state. 415

(b) The state immunity provided in division (A)(3)(a) of this 416  
section does not apply to any action of the state under 417  
circumstances in which a special relationship can be established 418  
between the state and an injured party. A special relationship 419  
under this division is demonstrated if all of the following 420  
elements exist: 421

(i) An assumption by the state, by means of promises or 422

<u>actions, of an affirmative duty to act on behalf of the party who</u>	423
<u>was allegedly injured;</u>	424
<u>(ii) Knowledge on the part of the state's agents that</u>	425
<u>inaction of the state could lead to harm;</u>	426
<u>(iii) Some form of direct contact between the state's agents</u>	427
<u>and the injured party;</u>	428
<u>(iv) The injured party's justifiable reliance on the state's</u>	429
<u>affirmative undertaking.</u>	430
(B) The state hereby waives the immunity from liability of	431
all hospitals owned or operated by one or more political	432
subdivisions and consents for them to be sued, and to have their	433
liability determined, in the court of common pleas, in accordance	434
with the same rules of law applicable to suits between private	435
parties, subject to the limitations set forth in this chapter.	436
This division is also applicable to hospitals owned or operated by	437
political subdivisions which have been determined by the supreme	438
court to be subject to suit prior to July 28, 1975.	439
(C) Any hospital, as defined in section 2305.113 of the	440
Revised Code, may purchase liability insurance covering its	441
operations and activities and its agents, employees, nurses,	442
interns, residents, staff, and members of the governing board and	443
committees, and, whether or not such insurance is purchased, may,	444
to such extent as its governing board considers appropriate,	445
indemnify or agree to indemnify and hold harmless any such person	446
against expense, including attorney's fees, damage, loss, or other	447
liability arising out of, or claimed to have arisen out of, the	448
death, disease, or injury of any person as a result of the	449
negligence, malpractice, or other action or inaction of the	450
indemnified person while acting within the scope of the	451
indemnified person's duties or engaged in activities at the	452
request or direction, or for the benefit, of the hospital. Any	453

hospital electing to indemnify such persons, or to agree to so 454  
indemnify, shall reserve such funds as are necessary, in the 455  
exercise of sound and prudent actuarial judgment, to cover the 456  
potential expense, fees, damage, loss, or other liability. The 457  
superintendent of insurance may recommend, or, if such hospital 458  
requests the superintendent to do so, the superintendent shall 459  
recommend, a specific amount for any period that, in the 460  
superintendent's opinion, represents such a judgment. This 461  
authority is in addition to any authorization otherwise provided 462  
or permitted by law. 463

(D) Recoveries against the state shall be reduced by the 464  
aggregate of insurance proceeds, disability award, or other 465  
collateral recovery received by the claimant. This division does 466  
not apply to civil actions in the court of claims against a state 467  
university or college under the circumstances described in section 468  
3345.40 of the Revised Code. The collateral benefits provisions of 469  
division (B)(2) of that section apply under those circumstances. 470

(E) The only defendant in original actions in the court of 471  
claims is the state. The state may file a third-party complaint or 472  
counterclaim in any civil action, except a civil action for two 473  
thousand five hundred dollars or less, that is filed in the court 474  
of claims. 475

(F) A civil action against an officer or employee, as defined 476  
in section 109.36 of the Revised Code, that alleges that the 477  
officer's or employee's conduct was manifestly outside the scope 478  
of the officer's or employee's employment or official 479  
responsibilities, or that the officer or employee acted with 480  
malicious purpose, in bad faith, or in a wanton or reckless manner 481  
shall first be filed against the state in the court of claims, 482  
which has exclusive, original jurisdiction to determine, 483  
initially, whether the officer or employee is entitled to personal 484  
immunity under section 9.86 of the Revised Code and whether the 485

courts of common pleas have jurisdiction over the civil action. 486

The filing of a claim against an officer or employee under 487  
this division tolls the running of the applicable statute of 488  
limitations until the court of claims determines whether the 489  
officer or employee is entitled to personal immunity under section 490  
9.86 of the Revised Code. 491

(G) Whenever a claim lies against an officer or employee who 492  
is a member of the Ohio national guard, and the officer or 493  
employee was, at the time of the act or omission complained of, 494  
subject to the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 495  
U.S.C. 2671, et seq., then the Federal Tort Claims Act is the 496  
exclusive remedy of the claimant and the state has no liability 497  
under this section. 498

(H) If an inmate of a state correctional institution has a 499  
claim against the state for the loss of or damage to property and 500  
the amount claimed does not exceed three hundred dollars, before 501  
commencing an action against the state in the court of claims, the 502  
inmate shall file a claim for the loss or damage under the rules 503  
adopted by the director of rehabilitation and correction pursuant 504  
to this division. The inmate shall file the claim within the time 505  
allowed for commencement of a civil action under section 2743.16 506  
of the Revised Code. If the state admits or compromises the claim, 507  
the director shall make payment from a fund designated by the 508  
director for that purpose. If the state denies the claim or does 509  
not compromise the claim at least sixty days prior to expiration 510  
of the time allowed for commencement of a civil action based upon 511  
the loss or damage under section 2743.16 of the Revised Code, the 512  
inmate may commence an action in the court of claims under this 513  
chapter to recover damages for the loss or damage. 514

The director of rehabilitation and correction shall adopt 515  
rules pursuant to Chapter 119. of the Revised Code to implement 516  
this division. 517

**Section 2.** That existing sections 9.87, 2743.01, and 2743.02 518  
of the Revised Code are hereby repealed. 519