

As Reported by the Senate Judiciary--Civil Justice Committee

126th General Assembly

Regular Session

2005-2006

Sub. S. B. No. 117

Senators Mallory, Dann, Fedor, Jacobson, Miller, Schuler, Amstutz, Zurz

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A B I L L

To amend section 2307.60 of the Revised Code to 1
provide that a final judgment, entered after a 2
trial or upon a plea of guilty in certain criminal 3
actions generally precludes the offender from 4
denying any fact essential to sustain that 5
judgment when entered in evidence in a civil 6
proceeding that is based on the criminal act. 7

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

Section 1. That section 2307.60 of the Revised Code be 8
amended to read as follows: 9

Sec. 2307.60. (A)(1) Anyone injured in person or property by 10
a criminal act has, and may recover full damages in, a civil 11
action unless specifically excepted by law, may recover the costs 12
of maintaining the civil action and attorney's fees if authorized 13
by any provision of the Rules of Civil Procedure or another 14
section of the Revised Code or under the common law of this state, 15
and may recover punitive or exemplary damages if authorized by 16
section 2315.21 or another section of the Revised Code. ~~No record~~ 17
~~of a conviction, unless obtained by confession in open court,~~ 18
~~shall be used as evidence in a civil action brought pursuant to~~ 19
~~division (A) of this section.~~ 20

(2) A final judgment of a trial court that has not been 21
reversed on appeal or otherwise set aside, nullified, or vacated, 22
entered after a trial or upon a plea of guilty, but not upon a 23
plea of no contest or the equivalent plea from another 24
jurisdiction, that adjudges an offender guilty of a crime 25
punishable by death or imprisonment in excess of one year, when 26
entered as evidence in any subsequent civil proceeding based on 27
the criminal act, shall preclude the offender from denying in the 28
subsequent civil proceeding any fact essential to sustaining that 29
judgment, unless the offender can demonstrate that extraordinary 30
circumstances prevented the offender from having a full and fair 31
opportunity to litigate the issue in the criminal proceeding or 32
other extraordinary circumstances justify affording the offender 33
an opportunity to relitigate the issue. The offender may introduce 34
evidence of the offender's pending appeal of the final judgment of 35
the trial court, if applicable, and the court may consider that 36
evidence in determining the liability of the offender. 37

(B)(1) As used in division (B) of this section, "tort action" 38
means a civil action for damages for injury, death, or loss to 39
person or property other than a civil action for damages for a 40
breach of contract or another agreement between persons. "Tort 41
action" includes, but is not limited to, a product liability 42
claim, as defined in section 2307.71 of the Revised Code, and an 43
asbestos claim, as defined in section 2307.91 of the Revised Code, 44
an action for wrongful death under Chapter 2125. of the Revised 45
Code, and an action based on derivative claims for relief. 46

(2) Recovery on a claim for relief in a tort action is barred 47
to any person or the person's legal representative if the person 48
has been convicted of or has pleaded guilty to a felony, or to a 49
misdemeanor that is an offense of violence, arising out of 50
criminal conduct that was a proximate cause of the injury or loss 51
for which relief is claimed in the action. 52

(3) Division (B) of this section does not apply to civil 53
claims based upon alleged intentionally tortious conduct, alleged 54
violations of the United States Constitution, or alleged 55
violations of statutes of the United States pertaining to civil 56
rights. 57

Section 2. That existing section 2307.60 of the Revised Code 58
is hereby repealed. 59