

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 332

Representatives West, Denson

A BILL

To amend section 2744.09 and to enact section 1
2307.48 of the Revised Code to provide that 2
qualified immunity does not apply in civil 3
actions against peace officers employed by a 4
political subdivision who, under color of law, 5
subject any individual to a deprivation of 6
rights and to provide for indemnification by the 7
political subdivision of a peace officer against 8
whom judgment is found. 9

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

Section 1. That section 2744.09 be amended and section 10
2307.48 of the Revised Code be enacted to read as follows: 11

Sec. 2307.48. (A) As used in this section: 12

(1) "Individual rights" means all rights of an individual 13
that are secured by Article I of the Ohio Constitution, and that 14
create binding obligations on government actors to protect those 15
rights. 16

(2) "Peace officer" means a peace officer, as defined in 17
section 2935.01 of the Revised Code, who is employed by a 18
political subdivision, whether full-time or part-time. 19

(3) "Political subdivision" has the same meaning as in 20
section 2744.01 of the Revised Code. 21

(4) "Qualified immunity" means a defense to, or an 22
immunity from, a civil action for damages for injury, death, or 23
loss to person, injunctive relief, or other appropriate relief 24
against any peace officer based on the officer's act or 25
omission, or failure to intervene in another peace officer's act 26
or omission, as described in division (B)(1) of this section, if 27
that act or omission or failure to intervene does not violate a 28
clearly established individual right or clearly established law 29
that implements the individual right of which a reasonable 30
person would have known. 31

(B)(1) Subject to division (B)(2) of this section and 32
except as provided in division (B)(3) of this section, any peace 33
officer who, under color of law, and by the officer's act or 34
omission in the course of the performance of the officer's 35
official responsibilities, subjects or causes to be subjected 36
any other individual to the deprivation of that individual's 37
individual rights is liable to that individual in an action for 38
damages for injury, death, or loss to person or for injunctive 39
relief or any other appropriate relief. Subject to division (B) 40
(2) of this section and except as provided in division (B)(3) of 41
this section, any peace officer who fails to intervene in 42
another peace officer's act or omission as described in division 43
(B)(1) of this section is liable in an action for damages for 44
injury, death, or loss to person or for injunctive relief or any 45
other appropriate relief. 46

(2) Notwithstanding any provision of law to the contrary, 47
qualified immunity or any immunity or defense provided by any 48
section of the Revised Code does not apply as an immunity from, 49

or a defense to, any action described in division (B) (1) of this 50
section. 51

(3) Chapter 2744. of the Revised Code does not apply to 52
any action brought under division (B) (1) of this section. 53

(C) (1) If the court enters judgment in favor of the 54
plaintiff who brings an action under division (B) (1) of this 55
section, the court shall award to the plaintiff any recoverable 56
compensatory and punitive or exemplary damages if the action is 57
for damages and any reasonable attorney's fees and court costs 58
incurred by the plaintiff in any action described in that 59
division. 60

(2) If the court enters judgment in favor of the defendant 61
peace officer in an action under division (B) (1) of this 62
section, the court shall award to the defendant any reasonable 63
attorney's fees and court costs incurred by the defendant only 64
if the court determines in the judgment that the filing of that 65
action constituted frivolous conduct as defined in section 66
2323.51 of the Revised Code. 67

(D) (1) Notwithstanding any other provision of law, subject 68
to division (D) (2) of this section and except as provided in 69
division (F) of this section, the political subdivision that 70
employs a peace officer shall indemnify and hold harmless the 71
peace officer in the amount of any judgment or settlement, other 72
than a judgment for punitive or exemplary damages, that is 73
obtained against the officer in an action brought under this 74
section. 75

(2) If the political subdivision that employs a peace 76
officer against whom an action is brought under this section 77
determines that the officer did not act upon a good faith and 78

reasonable belief that the officer's act or omission was lawful 79
or the officer's failure to intervene in another peace officer's 80
act or omission was lawful, the peace officer is personally 81
liable pursuant to any judgment or settlement entered against 82
the peace officer. The political subdivision that employs that 83
peace officer shall not indemnify the officer under division (D) 84
(2) of this section for five per cent of the amount of the 85
judgment or settlement or twenty-five thousand dollars, 86
whichever is less. 87

(E) Notwithstanding any provision of this section to the 88
contrary, if the judgment or settlement or any portion of the 89
judgment or settlement entered against the peace officer is 90
uncollectible from the officer, the peace officer's employer or 91
employer's liability insurance shall satisfy the amount of the 92
judgment or settlement that is so uncollectible. 93

(F) The political subdivision that employs a peace officer 94
shall not indemnify the officer under division (D) of this 95
section if the peace officer was convicted of or pleaded guilty 96
to a criminal offense for the officer's act or omission, or for 97
the officer's failure to intervene in another peace officer's 98
act or omission, that gave rise to the claim in an action 99
brought under this section. 100

(G) A civil action under this section shall be commenced 101
within two years after the cause of action accrues. 102

Sec. 2744.09. This chapter does not apply to, and shall 103
not be construed to apply to, the following: 104

(A) Civil actions that seek to recover damages from a 105
political subdivision or any of its employees for contractual 106
liability; 107

(B) Civil actions by an employee, or the collective 108
bargaining representative of an employee, against ~~his~~the 109
employee's political subdivision relative to any matter that 110
arises out of the employment relationship between the employee 111
and the political subdivision; 112

(C) Civil actions by an employee of a political 113
subdivision against the political subdivision relative to wages, 114
hours, conditions, or other terms of ~~his~~employment; 115

(D) Civil actions by sureties, and the rights of sureties, 116
under fidelity or surety bonds; 117

(E) Civil claims based upon alleged violations of the 118
constitution or statutes of the United States, except that the 119
provisions of section 2744.07 of the Revised Code shall apply to 120
such claims or related civil actions; 121

(F) Civil actions brought under section 2307.48 of the 122
Revised Code against a peace officer who is employed by a 123
political subdivision. 124

Section 2. That existing section 2744.09 of the Revised 125
Code is hereby repealed. 126