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H.B. 421
133rd General Assembly

Bill Analysis

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Version: As Passed by the House

Primary Sponsors: Reps. T. Smith and Blair

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SUMMARY

Immunity for acts of hospital police officers

- Grants a municipal corporation in which a hospital is located or, if the hospital is located in an unincorporated area of a county, a county immunity from civil or criminal liability in an action brought under Ohio law if all of the following apply:
 - The action arises out of the actions of a duly appointed hospital police officer.
 - The actions of the hospital police officer are directly in the discharge of the person's duties as a police officer for the hospital.
 - The actions of the hospital police officer occur on the premises of the hospital or its affiliates or subsidiaries that are within the territory of the municipal corporation or the unincorporated area of the county or elsewhere within the territory of that municipal corporation or within the unincorporated area of that county.
- Provides that the grant of immunity is not to be construed as granting civil or criminal immunity to specified police officers or hospitals under certain circumstances for actions occurring on the premises of a hospital operated by a public hospital agency or nonprofit hospital agency.
- Specifies that a court's finding of tort liability of a public hospital agency or nonprofit hospital agency for any actions of a police officer appointed for the applicable hospital agency is not subject to apportionment of liability with the municipal corporation or the county in which a written agreement is in effect.

Political subdivision tort liability

- Expands the defenses to a political subdivision's liability for the negligence of an employee in operating a motor vehicle to include a peace officer's negligent operation of a motor vehicle and the plaintiff was attempting to flee from that officer or another peace officer so as to avoid apprehension for a crime.

- Modifies the definition of “emergency call” as used in continuing law.
- Requires the reduction of compensatory damages recoverable against a political subdivision for an employee’s negligent operation of a motor vehicle by continuing law’s allocation of damages according to the court’s judgment.

DETAILED ANALYSIS

Immunity for acts of hospital police officers

The bill provides that notwithstanding the Political Subdivision Tort Liability Law, a municipal corporation in which a hospital is located or, if the hospital is located in an unincorporated area of a county, a county is immune from civil or criminal liability in any action brought under Ohio law if all of the following apply:¹

- The action arises out of the actions of a duly appointed hospital police officer (see “**Appointment of hospital police officers,**” below).
- The actions of the hospital police officer are directly in the discharge of the person’s duties as a police officer for the hospital.
- The actions of the hospital police officer occur on the premises of the hospital or its affiliates or subsidiaries that are within the territory of the municipal corporation served by the chief of police or the unincorporated area of the county served by the sheriff who signed the agreement (see “**Written agreement with local law enforcement,**” below), whichever applies, or anywhere else within the territory of that municipal corporation or within the unincorporated area of that county.

The bill provides that nothing in the grant of immunity is to be construed as granting immunity from civil or criminal liability for any actions occurring on the premises of any hospital operated by a public hospital agency or nonprofit hospital agency or on the premises of that hospital’s affiliate or subsidiary to any of the following:²

1. Any police officer appointed as described in “**Appointment of hospital police officers,**” below;
2. Any hospital operated by a public hospital agency or a nonprofit hospital agency that applied for the appointment of any police officer or any affiliate or subsidiary of the hospital;
3. Any other police or security officer who is employed by, or whose services are utilized by, any hospital operated by a public hospital agency or a nonprofit hospital agency, or any affiliate or subsidiary of the hospital;

¹ R.C. 4973.17(D)(4).

² R.C. 4973.17(D)(7).

4. Any entity that supplies the services of police or security officers to any hospital operated by a public hospital agency or nonprofit hospital agency or any affiliate or subsidiary of the hospital.

Tort liability

The bill provides that a court's finding of tort liability of any public hospital agency or nonprofit hospital agency for any actions of a police officer appointed for the hospital agency is not subject to apportionment of tort liability under the apportionment of liability law with the municipal corporation or the county in which a written agreement is in effect.³

Background on hospital police officers

Appointment of hospital police officers

Under current law, upon the application of any hospital that is operated by a public hospital agency or a nonprofit hospital agency and that employs and maintains its own proprietary police department or security department, the Secretary of State may appoint and commission any persons that the hospital designates, or as many persons as the Secretary of State considers proper, to act as hospital police officers. The hospital police officers must hold office for three years, unless, for good cause shown, their commission is revoked by the Secretary of State or by the hospital.⁴

Requirements for hospital police officers to engage in duties

Under current law, no person who is appointed as a hospital police officer can engage in any duties as a hospital police officer for the hospital or its affiliates and subsidiaries unless all of the following are true: (1) local law enforcement grants approval, (2) the hospital enters into a written agreement with local law enforcement, and (3) the hospital police officer completes training and receives certification from the Ohio Peace Officer Training Commission.⁵

Approval from local law enforcement

Current law provides that the chief of police of the municipal corporation in which the hospital is located or, if the hospital is located in the unincorporated area of a county, the sheriff of that county must grant approval to the hospital in order for hospital police officers to engage in those duties or activities.⁶

Written agreement with local law enforcement

Under current law, after the grant of approval described above, the hospital must enter into a written agreement with the chief of police of the municipal corporation in which the hospital is located or, if the hospital is located in an unincorporated area of a county, with the

³ R.C. 4973.17(D)(6).

⁴ R.C. 4973.17(D)(1) and (3).

⁵ R.C. 4973.17(D)(1).

⁶ R.C. 4973.17(D)(1)(a).

sheriff of that county, that sets forth standards and criteria governing the interaction and cooperation between hospital police officers and local law enforcement officers. These standards and criteria may include provisions governing: (1) reporting of offenses discovered by hospital police officers to the local law enforcement agency, (2) investigatory responsibilities relative to offenses committed on hospital property, and (3) processing and confinement of persons arrested for offenses committed on hospital property. The written agreement must be signed by the appointing authority of the hospital and the chief of police or sheriff.⁷

Training and certification

Current law requires a hospital police officer to successfully complete a training program approved by the Ohio Peace Officer Training Commission and to be certified by the Commission before engaging in duties as a police officer. A hospital police officer may complete the training program and receive certification regardless of whether the requirements described above had been met.⁸

Authority to act as hospital police officer

Under current law, if a hospital police officer has been duly appointed and the requirements described above have been met, a hospital police officer is entitled to act as a police officer both on the premises of a hospital and its affiliates and subsidiaries that are within the territory of the municipal corporation served by the chief of police, or the unincorporated area of the county served by the sheriff, who signed the agreement (see **“Written agreement with local law enforcement,”** above), and elsewhere within the municipal corporation or within the unincorporated area of the county, if the person, when engaging in that activity, is directly in the discharge of the person’s duties as a hospital police officer for the hospital.⁹

Definitions

As used in the bill:¹⁰

- “Public hospital agency” means any county, board of county hospital trustees, county hospital commission, municipal corporation, new community authority, joint township hospital district, state or municipal university or college operating or authorized to operate a hospital facility, or the state.
- “Nonprofit hospital agency” means a not-for-profit corporation or association, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, that has authority to own or operate a hospital facility or provides or is to provide services to one or more other hospital agencies.

⁷ R.C. 4973.17(D)(1)(b).

⁸ R.C. 4973.17(D)(1)(c).

⁹ R.C. 4973.17(D)(2).

¹⁰ R.C. 4973.17(D)(7), by reference to R.C. 140.01(B) and (C), not in the bill.

- “Tort liability” means the liability of a party as determined by a court in a tort action defined in continuing law as a civil action for damages for injury, death, or loss to person or property.

Political Subdivision Tort Liability Law

The bill adds another full defense to a political subdivision’s liability: if a peace officer of a political subdivision negligently operated a motor vehicle and the plaintiff, at the time of the alleged negligence, was attempting to flee from that officer or another peace officer so as to avoid apprehension for a criminal offense.¹¹

Background – General immunity of political subdivision

Under continuing law, a political subdivision generally is not liable in damages in a civil action for injury, death, or loss to person or property allegedly caused by any act or omission of the political subdivision or an employee of the political subdivision in connection with a governmental or proprietary function, as defined in the law.¹² However, a political subdivision is liable for such injury, death, or loss caused by the negligent operation of a motor vehicle by an employee who is engaged within the scope of employment and authority. The following are full defenses to that liability:¹³

1. A member of a municipal corporation police department or other police agency was operating a motor vehicle while responding to an “emergency call” and the operation of the vehicle did not constitute willful or wanton misconduct.
2. A member of a municipal corporation fire department or other firefighting agency was operating a motor vehicle while engaged in duty at a fire, proceeding to a place where a fire is in progress or is believed to be in progress, or answering any other emergency alarm and the operation of the vehicle did not constitute willful or wanton misconduct.
3. A member of an emergency medical service owned or operated by a political subdivision was operating a motor vehicle while responding to or completing a call for emergency medical care or treatment, the member was holding a valid commercial driver’s license or driver’s license issued pursuant to Ohio law, the operation of the vehicle did not constitute willful or wanton misconduct, and the operation complies with continuing law’s precautions regarding slowing down upon approaching a red signal or stop sign and proceeding cautiously.

Definition of “emergency call”

Current law defines “emergency call” (used in (1) above) as a *call to duty, including, but not limited to*, communications from citizens, police dispatches, and personal observations by

¹¹ R.C. 2744.02(B)(1)(d).

¹² R.C. 2744.02(A).

¹³ R.C. 2744.02(B)(1)(a), (b), and (c).

peace officers of inherently dangerous situations that demand an immediate response on the part of a peace officer.

The bill modifies the definition of “emergency call” to mean a communication from a citizen, a police dispatch, or a personal observation by a peace officer *only if* that communication, dispatch, or observation involves or concerns an inherently dangerous situation that demands an immediate response from a peace officer.¹⁴ That is, it substitutes a new criterion that a communication, dispatch, or observation constitutes an emergency call "only if" it concerns an inherently dangerous situation that demands immediate response, for the current standard that it is a "call to duty" that might involve other forms of notice.

Recoverable damages

The bill provides that any compensatory damages recoverable against a political subdivision for an employee’s negligent operation of a motor vehicle must be reduced by the percentage of contributory fault attributable to the plaintiff or any other parties subject to the continuing laws dealing with the determination of joint and several liability, the determination of the percentages of tortious conduct attributable to a party, the contributory fault of the plaintiff asserted as an affirmative defense, and the corresponding allocation of damages according to the court’s judgment.¹⁵

Current law, not modified by the bill, provides that there can be no limitation on compensatory damages that represent the “actual loss of the person who is awarded the damages,” as defined. Except in wrongful death actions, damages that arise from the same cause of action, transaction or occurrence, or series of transactions or occurrences and that do not represent the actual loss of the person who is awarded the damages cannot exceed \$250,000 in favor of any one person.¹⁶

HISTORY

| Action | Date |
|----------------------------|----------|
| Introduced | 11-26-19 |
| Reported, H. Civil Justice | 05-13-20 |
| Passed House (94-0) | 05-13-20 |

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¹⁴ R.C. 2744.01(A).

¹⁵ R.C. 2744.05(C)(2).

¹⁶ R.C. 2744.05(C)(1).