

OHIO SENATE BILL 268 – THE EMPLOYMENT LAW UNIFORMITY ACT

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I. INDIVIDUAL SUPERVISOR LIABILITY

A. Bad legal policy for Ohio

1. Example—Human Resources professionals are exposed to being sued personally over every one of their Company’s adverse employment decisions in which they participate—yet, these are the very people who are trying to ensure that discrimination does not occur

B. Bad business policy for Ohio

1. Surprises many in-state and out-of-state employers
2. Makes managers and supervisors gun shy about participating in and making difficult but entirely legitimate and needed employment decisions.
3. Unsubstantiated employment discrimination lawsuits can be used as weapons and personal vendettas against former bosses to coerce unjustified settlements

C. Individual managers and supervisors can still be sued for committing criminal acts, such as sexual assault, assault and battery, stalking, and other criminal acts

1. R. C. 2370.60—“Anyone injured in person or property by a criminal act may recover full damages in a civil action,” which can include the recovery of attorneys’ fees and punitive damages where authorized by law
2. Ohio Attorney General’s victim of crimes fund also allows for recovery of certain economic losses

II. CAPS ON NON-ECONOMIC & PUNITIVE DAMAGES

A. *Elek v. Huntington National Bank* (1991) got us to where we are today with no limits on damages

B. Damages caps make sense in employment discrimination cases

- C. Title VII's caps are an acceptable model
- D. Ohio already has damages caps on tort actions—R. C. 2315

III. AGE DISCRIMINATION

- A. 4 separate Ohio age discrimination remedies has never made any sense

IV. REASONABLE STATUTE OF LIMITATIONS

- A. Dear lord—let's finally end the *six-year* madness!
- B. Labor and employment law policy has long promoted a quick resolution to workplace disputes

V. AFFIRMATIVE DEFENSE

- A. Finally! Instead of only imposing punishments on Ohio's employers, let's *incentivize* and *reward* Ohio's "good" employers for implementing proactive—and often expensive--measures to try to prevent discrimination

VI. CERTAIN OCRC INVESTIGATIONS KEPT CONFIDENTIAL

- A. Incentivizes employers to be more forthcoming
- B. Helps protect confidential business information and individuals' reputations

VII. AVOIDING PUBLIC POLICY TORTS AND PIGGY BACKING

- A. More than enough remedies for employment discrimination already exist under Ohio and federal law