

**Legislative Report
for OAJ Board of Trustees
January 10, 2019**

Report on 132nd General Assembly (2017-2018)

BOLD means the legislation was enacted in 132rd General Assembly

✓ Means very likely to be reintroduced in 133rd General Assembly

General negligence

- ✓ Cap on damages not apply to victim of rape or sexual assault (HB 20 – Gonzales, Boggs)
- Excludes victims of rape and sexual assault from \$250,000 cap on non-economic damages
 - OAJ supported
 - Did not pass – remained in House committee
- ✓ Punitive damages, no cap for strict liability offenses (SB 280 – Eklund)
- Expands the exemption from punitive or exemplary damages limitations from felonies involving purposeful or knowing conduct to felonies for a strict liability offense
 - OAJ supported
 - Did not pass – remained in Senate committee
- ✓ SOL for contracts cut to three years (HB 694 - Lang)
- Shortens the statute of limitations for written and oral contracts from 8 and 6 years, respectively, to 3 years.
 - OAJ opposed
 - Did not pass – remained in House committee
- ✓ Long Arm Statute (SB 347 – Oelslager)
- Expands the basis of a court's exercise of personal jurisdiction to include any basis consistent with the Ohio Constitution and the US Constitution
 - OAJ supported
 - Did not pass – remained in Senate committee

Beekeeper immunity (HB 392 – Stein)

- Grants apiary owners qualified immunity for personal injury (bee stings) but not property damage
- To qualify for immunity, apiary owner must comply with register with Dep't of Agriculture; comply with zoning laws; and adhere to beekeepers best practices
 - OAJ opposed and amended bill to narrow and qualify immunity
 - Did not pass – passed House; remained in Senate committee

Rail crossings (HB 190 – Schuring)

- Requires drivers to watch, listen, and stop for on-track equipment that may be approaching a railroad crossing

- OAJ stopped an amendment to grant immunity to railroads if on-track equipment fails to activate crossing signal and collides with motor vehicle at railroad crossing
- Did not pass – passed House; remained in Senate committee

Emergency vehicle immunity (HB 419 – Henne)

- Amends definition of “emergency call” to mean call to duty “involving any reported or observed” inherently dangerous situations
- Applies to police or fire department or EMS squad
 - OAJ supported
 - Did not pass – reported by House committee, but did not pass House

Emergency vehicle liability (HB 267 – Ingram)

- Eliminates sovereign immunity for cities when an employee's negligent operation of a motor vehicle results in personal injury or property damage, unless the plaintiff was fleeing law enforcement
 - OAJ supported
 - Did not pass – remained in House committee

✓ Crash Reports (SB 148 – Kunze, Huffman)

- Requires an accident report to indicate whether a person involved in an accident wishes to be contacted for commercial solicitation purposes
- Prohibits any person from using the information contained in an accident report for commercial purposes
 - OAJ had concerns
 - Did not pass – remained in Senate committee

Crash Reports (HB 331 – Ingram)

- Prohibits the use of information obtained from an accident report for commercial solicitation
 - OAJ had concerns
 - Did not pass – remained in House committee

Medical Negligence

Restrictions on medical malpractice claims (HB 7 – Cupp)

- **Adds to current apology statute, makes a physician’s confession to patient that the injury was the doctor’s error or fault inadmissible (previously decided by Ohio Supreme Court in *Stewart v. Vivian*, 151 Ohio St.3d 574, 2017-Ohio-7526)**
- **Establishes a new 180-day discovery period during which time the statute of limitations is tolled**
- **Provision eliminating the Loss of Chance doctrine was removed from the bill, thereby sustaining current common law**
- **Six other provisions, amended by OAJ**
 - **OAJ was opposed, but switched to neutral after major changes were made**
 - **Enacted – becomes effective about March 20, 2019**

Medical Records (HB 172 – Schuring)

- OAJ and Ohio Hospital Association reached compromise: patient will have option to request basic medical record or request all medical data
 - OAJ opposed original bill, but switched to neutral after major changes were made
 - Did not pass – remained in House committee
- ✓ Immunity for volunteer surgeons (SB 177 – Lehner)
- Expands when health care providers are granted civil immunity for providing volunteer health care services to indigent and uninsured persons
- Current “free clinic” law provides civil immunity for volunteer health care providers that provide office-based services to indigent and uninsured persons in free health clinics
- Bill allows all medical services and procedures to be performed, including surgery under anesthesia, in any setting, including hospitals
 - OAJ opposed
 - Did not pass – remained in Senate committee

Workers’ Compensation

- ✓ Bans workers’ comp for undocumented workers (HB 380 – Seitz, Householder)
- Prohibits illegal and unauthorized aliens from receiving compensation and benefits under Ohio’s workers’ compensation law
- Employer is liable for injuries if claimant can establish, by clear and convincing evidence, that employer knew the employee was not authorized to work in US
- Requires claimant who is not a US citizen to provide alien registration number and date when work authorization expires
 - OAJ opposed
 - Did not pass – remained in Senate committee

Group self-insurance (HB 459 – Henne)

- Allows groups of employers to be granted status as a self-insuring employer for workers’ compensation
 - OAJ opposed
 - Did not pass – remained in House committee

Rename BWC (HB 269 - Henne)

- Replaces title of BWC with the Office of Safety and Rehabilitation
- Reduces PTD benefits for some retirees
 - OAJ opposed
 - Did not pass – remained in House committee

Self-insurers (HB 268 – Henne)

- Makes changes to Workers’ Comp Law with respect to self-insuring employers
- Create a new sub-category of self-insured employers with lower financial standards
- Allows self-insured companies to purchase private insurance for first-dollar coverage
 - OAJ opposed

- Did not pass – remained in House committee
- ✓ Provides workers' comp coverage for first responders with PTSD (HB 161 – Patton)
 - Makes peace officers, firefighters, and emergency medical workers diagnosed with PTSD arising from employment without an accompanying physical injury eligible for workers' compensation and benefits
 - Workers' comp benefits expire after one year
 - Prohibits claimant from receiving a disability benefit from a state retirement system for PTSD during the time period the person receives compensation
 - OAJ did not support
 - Did not pass – remained in House committee

Provides workers' comp coverage for first responders with PTSD (SB 118 – LaRose)

- Makes peace officers, firefighters, and emergency medical workers diagnosed with PTSD arising from employment without an accompanying physical injury eligible for workers' compensation and benefits
- Workers' comp benefits expire after one year
- Prohibits claimant from receiving a disability benefit from a state retirement system for PTSD during the time period the person receives compensation
 - OAJ did not support
 - Did not pass – remained in Senate committee

Franchisor Exempt from WC, Labor Laws (HB 494 – Antani)

- Ensures that a state court or administrative rule does not apply the 2015 NLRB ruling that establishes a new “joint employer standard” to state labor or employment law
 - OAJ amended the bill to assure that current Ohio law is not impacted by this legislation
 - Enacted – becomes effective about March 19, 2019

Miscellaneous

Cybersecurity safe harbor (SB 220 – Hackett, Bacon)

- Provides an affirmative defense for covered entities that implement a specified cybersecurity program
 - OAJ opposed
 - Enacted – became effective November 2, 2018

Cybersecurity safe harbor for insurance companies (SB 273 – Hackett)

- Amends definition of insurance rating agency
- Amendment added in House to provide affirmative defense for insurance companies that implement a specific cybersecurity protection program required by Ohio Department of Insurance and overseen by the National Association of Insurance Commissioners
 - OAJ opposed
 - Enacted – becomes effective about March 19, 2019

Notary modernization act (SB 263 – Huffman, Wilson)

- **Authorizes online electronic notarization**
- **Consolidates commissioning of non-attorney notaries under the Secretary of State's office, rather than by county courts of common pleas**
- **Attorneys grandfathered to serve as notaries, but to be authorized to conduct online notarization, must take education and renew every 5 years**
- **Entities currently conducting education and testing may continue but must meet Secretary of State's standards**
 - **OAJ was neutral**
 - **Enacted – becomes effective about March 20, 2019**

ADA compliance (HB 271 – McColley, Rezabek)

- **Makes it entirely optional for an aggrieved party to send a notice to a property owner of an alleged accessibility law violation in advance of filing a civil action**
- **Civil action may be filed without sending notice, but attorneys' fees are not assured**
- **Attorneys' fees are awarded if notice is sent**
 - **OAJ supported**
 - **Enacted – becomes effective about March 19, 2019**

Probate law (HB 595 – Cupp, Rezabek)

- **Among changes, bill authorizes probate courts to establish a trust for a minor which would hold funds until age 25**
 - **OAJ supported**
 - **Enacted – becomes effective about March 21, 2019**

✓ Amends Ohio's anti-discrimination laws (HB 2 - Seitz)

- **Negotiated agreement with Ohio Chamber of Commerce**
- **Does not harm plaintiff's ability to pursue a claim for discrimination or harassment**
- **Individual liability modified, but not eliminated**
 - **OAJ opposed original bill, but switched to neutral after major changes were made**
 - **Did not pass – reported by House committee, but did not pass House**

✓ Anti-SLAPP (Strategic Lawsuit Against Public Participation) (SB 206 – Huffman)

- **Titled the Ohio Citizens Participation Act, provides legal protections for media and public interest groups who engage in certain protected communications**
- **Supported by Ohio newspapers and broadcasters and public interest groups**
- **Intended to prevent corporations from using lawsuits to intimidate media and public interest groups and stop them from publishing reports that are critical of the corporation**
- **Establishes a special motion to dismiss that occurs without benefit of discovery**
- **Exempts claims for personal injury and insurance disputes**
 - **OAJ had concerns**
 - **Did not pass – remained in Senate committee**

Minors in school bus accidents (HB 8 - Hambley, Rezabek)

- Exempts from Ohio's Public Records Law certain personal information concerning a minor in a record related to a school vehicle traffic report
- Provides for a journalist exemption
 - OAJ amended bill to allow parent of a minor to request the police report
 - Enacted – became effective September 28, 2108

Uniform electronic legal material act (SB 139 - Skindell, Eklund)

- Prescribes procedures for an agency to follow when it publishes official electronic legal material
- Specifies that electronic legal material that is authenticated is presumed to be an accurate copy of that material
 - OAJ was neutral
 - Enacted – became effective September 28, 2108

✓ Amusement rides (HB 631 - Hughes, Patterson)

- Tightens regulations governing the operation and safety inspections of amusement rides by Ohio Department of Agriculture
 - OAJ supported
 - Did not pass – remained in House committee

✓ Commercial Credit Reports (HB 769 – Dever)

- Requires a commercial credit reporting agency to provide credit reports to businesses and to establish a procedure whereby a business may dispute statements on the report
 - OAJ supported
 - Did not pass – remained in House committee

Pro-active legislation to be introduced in 133rd General Assembly

- Cap on damages not apply to victims of rape or sexual assault (HB 20)
- Punitive damages, no cap for strict liability offenses (SB 280)
- Long arm statute (SB 347)
- Commercial credit reports (HB 769)
- Dram shop liability insurance
- Home builder liability insurance covers defective workmanship
- Workers' compensation