

As Introduced

131st General Assembly

Regular Session

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H. B. No. 535

Representative Perales

**Cosponsors: Representatives Butler, Thompson, Boose, Retherford, Bishoff,
Grossman, Rezabek, O'Brien, M., Phillips**

A BILL

To amend section 5903.02 of the Revised Code to
extend employment and reemployment protection to
a person who is a member of another state's
national guard or organized militia and who is
employed in Ohio.

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

Section 1. That section 5903.02 of the Revised Code be
amended to read as follows:

Sec. 5903.02. (A) As used in this section, ~~"uniformed";~~

(1) "Uniformed services" and "service in the uniformed
services" have the same meanings as in the "Uniformed Services
Employment and Reemployment Rights Act of 1994," 108 Stat. 3149,
38 U.S.C.A. 4303.

(2) "Organized militia of another state" means the
national guard of any state, territory, or district other than
Ohio or any military or naval force recognized under the laws of
a state, district, or territory other than Ohio.

(B) Any person whose absence from a position of employment 17
is necessitated by reason of service in the uniformed services 18
~~or~~, in the Ohio organized militia, or in the organized militia 19
of another state has the same reinstatement and reemployment 20
rights in this state that a person has under the "Uniformed 21
Services Employment and Reemployment Rights Act of 1994." A 22
person who is denied a reinstatement or reemployment right 23
pursuant to this section has a cause of action for the same 24
remedies as a person has under the "Uniformed Services 25
Employment and Reemployment Rights Act of 1994." The court of 26
common pleas, notwithstanding any sum limitation established by 27
decision of a board of county commissioners pursuant to section 28
2305.01 of the Revised Code, shall have exclusive original 29
jurisdiction for such actions, unless the defendant is the 30
state, in which case the court of claims shall have exclusive 31
original jurisdiction pursuant to division (C) of this section. 32

(C) A person who seeks reinstatement or reemployment 33
rights with the state, pursuant to this section, may bring an 34
action in the court of claims pursuant to this section or 35
section 4323 of the "Uniformed Services Employment and 36
Reemployment Rights Act of 1994." 37

(D) In any action or proceeding to enforce a provision of 38
this section, the court shall require the defendant to pay the 39
court costs if the plaintiff is the prevailing party in the 40
action or proceeding. If the plaintiff is not the prevailing 41
party, the court may use its discretion in allocating court 42
costs among the parties to the action. 43

(E) In any action or proceeding to enforce a provision of 44
this section the court may award to a plaintiff who prevails in 45
such action or proceeding reasonable attorney's fees, expert 46

witness fees, and other litigation expenses. If the plaintiff 47
does not receive a favorable judgment from the court in that 48
action, the court shall not require the plaintiff to reimburse 49
the state or the defendant for attorney's fees. 50

(F) The director of administrative services shall adopt 51
rules in accordance with Chapter 119. of the Revised Code for 52
the implementation of this chapter with respect to persons in 53
public service. 54

(G) A person is not entitled to a remedy in a state action 55
under division (B) or (C) of this section if the person has 56
received a remedy based on the same facts under the "Uniformed 57
Services Employment and Reemployment Rights Act of 1994." If a 58
person has received a remedy in a state action under division 59
(B) or (C) of this section and then receives a remedy based on 60
the same facts under the "Uniformed Services Employment and 61
Reemployment Rights Act of 1994," the person shall reimburse the 62
judgment debtor the value of the federal remedy or the state 63
remedy whichever is less. 64

Section 2. That existing section 5903.02 of the Revised 65
Code is hereby repealed. 66