

**As Reported by the House Commerce and Labor Committee**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 535**

**Representative Perales**

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

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**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