

Amendment No. 5

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

1 Committee/Subcommittee hearing bill: Civil Justice & Property
 2 Rights Subcommittee

3 Representative Hinson offered the following:

4
 5 **Amendment (with title amendment)**

6 Remove lines 131-163 and insert:

7 (b) At the same time the complaint is filed, the plaintiff
 8 or his or her representative must submit an affidavit signed by
 9 a physician actively licensed in the state which attests to the
 10 physician's belief, within a reasonable degree of medical
 11 certainty, the dates and time span of the plaintiff's positive
 12 COVID-19 status, whether death resulted from exposure to COVID-
 13 19 or and identification of the injury caused as a result of
 14 COVID-19 exposure.

15 (c) The court must determine, as a matter of law, whether:

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16 1. The plaintiff or his or her representative complied
17 with paragraphs (a) and (b). If the plaintiff or his or her
18 representative did not comply with paragraphs (a) and (b), the
19 court must dismiss the action without prejudice.

20 2. The defendant made a good faith effort to substantially
21 comply with authoritative or controlling government-issued
22 health standards or guidance at the time the cause of action
23 accrued.

24 a. During this stage of the proceeding, admissible
25 evidence is limited to evidence tending to demonstrate whether
26 the defendant made such a good faith effort.

27 b. If the court determines that the defendant made such a
28 good faith effort, the defendant is immune from civil liability.

29 c. If the court determines that the defendant did not make
30 such a good faith effort, the plaintiff may proceed with the
31 action. However, absent at least gross negligence proven by
32 clear and convincing evidence, the defendant is not liable for
33 any act or omission relating to a COVID-19-related claim.

34 (d) The burden of proof is upon the plaintiff to
35 demonstrate that the defendant did not make a good faith effort
36 under subparagraph (c)2.

37 (4) Each business entity, governmental entity, religious
38 organization, and educational institution must operate safely by
39 following all of the Centers for Disease Control guidelines and
40 procedures to ensure the protection of the public's health.

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41 (5) A civil action for a COVID-19-related claim must be
42 initiated within 1 year after the cause of action accrues.
43 However, a plaintiff whose cause of action for a COVID-19-
44 related claim accrued before the effective date of this act must
45 commence such action within 1 year of the effective date of this
46 act.

47 (6) To ensure and preserve the safety and health of all
48 residents and visitors against COVID-19, there is instituted a
49 statewide mandate to require all residents and visitors to wear
50 a face mask when in public.

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53 **T I T L E A M E N D M E N T**

54 Remove line 8 and insert:

55 requiring specified entities, organizations, and
56 educational institutions to follow all of the Centers
57 for Disease Control guidelines; providing a statute of
58 limitations; instituting a statewide face mask
59 mandate; providing