

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6801
BILL NUMBER: SB 1

NOTE PREPARED: Dec 23, 2020
BILL AMENDED:

SUBJECT: Civil Immunity Related to COVID-19.

FIRST AUTHOR: Sen. Messmer
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides civil immunity for damages resulting from exposure of an individual to COVID-19 on the premises owned or operated by a person, on any premises on which the person or an employee or agent of the person provided property or services to the individual, or during an activity managed, organized, or sponsored by the person.

Effective Date: March 1, 2020 (retroactive).

Explanation of State Expenditures: This bill would allow governmental units to avoid paying for tort claims that may arise from individuals who contract COVID-19 while on the premises of either state or local governments. OFMA cannot determine the possible tort payments that could be avoided by the immunities included in this bill, but expects that individuals confined in Department of Correction facilities, Department of Mental Health and Addiction facilities, or county jails prior to March 11, 2020, could include potential individuals involved in these tort claims.

Additional Information - Under current law, state and local units of government are not immune from being sued for damages under the IC 34-13-3 (Tort Claims Against Governmental Entities and Public Employees).

As of Dec 14, 2020, 32 offenders have died as confirmed cases and eight offenders have been presumed to have died due to a COVID-19 infection. In addition, of the 2,766 offenders who have tested positive, 2,376 are reported to have recovered. Consequently, it is possible that 390 offenders have yet to recover.

The Office of the Attorney General reports that it has received COVID-19 related lawsuits, primarily from offenders in DOC facilities. The specific number was not able to be determined. If the state and local units

of government are immune from civil liability as a result of this bill, it is possible that these individuals could file for recovery of damages in federal court. The Office of the Attorney General indicated that of over 1,000 cases that were filed against the Indiana State Government by DOC offenders, about 45% were filed in state courts, and 55% were filed in federal courts in 2019 and through September 2020.

Explanation of State Revenues:

Explanation of Local Expenditures: See *Explanation of State Expenditures*.

Explanation of Local Revenues:

State Agencies Affected: All.

Local Agencies Affected: All.

Information Sources: Department of Correction; Division of Mental Health and Addiction; Office of the Attorney General.

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