

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1002

AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-1.2-12-4, AS ADDED BY P.L.189-2018, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]: Sec. 4. (a) The authority shall do the following under this chapter:

- (1) Be responsible for the management of all aspects of the Indiana brownfields program.
- (2) Prepare and provide program information.
- (3) Negotiate the negotiable aspects of each financial assistance agreement.
- (4) Sign each financial assistance agreement.
- (5) Review each proposed project and financial assistance agreement to determine if the project meets the credit, economic, or fiscal criteria established by guidelines of the authority.
- (6) Periodically inspect or cause to be inspected projects to determine compliance with this chapter.
- (7) Conduct or cause to be conducted an evaluation concerning the financial ability of a private individual or entity, nonprofit entity, or political subdivision to:
 - (A) pay a loan or other financial assistance and other obligations evidencing loans or other financial assistance, if required to be paid; and
 - (B) otherwise comply with terms of the financial assistance agreement.

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(8) Evaluate or cause to be evaluated the technical aspects of the private individual or entity, nonprofit entity, or political subdivision's:

(A) environmental assessment of potential brownfield properties;

(B) proposed remediation; and

(C) remediation activities conducted on brownfield properties.

(9) Inspect or cause to be inspected remediation activities conducted under this chapter.

(10) Act as a liaison to the United States Environmental Protection Agency regarding the Indiana brownfields program.

(11) Be a point of contact for private entities, nonprofit entities, and political subdivisions concerning questions about the Indiana brownfields program.

(12) Enter into memoranda of understanding, as necessary, with the department of environmental management and the budget agency concerning the administration and management of the Indiana brownfields fund and the Indiana brownfields program.

(b) The authority may do the following under this chapter:

(1) Undertake activities to make private environmental insurance products available to encourage and facilitate the cleanup and redevelopment of brownfield properties.

(2) Enter into agreements with private entities, nonprofit entities, and political subdivisions to manage any of the following conducted on brownfield properties:

(A) Environmental assessment activities.

(B) Environmental remediation activities.

(C) Demolition and clearance activities.

(c) The authority may:

(1) negotiate with;

(2) select; and

(3) contract with;

one (1) or more insurers to provide insurance products as described in subsection (b)(1).

(d) The authority may:

(1) negotiate with;

(2) select; and

(3) contract with;

one (1) or more environmental consultants to undertake the activities described in subsection (b)(2) for the benefit of private entities, nonprofit entities, and political subdivisions.

(e) Notwithstanding IC 13-23, IC 13-24-1, and IC 13-25-4, the authority is not liable for any contamination addressed by the authority under an agreement under subsection (b)(2) unless existing



contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the authority.

(f) For purposes of subsection (e), reckless, willful, or wanton misconduct constitutes gross negligence.

(g) The authority is entitled to the same governmental immunity afforded a political subdivision under ~~IC 34-13-3-3(22)~~ **IC 34-13-3-3(a)(22)** for any act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield under an agreement under subsection (b)(2).

(h) This chapter does not require the authority to provide a loan or other financial assistance to any private individual or entity, nonprofit entity, or political subdivision to the extent the authority determines that providing the loan or other financial assistance is not in the best interests of the Indiana brownfields program and the authority.

SECTION 2. IC 16-31-6-1, AS AMENDED BY P.L.113-2020, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) A **certified emergency medical responder, a certified emergency medical technician, a certified advanced emergency medical technician, or a licensed paramedic** who provides emergency medical services to an emergency patient is not liable for an act or omission in providing those services unless the act or omission constitutes **gross** negligence or willful misconduct. If the **certified emergency medical technician services provider** is not liable for an act or omission, no other person incurs liability by reason of an agency relationship with the **certified emergency medical technician services provider**.

(b) This section does not affect the liability of a driver of an ambulance for negligent operation of the ambulance.

(c) Except as provided in subsections (a) and (b), a certified emergency medical technician, **a certified advanced emergency medical technician**, or a licensed paramedic who provides emergency medical services is not liable for transporting any person to an appropriate health care facility when the **certified emergency medical technician, the certified advanced emergency medical technician**, or the licensed paramedic makes a good faith judgment that the emergency patient or the emergency patient's primary caregiver lacks the capacity to make an informed decision about the patient's:

- (1) safety; or
- (2) need for medical attention;

and the emergency patient is reasonably likely to suffer disability or death without the medical intervention available at the facility.

SECTION 3. IC 16-31-6-2, AS AMENDED BY P.L.77-2012, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) Except for an act of **gross** negligence or



willful misconduct, a certified emergency medical responder who uses an automatic or semiautomatic defibrillator on an emergency patient according to the training procedures established by the commission under IC 16-31-2-9 is immune from civil liability for acts or omissions when rendering those services.

(b) If the emergency medical responder is immune from civil liability for the emergency medical responder's act or omission, a person who has only an agency relationship with the emergency medical responder is also immune from civil liability for the act or omission.

SECTION 4. IC 16-31-6-3, AS AMENDED BY P.L.77-2012, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. An act or omission of a paramedic or an advanced emergency medical technician done or omitted in good faith while providing advanced life support to a patient or trauma victim does not impose liability upon the paramedic or advanced emergency medical technician, the authorizing physician, the hospital, or the officers, members of the staff, nurses, or other employees of the hospital or the local governmental unit if the advanced life support is provided:

(1) in connection with an emergency;
 (2) in good faith; and
 (3) under the written or oral direction of a licensed physician;
 unless the act or omission was a result of **gross** negligence or willful misconduct.

SECTION 5. IC 25-1-20 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]:

Chapter 20. Effect of a State Disaster Emergency on Professional Disciplinary Action

Sec. 1. This chapter applies during a period of a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19, if the state of disaster emergency was declared:

- (1) after February 29, 2020; and
 (2) before April 1, 2022.

Sec. 2. The following definitions apply throughout this chapter:

(1) "Arising (or arises) from a (or the) state disaster emergency" means an injury or harm:

- (A) caused by or resulting from an act or omission performed in response to a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19; and
 (B) arising from COVID-19 (as defined by IC 34-6-2-10.4(b)).



(2) "COVID-19" has the meaning set forth in IC 34-6-2-31.4(c).

(3) "Health care provider" has the meaning set forth in IC 4-6-14-2.

(4) "Health care services" has the meaning set forth in IC 34-6-2-55(b).

Sec. 3. Except as provided in section 4 of this chapter, a health care provider is not subject to professional discipline under IC 25-1-7 or IC 25-1-9 for any of the following:

(1) Health care services provided in response to or arising from a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19.

(2) An act or omission of the health care provider committed with respect to the provision, withholding, delay, or withdrawal of health care services in response to or arising from a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19.

(3) Compliance with an executive order or local health order issued in response to or arising from a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19.

(4) An injury, a death, or a loss to a person or property alleged to have occurred because the health care provider was unable to treat, diagnose, or test the person for any illness, disease, or condition, including an inability to perform any elective procedure in compliance with an executive order or local health order issued in response to or arising from a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19.

Sec. 4. (a) Except as provided by subsection (b), section 3 of this chapter does not protect a health care provider from professional discipline under IC 25-1-7 or IC 25-1-9 if the health care provider's action, omission, decision, or compliance constitutes gross negligence, willful or wanton misconduct, fraud, or intentional misrepresentation.

(b) The following do not constitute gross negligence, willful or wanton misconduct, fraud, or intentional misrepresentation under this chapter if performed in response to or arising from a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19:

(1) Providing services without required personal protective equipment caused by:

(A) a shortage; or

(B) an inability to timely acquire personal protective equipment;



during an event that is declared a disaster emergency under IC 10-14-3-12 to respond to COVID-19.

(2) Providing services without access to adequate or reliable testing for COVID-19, even if the COVID-19 testing that was used received emergency use authorization from the federal Food and Drug Administration.

(3) Using equipment, medicine, or supplies in a manner that is not approved by the federal Food and Drug Administration.

(4) Providing services under a reallocation of staff or resources.

(5) Providing services that are outside of an individual's expertise or specialty.

Sec. 5. An order or a recommendation issued in response to or arising from a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19 by:

(1) the governor or a state agency;

(2) the executive of a city, town, or county;

(3) a local health official or local health department; or

(4) an agency of the federal government;

does not create a new cause of action against any person with respect to the matters contained in the order or recommendation.

SECTION 6. IC 34-6-2-3.8, AS ADDED BY SEA 1-2021, SECTION 1, IS REPEALED [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]. Sec. 3-8: "Arising from COVID-19", for purposes of IC 34-30-32; has the meaning set forth in IC 34-30-32-2.

SECTION 7. IC 34-6-2-10.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]: **Sec. 10.4. (a)** "Arising from COVID-19", for purposes of IC 34-30-32, has the meaning set forth in IC 34-30-32-2.

(b) "Arising from COVID-19", for purposes of section 10.5 of this chapter, IC 34-12-5, and IC 34-13-3-3, means an injury or harm caused by or resulting from:

(1) the actual, alleged, or possible exposure to or contraction of COVID-19; or

(2) services, treatment, or other actions performed for COVID-19.

(c) The definition under subsection (b) includes:

(1) the implementation of policies and procedures to:

(A) prevent or minimize the spread of COVID-19; and

(B) reallocate or procure staff or resources for COVID-19.

(2) testing in response to COVID-19;

(3) monitoring, collecting, reporting, tracking, tracing, disclosing, or investigating COVID-19 exposure or other COVID-19 related information;



- (4) using, designing, manufacturing, providing, donating, or servicing precautionary, diagnostic, collection, or other health equipment or supplies, including personal protective equipment, for COVID-19;
- (5) closing or partially closing to prevent or minimize the spread of COVID-19;
- (6) delaying or modifying the scheduling or performance of a nonemergency medical procedure or appointment due to COVID-19;
- (7) reasonable nonperformance of medical services due to COVID-19; and
- (8) providing services or products in response to government appeal or repurposing operations to address an urgent need for personal protective equipment, sanitation products, or other products necessary to protect the public from COVID-19.

SECTION 8. IC 34-6-2-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]: **Sec. 10.5. "Arising (or arises) from a (or the) state disaster emergency", for purposes of IC 34-7-8 and IC 34-30-13.5, means an injury or harm:**

- (1) caused by or resulting from an act or omission performed in response to a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19; and
- (2) arising from COVID-19.

SECTION 9. IC 34-6-2-31.4, AS ADDED BY P.L.1-2021, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]: **Sec. 31.4. (a) "COVID-19", for purposes of IC 34-30-32, has the meaning set forth in IC 34-30-32-3.**

(b) "COVID-19", for purposes of IC 34-30-33, has the meaning set forth in IC 34-30-33-2.

(c) "COVID-19", for purposes of sections 10.4 and 55 of this chapter, IC 34-7-8, IC 34-12-5, IC 34-13-3-3, IC 34-30-13.5-1, and IC 34-30-13.5-3, has the meaning set forth in IC 34-30-32-3.

SECTION 10. IC 34-6-2-46.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]: **Sec. 46.4. "Financial interest", for purposes of IC 34-30-13.5-3, means an ownership or investment interest through equity, debt, or other means. The term includes an ownership or investment interest in an entity that holds, either directly or through a subsidiary, an ownership or investment interest.**

SECTION 11. IC 34-6-2-55, AS AMENDED BY P.L.161-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]: **Sec. 55. (a) "Health care**



services":

(1) except as provided in subdivision (2), for purposes of IC 34-30-13, has the meaning set forth in IC 27-13-1-18(a); and
 (2) for purposes of IC 34-30-13-1.2, means only noninvasive examinations, treatments, and procedures and the following invasive procedures:

- (A) Routine dental services.
- (B) Injections.
- (C) Suturing of minor lacerations.
- (D) Incisions of boils or superficial abscesses.

The term does not include performance of an abortion, including abortion by surgical means, by use of an abortion inducing drug, or by prescribing a controlled substance or scheduled drug under IC 35-48.

(b) "Health care services", for purposes of IC 34-30-13.5, means:

(1) any services provided by an individual licensed under:

- (A) IC 25-2.5;
- (B) IC 25-10;
- (C) IC 25-13;
- (D) IC 25-14;
- (E) IC 25-19;**
- ~~(F)~~ (F) IC 25-22.5;
- ~~(G)~~ (G) IC 25-23;
- ~~(H)~~ (H) IC 25-23.5;
- ~~(I)~~ (I) IC 25-23.6;
- ~~(J)~~ (J) IC 25-24;
- ~~(K)~~ (K) IC 25-26;
- ~~(L)~~ (L) IC 25-27;
- ~~(M)~~ (M) IC 25-27.5;
- ~~(N)~~ (N) IC 25-29;
- ~~(O)~~ (O) IC 25-33;
- ~~(P)~~ (P) IC 25-34.5; or
- ~~(Q)~~ (Q) IC 25-35.6;

(2) services provided as the result of hospitalization, **to an individual admitted to a health facility licensed under IC 16-28, or to a person residing in a housing with services establishment (as defined by IC 12-10-15-3);**

(3) services incidental to the furnishing of services described in subdivisions (1) or (2);

(4) any services by individuals:

- (A) licensed as paramedics;
- (B) certified as advanced emergency medical technicians; or
- (C) certified as emergency medical technicians under ~~IC 16-31-2~~; **IC 16-31**;



- (5) any services provided by individuals certified as emergency medical responders under ~~IC 16-31-2~~; or **IC 16-31**;
- (6) any services provided by certified health care professionals who are registered with the Indiana state department of health, including:**
- (A) certified nurse aides certified under IC 16-28-1-11;**
 - (B) qualified medication aides certified under IC 16-28-1-11; and**
 - (C) home health aides registered under rules adopted under IC 16-27-1-7;**
- (7) any services provided by unlicensed health care professionals who have successfully completed any applicable training required by the Indiana state department of health;**
- (8) any services provided by health care volunteers who are permitted to practice during an event that is declared a disaster emergency under IC 10-14-3-12 to respond to COVID-19;**
- (9) any services provided by individuals with provisional or temporary licenses who are permitted to practice during an event that is declared a disaster emergency under IC 10-14-3-12 to respond to COVID-19; or**
- ~~(10)~~ **(10) any other services or goods furnished for the purpose of preventing, alleviating, curing, or healing human illness, physical disability, or injury.**

SECTION 12. IC 34-7-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]:

Chapter 8. Effect of Orders Issued in Response to or Arising From a State Disaster Emergency

Sec. 1. This chapter applies during a period of a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19, if the state of disaster emergency was declared:

- (1) after February 29, 2020; and**
- (2) before April 1, 2022.**

Sec. 2. An order or a recommendation issued in response to or arising from a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19 by:

- (1) the governor or a state agency;**
- (2) the executive of a city, town, or county;**
- (3) a local health official or local health department; or**
- (4) an agency of the federal government;**

does not create a new cause of action against any person with respect to the matters contained in the order or recommendation.

SECTION 13. IC 34-12-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE



MARCH 1, 2020 (RETROACTIVE)];

Chapter 5. Prohibited Class Actions Based on Contract Arising from COVID-19

Sec. 1. This chapter applies only to an action based on a contract, implied contract, quasi-contract, or unjust enrichment claim.

Sec. 2. (a) This chapter applies to a claim arising from COVID-19 during a period of a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19, if the state of disaster emergency was declared:

- (1) after February 29, 2020; and**
- (2) before April 1, 2022.**

(b) This chapter does not:

- (1) create a cause of action;**
- (2) eliminate a required element of any existing cause of action;**
- (3) affect a worker's compensation claim under IC 22-3; or**
- (4) except as otherwise provided in this chapter, amend, repeal, alter, or affect any immunity, defense, limitation of liability, or procedure available or required under law or contract.**

Sec. 3. As used in this chapter, "arising from COVID-19" has the meaning set forth in IC 34-6-2-10.4.

Sec. 4. As used in this chapter, "claimant" means an individual or entity who initiates a cause of action alleging loss or damages arising from COVID-19 in a contract, implied contract, quasi-contract, or unjust enrichment claim.

Sec. 5. As used in this chapter, "covered entity" means:

- (1) a governmental entity (as defined by IC 34-6-2-49), including a political subdivision (as defined in IC 34-6-2-110); and**
- (2) an approved postsecondary educational institution (as defined by IC 21-7-13-6).**

Sec. 6. As used in this chapter, "COVID-19" has the meaning set forth in IC 34-6-2-31.4.

Sec. 7. A claimant may not bring, and a court may not certify, a class action lawsuit against a covered entity for loss or damages arising from COVID-19 in a contract, implied contract, quasi-contract, or unjust enrichment claim.

SECTION 14. IC 34-13-3-3, AS AMENDED BY P.L.65-2016, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]: **Sec. 3. (a)** A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

- (1) The natural condition of unimproved property.**

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(2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.

(3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.

(4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.

(5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:

(A) a set of rules governing the use of the extreme sport area;

(B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and

(C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

(6) The initiation of a judicial or an administrative proceeding.

(7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.

(8) The adoption and enforcement of or failure to adopt or enforce:

(A) a law (including rules and regulations); or

(B) in the case of a public school or charter school, a policy; unless the act of enforcement constitutes false arrest or false imprisonment.

(9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.

(10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.

(11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.

(12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.



- (13) Entry upon any property where the entry is expressly or impliedly authorized by law.
- (14) Misrepresentation if unintentional.
- (15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.
- (16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.
- (17) Injury to the person or property of a person under supervision of a governmental entity and who is:
- (A) on probation; or
 - (B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.
- (18) Design of a highway (as defined in IC 9-13-2-73), toll road project (as defined in IC 8-15-2-4(4)), tollway (as defined in IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the claimed loss occurs at least twenty (20) years after the public highway, toll road project, tollway, or project was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.
- (19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.
- (20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a:
- (A) discipline policy adopted under IC 20-33-8-12; or
 - (B) restraint and seclusion plan adopted under IC 20-20-40-14.
- (21) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 or IC 35-46-1-15.3 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.
- (22) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:
- (A) the loss is a result of reckless conduct; or



(B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

(23) The operation of an off-road vehicle (as defined in IC 14-8-2-185) by a nongovernmental employee, or by a governmental employee not acting within the scope of the employment of the employee, on a public highway in a county road system outside the corporate limits of a city or town, unless the loss is the result of an act or omission amounting to:

- (A) gross negligence;
- (B) willful or wanton misconduct; or
- (C) intentional misconduct.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain highways in a reasonably safe condition for the operation of motor vehicles licensed by the bureau of motor vehicles for operation on public highways.

(24) Any act or omission rendered in connection with a request, investigation, assessment, or opinion provided under IC 36-9-28.7.

(b) This subsection applies to a cause of action that accrues during a period of a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19, if the state of disaster emergency was declared after February 29, 2020, and before April 1, 2022. A governmental entity or an employee acting within the scope of the employee's employment is not liable for an act or omission arising from COVID-19 unless the act or omission constitutes gross negligence, willful or wanton misconduct, or intentional misrepresentation. If a claim described in this subsection is:

- (1) a claim for injury or death resulting from medical malpractice; and**
- (2) not barred by the immunity provided under this subsection;**

the claimant is required to comply with all of the provisions of IC 34-18 (medical malpractice act).

SECTION 15. IC 34-30-2-68, AS AMENDED BY P.L.113-2020, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 68. IC 16-31-6-1 (Concerning ambulance attendants and certified emergency medical technicians who render emergency ambulance services and certified emergency medical technicians or licensed paramedics who provide emergency medical services providers).

SECTION 16. IC 34-30-13.5-1, AS ADDED BY P.L.138-2006,



SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]: Sec. 1. **(a) This subsection does not apply during a period of a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19, if the state of disaster emergency was declared after February 29, 2020, and before April 1, 2022.** Except as provided in section 2 of this chapter, a person who meets the following criteria may not be held civilly liable for an act or omission relating to the provision of health care services in response to an event that is declared a disaster emergency under IC 10-14-3-12, regardless of whether the provision of health care services occurred before or after the declaration of a disaster emergency:

- (1) Has a license to provide health care services under Indiana law or the law of another state.
- (2) Provides a health care service:
 - (A) within the scope of the person's license to another person; and
 - (B) at a location where health care services are provided during an event that is declared as a disaster.

(b) This subsection applies during a period of a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19, if the state of disaster emergency was declared after February 29, 2020, and before April 1, 2022. Except as provided in section 2 of this chapter, the following apply to the provision of health care services arising from a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19:

- (1) A person providing health care services or emergency medical services, whether in person or through telemedicine services permitted by IC 25-1-9.5, at a facility or other location where health care services or emergency medical services are provided may not be held civilly liable for an act or omission relating to the provision or delay of health care services or emergency medical services arising from a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19.
- (2) An employer, including an agency that provides or arranges health care services or emergency medical services, of a person described in subdivision (1) may not be held civilly liable for an act or omission relating to the provision or delay of health care services or emergency medical services arising from a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19.

(c) This subsection applies during a period of a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19, if the state of disaster emergency was declared after February 29,



2020, and before April 1, 2022. The following do not constitute gross negligence, willful or wanton misconduct, fraud, or intentional misrepresentation under this chapter if arising from a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19:

(1) Providing services without required personal protective equipment caused by:

(A) a shortage; or

(B) an inability to timely acquire personal protective equipment;

in response to or arising from a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19.

(2) Providing services without access to adequate or reliable testing for COVID-19, even if the COVID-19 testing that was used received emergency use authorization from the federal Food and Drug Administration.

(3) Using equipment, medicine, or supplies to treat or help prevent the transmission of COVID-19 in a manner that is not approved by the federal Food and Drug Administration.

(4) Providing services that are outside of an individual's expertise or specialty but within the individual's scope of practice under IC 16 or IC 25.

SECTION 17. IC 34-30-13.5-2, AS ADDED BY P.L.138-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]: Sec. 2. A person described in this chapter is not immune from civil liability if the damages resulting from the act or omission relating to the provision **or delay** of the health care services resulted from the person's gross negligence, ~~or willful misconduct.~~ **or wanton misconduct, fraud, or intentional misrepresentation.**

SECTION 18. IC 34-30-13.5-3, AS ADDED BY P.L.138-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]: Sec. 3. **(a) This subsection does not apply during a period of a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19, if the state of disaster emergency was declared after February 29, 2020, and before April 1, 2022.** A facility or other location that is providing health care services in response to an event that is declared as a disaster emergency may not be held civilly liable for an act or omission relating to the provision of health care services in response to that event by a health professional licensed to provide the health care service under Indiana law or the law of another state if the person is acting during an event that is declared as a disaster emergency, regardless of whether the provision of health care services occurred before or after the declaration of a disaster emergency.

HEA 1002 — Concur



(b) This subsection applies during a period of a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19, if the state of disaster emergency was declared after February 29, 2020, and before April 1, 2022. A facility or other location, including a location used to provide emergency medical services or used to provide telemedicine services permitted under IC 25-1-9.5, that provides health care services or emergency medical services in response to or arising from a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19 may not be held civilly liable for an act or omission relating to the provision of health care services with respect to which an individual providing health care services, a provider, an agent, or an employee are not liable under this chapter.

(c) This subsection applies during a period of a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19, if the state of disaster emergency was declared after February 29, 2020, and before April 1, 2022. An individual or an entity that:

- (1) has a financial interest in;**
- (2) serves on the board of directors of; or**
- (3) provides management or administrative services for;**

a facility or other location that provides health care services or emergency medical services in response to or arising from a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19 may not be held civilly liable for an act or omission described in subsection (b).

SECTION 19. IC 34-30-13.5-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]: Sec. 4. This section applies during a period of a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19, if the state of disaster emergency was declared after February 29, 2020, and before April 1, 2022. If a claim described in this chapter is:

- (1) a claim for injury or death resulting from medical malpractice; and**
 - (2) not barred by the immunity provided under this chapter;**
- the claimant is required to comply with all of the provisions of IC 34-18 (medical malpractice act).**

SECTION 20. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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