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S.B. 308
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 308's Bill Analysis](#)

Version: As Reported by Senate Judiciary

Primary Sponsor: Sen. M. Huffman

Local Impact Statement Procedure Required: No

Robert Meeker, Budget Analyst, and other LBO staff

Highlights

- The bill's qualified civil immunity provisions related to certain health care practitioners may create an expenditure savings effect for local trial courts by reducing the time and effort that otherwise may have been required to adjudicate civil actions resulting from the disaster or emergency. The bill also extends this immunity to certain service providers, limiting it to actions taken during a disaster or emergency due to COVID-19 and ending on April 1, 2021.
- The bill may decrease investigation or disciplinary costs for various occupational licensing boards due to the expansion of immunity from professional discipline for health care providers during the period of the disaster or emergency.

Detailed Analysis

The bill grants a qualified civil immunity for additional health care providers and certain defined service providers in the context of disasters, provides health care providers with immunity from professional disciplinary action, specifies that these immunity provisions apply retroactively to the date a disaster is declared, and declares an emergency.

Qualified immunity for certain providers

The bill generally expands the providers¹ and actions that are covered by the qualified immunity for health care providers during or in response to a declared disaster or emergency,

¹ Under current law, advanced practice registered nurses, registered nurses, pharmacists, dentists, optometrists, physicians, physician assistants, hospitals, emergency medical technicians (EMTs), and paramedics are eligible for immunity.

but does not apply to actions, omissions, decisions, or compliance that constitute willful or wanton misconduct. The bill specifies that these individuals are not subject to professional disciplinary action unless the health care provider's action, omission, decision, or compliance constitutes gross negligence. The bill also specifies that a health care provider is not subject to professional disciplinary action and is not liable in damages in cases that arise because the provider was prohibited from treating, diagnosing, or testing a person, including performing elective procedures, by an order issued in relation to an epidemic or pandemic disease or other public health emergency. The bill specifies that the immunity from civil liability or professional disciplinary action does not apply for actions that are outside of the skills, education, and training of the provider, unless the provider undertakes the action in good faith and in response to a lack of resources caused by a disaster or emergency. The bill specifies that the above-mentioned immunities apply only to the provision, withholding, or withdrawal of health care services or decisions related to services or care as a result of or in response to a disaster or emergency and through the duration of the disaster or emergency.

The bill also grants that, with exceptions, a "service provider"² is not liable in damages to any "person" in a civil action resulting from, or related to, actual or alleged exposure to an illness in the course of or through the provision of services during the period of the disaster or emergency declared due to COVID-19 and ending on April 1, 2021. The "service provider" immunity does not apply to an act or omission determined to be reckless or intentional conduct or willful or wanton misconduct. The frequency with which these qualified civil immunities may apply is unpredictable, and therefore, indeterminate.

The bill specifies that if the immunity described above does not apply, no class action is to be brought against any health care or service provider alleging liability for damages for injury, death, or loss to person or property on a cause of action specified.

Local trial courts

The bill may affect the common pleas, municipal, and county courts that have subject matter jurisdiction over civil cases resulting from a declared disaster or emergency as follows: (1) prevent certain civil actions from being filed, or (2) expedite their resolution subsequent to the finding of the court that such persons or entities in the circumstances at hand are protected from being sued for damages. The timing, frequency, and complexity of such cases being filed in any given local trial court is unpredictable. If the bill prevents the filing, or expedites the resolution, of certain civil actions, local trials generally may realize an expenditure savings. If there is in fact a savings, its magnitude is unknown, and not likely to be easily measured.

Occupational licensing boards

The bill may affect various occupational licensing boards. These boards may realize a decrease in the number of cases that require investigation or disciplinary action due to the expansion of civil immunity and immunity from professional discipline for health care providers

² For purposes of the immunity, a service provider is any person that provides any activity, including manufacturing, that is part of or outside of a service provider's normal course of business conducted during the period of a disaster or emergency.

during a declared emergency. As a result, impacted licensing boards may experience a decrease in related costs.

Health care providers

The bill may affect health care providers that are local or state entities or employed by such due to the provision that specifies that these providers are not liable in damages in certain cases. This could lead to a decrease in legal and other associated costs. The amount would depend on the number and scope of any potential suits.