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Substitute Bill Comparative Synopsis

Sub. H.B. 606

133rd General Assembly

House Civil Justice

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This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Previous Version (I_133_2690-5)	Latest Version (I_133_2690-7)
Civil immunity for health care providers	
Expands existing law that grants qualified civil immunity to certain health care providers and emergency medical personnel providing emergency services as a result of a disaster to include health care services provided by additional health care providers during or in response to a disaster or emergency (<i>R.C. 2305.2311</i>).	No provision.

Previous Version (I_133_2690-5)	Latest Version (I_133_2690-7)
<p>No provision.</p> <p>No provision.</p>	<p>Establishes a new immunity for health care providers regarding health care services or emergency care as a result of or in response to a disaster or emergency beginning on March 9, 2020, through December 31, 2020. The new immunity includes all of the health care providers and circumstances included in I-133-2690-5 except as otherwise noted in this comparison (<i>Section 3</i>).</p> <p>Adds the following to the list of health care providers granted immunity (<i>Section 3(A)(4) and (7)</i>):</p> <ul style="list-style-type: none"> ▪ Behavioral health providers (including chemical dependency counselors, prevention consultants and specialists, professional clinical counselors, professional counselors, social workers, marriage and family therapists, and psychologists); ▪ Dental hygienists.
<p>During the period from the bill's effective date through December 31, 2020, immunity does not apply in a tort action that does not arise out of regulatory requirements applicable to facilities if the health care provider's conduct that constitutes willful or wanton misconduct (<i>R.C. 2305.2311(B)(2)(a)</i>).</p>	<p>No provision.</p>
<p>Beginning January 1, 2021, immunity does not apply in a tort action that does not arise out of regulatory requirements applicable to facilities if the health care provider's conduct constitutes a reckless disregard for the consequences so as to affect the life or health of the patient (<i>R.C. 2305.2311(B)(2)(b)</i>).</p>	<p>Immunity does not apply in a tort action if the health care provider's conduct constitutes a reckless disregard for the consequences so as to affect the life or health of the patient (<i>Section 3(B)(2)</i>).</p>

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<p>“Reckless disregard” means conduct that a health care provider knew or should have known, at the time health care services, emergency medical services, first-aid treatment, or other emergency professional care were rendered, created an unreasonable risk of injury, death, or loss to person or property so as to affect the life or health of another and that risk was substantially greater than that which is necessary to make the conduct negligent (<i>R.C. 2305.2311(A)(39)</i>).</p>	<p>“Reckless disregard” means conduct by which, with heedless indifference to the consequences, the health care provider disregards a substantial and unjustifiable risk that the health care provider’s conduct is likely to cause, at the time those services or that treatment or care were rendered, an unreasonable risk to injury, death, or loss to person or property (<i>Section 3(A)(42)(a)</i>).</p>
<p>Immunity does not apply in a professional disciplinary action or in a tort action that arises out of regulatory requirements applicable to facilities if the health care provider’s conduct constitutes gross negligence (<i>R.C. 2305.2311(B)(3)</i>).</p>	<p>Immunity does not apply in a professional disciplinary action if the health care provider’s conduct constitutes gross negligence (<i>Section 3(B)(3)</i>).</p>
<p>No provision.</p>	<p>States that the new provision applies from March 9, 2020, through December 31, 2020, and that while in effect, it supersedes existing law that grants qualified civil immunity for health care and emergency providers providing emergency care as a result of a disaster (<i>Section 3(D)</i>).</p>
<p>General qualified immunity</p>	
<p>Precludes a civil action for damages for injury, death, or loss to person or property from being brought against any person if the cause of action on which the action is based is that the injury, death, or loss is caused by the exposure to, or the transmission or contraction, of a coronavirus infection, unless the exposure to, or the transmission or</p>	<p>Same provision, except that the provision:</p> <ul style="list-style-type: none"> ▪ Is moved to temporary law (<i>Section 4(A)</i>);¹ ▪ Replaces “coronavirus infection” with “MERS-CoV, SARS-CoV,

¹ R.C. 3701.26 is moved in its entirety to Section 4 of the bill; this comparative synopsis only describes how the substance of those provisions differ between codified and uncoded law.

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<p>contraction of, the infection is by “reckless” or intentional misconduct or with willful or wanton misconduct of the person against whom the action is brought (<i>R.C. 3701.26(A)</i>).</p> <p>No provision.</p> <p>Defines “reckless conduct” as conduct by which, with heedless indifference to the consequences, the person disregards a substantial and unjustifiable risk that the person’s conduct is likely to cause an exposure to or a transmission or contraction of a coronavirus infection or is likely to be of a nature that results in a transmission or contraction of a coronavirus infection. A person is reckless with respect to circumstances in relation to an exposure to or a transmission or contraction of a coronavirus infection when, with heedless indifference to the consequences, the person disregards a substantial and unjustifiable risk that such circumstances are likely to exist. A violation of an order issued by the Ohio Director of Health, alone, is not sufficient to prove “reckless conduct” regarding the transmission or contraction of a coronavirus infection (<i>R.C. 3701.26(B)</i>).</p>	<p>or SARS-CoV-2, or any mutation thereof”; and</p> <ul style="list-style-type: none"> ▪ Modifies the exception to the immunity to “reckless or intentional <i>conduct</i> or with willful or wanton misconduct of the person against whom the action is brought.” <p>Defines the following (<i>Section 4(C)</i>):</p> <ul style="list-style-type: none"> ▪ “MERS-CoV” means the coronavirus that causes Middle East respiratory syndrome. ▪ “SARS-CoV” means the coronavirus that causes severe acute respiratory syndrome. ▪ “SARS-CoV-2” means the novel coronavirus that causes coronavirus disease 2019 (COVID-19). <p>Same provision, except for the following:</p> <ul style="list-style-type: none"> ▪ It replaces “coronavirus infection” with “MERS-CoV, SARS-CoV, or SARS-CoV-2, or any mutation thereof,” as defined above, and corrects a missing reference to the “exposure to” such along with transmission or contraction (<i>Section 4(C)</i>). ▪ It deletes the last sentence of the definition of “reckless conduct” regarding a violation of an order by the Ohio Director of Health, alone, as not sufficient to prove “reckless conduct” (<i>Section 4(C)</i>).

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Effect of government order	
No provision.	Provides that a government order, recommendation, or guideline neither creates nor is to be construed as creating a duty of care upon any person that may be enforced in a cause of action or may create a new cause of action or substantive legal right against any person with respect to the matters in that order, recommendation, or guideline. A presumption exists that any such government order, recommendation, or guideline is not admissible as evidence that a duty of care, a new cause of action, or a substantive legal right has been established. <i>(Section 4(B).)</i>
Applicability of general qualified immunity	
No provision.	Provides that the provisions pertaining to the general qualified immunity apply from the date of the Governor’s Executive Order 2020-01D, issued on March 9, 2020, declaring a state of emergency due to COVID-19, through December 31, 2020 <i>(Section 4(D)).</i>
Applicability of the bill	
Provides that with respect to the COVID-19 outbreak, the bill applies to acts, omissions, conduct, decisions, or compliance from the date of the Governor’s Executive Order 2020-01D, issued on March 9, 2020, declaring a state of emergency due to COVID-19 <i>(Section 4).</i>	Provides that the act applies to acts, omissions, conduct, decisions, or compliance from the date of the Governor’s executive order 2020-01D, issued on March 9, 2020, declaring a state of emergency due to COVID-19 <i>(Section 6).</i>