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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 606  
(1\_133\_2690-5)  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 606's Bill Analysis](#)

**Version:** In House Civil Justice

**Primary Sponsor:** Rep. Grendell

**Local Impact Statement Procedure Required:** No

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### Highlights

- The bill's civil immunity provisions may create an expenditure savings effect for local trial courts by reducing the time and effort that otherwise may have been expended to adjudicate civil actions resulting from a disaster or emergency.
- The bill's state immunity provision is likely to reduce or expedite the adjudication of COVID-19 cases handled by the state's Court of Claims, and potentially reduce or eliminate costs that the state otherwise may have incurred to litigate and settle such matters.
- The bill's expansion of political subdivision tort liability law potentially reduces or eliminates costs that a political subdivision otherwise may have incurred to litigate and settle disputes resulting from compliance with an order resulting from the COVID-19 or certain other conduct related to public or public health emergency.
- The bill may decrease investigation or disciplinary costs for certain state occupational licensing boards due to the expansion of immunity from professional discipline resulting from or in response to an emergency.

### Detailed Analysis

The bill revises the law governing immunity from civil liability for health care providers during disasters, provides qualified civil immunity to service providers providing services during and after a government-declared disaster or emergency due to the coronavirus, expands the definition of "governmental function" regarding political subdivision tort liability in relation to emergency declarations, expands state immunity to include actions undertaken under a duty during the COVID-19 pandemic, and declares an emergency.

## **Civil immunity for health care providers**

The bill expands the existing qualified civil immunity granted to certain health care providers and emergency medical technicians who provide emergency services as a result or in response to a disaster as follows: applies the immunity to emergencies, extends the immunity to professional discipline, extends the immunity to health care services, extends immunity to a person who provides health care services under the direction of a health care professional, grants immunity to additional health care providers and facilities, grants immunity for certain additional actions and omissions, and modifies an exception to immunity for conduct in reckless disregard of the consequences to instead exclude from immunity conduct that constitutes willful or wanton misconduct. Beginning January 1, 2021, the immunity does not apply to a tort action for conduct that constitutes a reckless disregard for the consequences so as to affect the life or health of the patient. The frequency with which these civil immunity provisions may apply is unpredictable; therefore, the timeframe and number of civil actions that may be affected is indeterminate.

## **Civil immunity for transmission of coronavirus infection**

Subject to exceptions based on certain conduct or misconduct, the bill generally precludes bringing a civil action for damages for injury, death, or loss to person or property if the cause of action is based on injury, death, or loss caused by the exposure to, or the transmission or contraction of, a coronavirus infection and applies this provision from the date of the state of emergency due to COVID-19, Executive Order 2020-01D, issued on March 9, 2020, and extends through December 31, 2020. The potential number of civil actions affected by this provision is indeterminate.

The bill defines “person” as in continuing law, i.e., an individual, corporation, business trust, estate, trust, partnership, and association, and also includes a school; a for-profit, nonprofit, governmental, or religious entity; or a “state institution of higher education,” defined as any of the 13 “state universities” under continuing law, and the Northeast Ohio Medical University, a community college, state community college, university branch established under R.C. Chapter 3355, or technical college.

## **State immunity**

Under the bill, the state is immune from liability in any civil action or proceeding existing on or after the bill’s effective date (1) involving the performance or nonperformance of a governmental function or public duty as a result of a state agency’s response to the COVID-19 pandemic or (2) that, as a result of the performance or nonperformance of a function or duty, an officer or employee becomes infected with COVID-19. This provision creates a savings effect by: (1) reducing or expediting the adjudication of COVID-19 cases handled by the state’s Court of Claims, and (2) potentially reducing or eliminating costs that the state otherwise may have incurred to litigate and settle such matters.

## **Political subdivision tort liability law**

The bill expands the definition of “governmental function” regarding political subdivision general immunity to include: (1) compliance with an order resulting from the COVID-19 pandemic issued by the state, a political subdivision, or specified entities thereof, and (2) any operation to abate the effects of an emergency or public health emergency declaration,

or the provision or nonprovision of a local government function during an emergency declaration, issued by certain specified governmental entities. This change potentially reduces or eliminates costs that a political subdivision otherwise may have incurred to litigate and settle such matters.

## **Local trial courts**

The bill may affect the local trial courts, most likely the common pleas courts, by: (1) preventing certain civil actions from being filed, or (2) expediting 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 trial courts generally may realize an expenditure savings relative to what their adjudication costs otherwise might have been under current law. If there is in fact a savings, its magnitude is unknown, and not likely to be easily measured in terms of dollars and cents.

## **State occupational licensing boards**

The bill may affect certain occupational licensing boards, such as the State Medical Board, the Dental Board, and the Board of Nursing. 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 during a declared emergency. As a result, impacted licensing boards may experience a decrease in related costs. The bill specifies that immunity does not apply in a professional disciplinary action or in a tort action that arises out of regulatory requirements applicable to facilities for conduct that constitutes gross negligence (a lack of care so great that it appears to be a conscious indifference to the rights of others).

## **Synopsis of Fiscal Effect Changes**

There are, as described in detail below, three substantive differences of note between the fiscal effects of the latest substitute version of the bill (I\_133\_2690-5) and the immediately preceding version (I\_133\_2690-2).

The first difference is with regard to civil immunity for health care providers. The latest substitute version extends civil immunity for additional health care providers, additional facilities where health care services are provided, and certain defined service providers because of or in response to a disaster or emergency. The expansion includes audiologists, laboratory workers, massage therapists, direct support professionals, as well as medical technicians, medical assistants, dental assistants, occupational therapist assistants, physical therapist assistants, orderlies, nurse aides, or any other individual acting in a similar capacity. These changes expand the number of persons and entities granted immunity, and therefore, potentially increases the number of civil actions that may not be filed, or adjudicated more quickly, by local trial courts than otherwise may have been the case under the immediately preceding version.

The second difference is that the latest substitute version expands state immunity to include actions undertaken under a duty during the COVID-19 pandemic. This provision creates a savings effect by: (1) reducing or expediting the adjudication of COVID-19 cases handled by

the state's Court of Claims, and (2) potentially reducing or eliminating costs that the state otherwise may have incurred to litigate and settle such matters.

The third difference is that the latest substitute version expands the definition of "governmental function" regarding political subdivision tort liability in relation to emergency declarations. This change: (1) potentially reduces or expedites the adjudication of cases resulting from an emergency and handled by a local trial court, and (2) potentially reduces or eliminates costs that a political subdivision otherwise may have incurred to litigate and settle such matters.