

The Senate Committee on Insurance and Labor offered the following substitute to HB 167:

MOOT

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to
2 general provisions regarding torts, so as to provide for limited immunity from liability for
3 the transmission of, contraction of, or exposure to COVID-19; to provide for legislative
4 findings; to provide for a short title; to provide for related matters; to provide for an effective
5 date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 The General Assembly finds that:

9 (1) Health care institutions, facilities, and workers require additional flexibility to provide
10 the critical assistance and care needed by this state during the unprecedented COVID-19
11 pandemic; and

12 (2) Certain protections provided to health care institutions, facilities, and workers in the
13 Governor's Executive Orders dated April 14, 2020, and May 12, 2020, should continue
14 beyond the Public Health State of Emergency.

15 **SECTION 2.**

16 This Act shall be known and may be cited as the "Georgia Pandemic Business Protection
17 Act."

18 **SECTION 3.**

19 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general
20 provisions regarding torts, is amended by adding a new Code section to read as follows:

21 "51-1-29.7.

22 (a) As used in this Code section, the term:

23 (1) 'COVID-19' means the novel coronavirus identified as SARS-CoV-2, the disease
24 caused by SARS-CoV-2, any mutation or viral fragments thereof, any disease or
25 condition caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

26 (2) 'Health care facility' means any health care facility as defined in paragraph (17) of
27 Code Section 31-6-2, any institution as defined in subparagraph (D) of paragraph (4) of
28 Code Section 31-7-1, or any end stage renal disease facility as defined in paragraph (6)
29 of Code Section 31-44-1. Such term shall also include all related parties, including
30 individuals, business corporations, general partnerships, limited partnerships, limited
31 liability companies, limited liability partnerships, joint ventures, nonprofit corporations,
32 or any other for profit or not for profit entity that owns or controls, is owned or controlled
33 by, or operates under common ownership or control with a facility.

34 (3) 'Health care provider' means any person who is licensed, certified, or otherwise
35 authorized under Article 2 or 3 of Chapter 11 of Title 31, Chapters 11, 26, 30, 33, 34
36 and 35 of Title 43, Chapter 44 of Title 31, or Chapter 26 or 34 of Title 43 to provide
37 health care services in the ordinary course of business or practice of a profession or in an
38 approved education or training program or a procurement organization acting pursuant
39 to Article 6 of Chapter 5 of Title 5.

40 (4) 'Person' means any individual, association, institution, corporation, company, trust,
41 limited liability company, partnership, volunteer organization, sporting event facility,
42 religious or educational organization, political subdivision, county, municipality,
43 governmental office, department, division, bureau, or other body of state government, and
44 any other organization or entity or member of such organization or entity. Such term
45 shall also include the trustees, partners, limited partners, managers, officers, directors,
46 employees, independent contractors, officials, and agents of all such organizations,
47 entities, or governmental bodies.

48 (b) No cause of action shall exist for any transmission of, contraction of, or exposure to
49 COVID-19 unless such transmission, contraction, or exposure was caused by an act or
50 omission constituting willful and wanton misconduct or intentional infliction of harm.

51 (c) Notwithstanding any provision of law to the contrary, except as provided in
52 subsection (b) of this Code section, any health care facility, health care provider, entity, or
53 other person that has legal responsibility for the acts or omissions of a health care provider
54 shall have immunity from any civil liability for any harm or damages sustained as a result
55 of an act or omission in the course of arranging for or providing health care services if
56 either of the following apply:

57 (1) Such health care facility, health care provider, entity, or other person is arranging for
58 or providing COVID-19 related health care services; or

59 (2) The arrangement or provision of health care services is impacted, directly or
60 indirectly by a health care facility, health care provider, entity, or other person's decisions
61 or activities in response to or as a result of the COVID-19 pandemic.

62 (d) The immunity from any civil liability provided in subsection (c) of this Code section
63 shall not apply if the harm or damages were caused by an act or omission constituting gross
64 negligence, willful and wanton misconduct or intentional infliction of harm by the health
65 care facility or health care provider providing health care services."

66 **SECTION 4.**

67 This Act shall become effective upon its approval by the Governor or upon its becoming law
68 without such approval.

69 **SECTION 5.**

70 All laws and parts of laws in conflict with this Act are repealed.