

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By The Professional Staff of the Committee on Judiciary:

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BILL: SPB 7014

INTRODUCER: Judiciary Committee

SUBJECT: Extension of COVID-19 Liability Protections for Health Care Providers

DATE: November 30, 2021

REVISED: \_\_\_\_\_

|    | ANALYST      | STAFF DIRECTOR | REFERENCE | ACTION                                |
|----|--------------|----------------|-----------|---------------------------------------|
| 1. | <u>Davis</u> | <u>Cibula</u>  | _____     | <b>JU Submitted as Comm. Bill/Fav</b> |
| 2. | _____        | _____          | _____     | _____                                 |

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**I. Summary:**

SPB 7014 extends the length of time that health care providers receive certain liability protections from COVID-19-related claims. According to legislation passed during the 2021 Legislative Session, liability protections from COVID-19-related claims apply to claims accruing within 1 year after the effective date of the act, which was March 29, 2022.

The bill extends the application period of the liability protections, making them applicable to claims accruing before June 1, 2023. The net result of the bill is to extend the liability protections for about 14 months, from March 29, 2022, to June 1, 2023.

**II. Present Situation:**

The COVID-19 pandemic gripped the state and nation in 2020 and 2021 in ways that were previously unimaginable. The toll on individuals, businesses, and the economy were catastrophic. The Legislature determined that special civil liability protections against COVID-19-related claims were essential for the survival of individuals, businesses, health care providers, and other organizations. In an effort to protect those entities that contributed to the overall well-being of the state, the Legislature passed CS/SB 72<sup>1</sup> which established liability protections from COVID-19 related claims for healthcare providers in s. 768.381, F.S.

The liability protections in s. 768.381, F.S., require a plaintiff to:

- Satisfy heightened pleading requirements of alleging facts in sufficient detail to support each element of his or her claim;
- Prove by the greater weight of the evidence that the health care provider was grossly negligent or engaged in intentional misconduct; and
- Overcome any affirmative defense recognized in the statute that is properly raised by the health care provider defendant.

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<sup>1</sup> Chapter 2021-1, Laws of Fla.

Under the “application period”<sup>2</sup> established for the liability protections, the liability protections apply to a “COVID-19-related claims that have “accrued before the effective date of the act” which was March 29, 2021, and “within 1 year after the effective date of this act.”

### **III. Effect of Proposed Changes:**

This bill extends the length of time, or application period, that a health care provider receives certain liability protections for COVID-19-related claims. Pursuant to legislation passed in 2021, the application period applies to claims accruing before March 29, 2022. This bill extends the application period of the liability protections from March 29, 2022 to June 1, 2023.

The act takes effect upon becoming law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

#### **D. State Tax or Fee Increases:**

None.

#### **E. Other Constitutional Issues:**

None identified.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

The private sector fiscal impacts of SPB 7014 are indeterminate. If the effect of the bill is to codify what the courts would have found to be the common law of the state, then the bill will have a significant positive impact on the private sector in general through the

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<sup>2</sup> Section 768.381(6), F.S.

avoidance of litigation and its attendant costs. If the effect of the bill is to limit lawsuits that otherwise would have yielded recoveries for injured parties, the bill will have a positive fiscal impact on the health care industry and a corresponding negative fiscal impact on injured individuals.

C. **Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 768.381, Florida Statutes.

**IX. Additional Information:**

A. **Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.