

Department of Planning and Budget
2020 Special Session I - Fiscal Impact Statement

1. Bill Number: HB5074 H1

House of Origin	<input type="checkbox"/> Introduced	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Sullivan

3. Committee: Courts of Justice

4. Title: Immunity from civil claims related to the transmission of or exposure to the COVID-19 virus.

5. Summary: The provisions of the substitute bill grant immunity, in the absence of gross negligence or willful misconduct, from any civil cause of action arising from any act or omission alleged to have resulted in the contraction of or exposure to the COVID-19 virus, provided that, with respect to the location at issue, such person has complied with the most recent binding applicable federal, state, and local laws, policies, procedures, and guidance regarding COVID-19 at the time the cause of action accrued, including without limitation and at a minimum the COVID-19 Emergency Temporary Standard or any COVID-19 Permanent Standard, whichever is then in effect. The substitute bill requires that the person bears the burden of proving entitlement to the immunity provided by the proposed legislation.

The substitute bill defines person as (i) individuals, corporations, nonprofit corporations, business trusts, estates, trusts, partnerships, limited liability companies, sole proprietorships, associations, and joint ventures; (ii) the Commonwealth, any political subdivision of the Commonwealth, or any locality, or any agent thereof, or any person acting on behalf of the Commonwealth or any political subdivision of the Commonwealth or locality; and (iii) any other legal or commercial entity.

The substitute bill requires every person to provide, with respect to any premises owned by the person or under the person's possession, custody, or control, reasonable notice of actions taken by the person for the purpose of reducing the risk of transmission of COVID-19 to individuals present on the premises. Further, the substitute bill provides that, in the absence of gross negligence or willful misconduct, no person will be liable for the failure of any individual not under the control of such person to comply with rules, policies, or guidelines contained in the notice required by the proposed legislation. The proposed legislation does not apply to any premises owned by an individual, other than a premises that is used in the operation of a sole proprietorship.

The provisions of the substitute bill do not apply to claims before the Virginia Workers' Compensation Commission seeking benefits payable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.) or to any appeals of such claims that must be subsequently adjudicated in a court. The provisions of the proposed legislation do not create

a defense to liability in any administrative proceeding or civil action brought to enforce the provisions of the COVID-19 Emergency Temporary Standard or any COVID-19 Permanent Standard, whichever is then in effect.

The bill contains an emergency clause that makes the law effective from the date of its passage. Another enactment clause provides that the provisions of this act shall apply to claims arising no later than 180 days after the expiration or revocation of all states of emergency declared by the Governor related to the COVID-19 pandemic.

- 6. Budget Amendment Necessary:** No
- 7. Fiscal Impact Estimates:** Preliminary. See Item 8 below.
- 8. Fiscal Implications:** This bill is not expected to have a fiscal impact on state agencies.
- 9. Specific Agency or Political Subdivisions Affected:** Treasury (Risk Management), Virginia Workers' Compensation Commission, localities
- 10. Technical Amendment Necessary:** No
- 11. Other Comments:** None