Committee/Subcommittee hearing bill: Civil Justice & Property Rights Subcommittee

Representative Hinson offered the following:

Amendment (with title amendment)

Remove lines 131-163 and insert:

(b) At the same time the complaint is filed, the plaintiff or his or her representative must submit an affidavit signed by a physician actively licensed in the state which attests to the physician's belief, within a reasonable degree of medical certainty, the dates and time span of the plaintiff's positive COVID-19 status, whether death resulted from exposure to COVID-19 or and identification of the injury caused as a result of COVID-19 exposure.

(c) The court must determine, as a matter of law, whether:
1. The plaintiff or his or her representative complied with paragraphs (a) and (b). If the plaintiff or his or her representative did not comply with paragraphs (a) and (b), the court must dismiss the action without prejudice.

2. The defendant made a good faith effort to substantially comply with authoritative or controlling government-issued health standards or guidance at the time the cause of action accrued.

   a. During this stage of the proceeding, admissible evidence is limited to evidence tending to demonstrate whether the defendant made such a good faith effort.

   b. If the court determines that the defendant made such a good faith effort, the defendant is immune from civil liability.

   c. If the court determines that the defendant did not make such a good faith effort, the plaintiff may proceed with the action. However, absent at least gross negligence proven by clear and convincing evidence, the defendant is not liable for any act or omission relating to a COVID-19-related claim.

   (d) The burden of proof is upon the plaintiff to demonstrate that the defendant did not make a good faith effort under subparagraph (c)2.

(4) Each business entity, governmental entity, religious organization, and educational institution must operate safely by following all of the Centers for Disease Control guidelines and procedures to ensure the protection of the public's health.
(5) A civil action for a COVID-19-related claim must be initiated within 1 year after the cause of action accrues. However, a plaintiff whose cause of action for a COVID-19-related claim accrued before the effective date of this act must commence such action within 1 year of the effective date of this act.

(6) To ensure and preserve the safety and health of all residents and visitors against COVID-19, there is instituted a statewide mandate to require all residents and visitors to wear a face mask when in public.

T I T L E  A M E N D M E N T

Remove line 8 and insert:
requiring specified entities, organizations, and educational institutions to follow all of the Centers for Disease Control guidelines; providing a statute of limitations; instituting a statewide face mask mandate; providing