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LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/11/2021	.	
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The Committee on Rules (Book) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 768.38, Florida Statutes, is created to
read:

768.38 Immunity for educational institutions for actions
related to the COVID-19 pandemic.-

(1) For the purposes of this section, the term "educational
institution" means a school, including a preschool, an
elementary school, a middle school, a junior high school, a



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secondary school, a career center, or a postsecondary school, whether public or nonpublic.

(2) Any educational institution that has taken reasonably necessary actions in compliance with federal, state, or local guidance to diminish the impact or the spread of COVID-19 may not be held liable for, and shall be immune from, any civil damages, equitable relief, or other remedies relating to such actions. Reasonably necessary actions include, but are not limited to, any of the following:

(a) Shifting in-person instruction to online or remote instruction for any period of time while a state of emergency was declared for this state for the COVID-19 pandemic;

(b) Closing or modifying the provision of residential housing, dining, or other facilities on the campus of the educational institution; or

(c) Pausing or modifying ancillary student activities and services available through the educational institution while a state of emergency was declared for this state for the COVID-19 pandemic.

(3) The provision of in-person or on-campus education and related services is deemed to have been impossible for educational institutions to provide for any period of time in which such institutions took reasonably necessary actions described in subsection (2) to protect students, staff, and educators in response to the COVID-19 pandemic. As a result of the various governmental orders and the need of educational institutions to protect their communities, the reasonably necessary actions described in subsection (2) are deemed to have been justified.



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(4) If any aspect of the immunity under subsection (2) is limited by a court or by operation of law from applying to certain types of claims or causes of action, the immunity under this section must still be provided to the fullest extent authorized by law to any other types of claims or causes of action.

Section 2. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 3. This act shall apply retroactively to causes of actions accruing on or before March 9, 2020.

Section 4. This act shall take effect upon becoming a law.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to civil liability for damages
relating to COVID-19; creating s. 768.38, F.S.;
defining the term "educational institution"; providing
that educational institutions that have taken certain
actions may not be held liable for and are immune from
civil damages, equitable relief, or other remedies;
specifying that the provision of in-person or on-
campus education and related services is deemed



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impossible during a specified timeframe; specifying
that certain actions are deemed to have been
justified; providing construction; providing
severability; providing retroactive applicability;
providing an effective date.

WHEREAS, on March 9, 2020, Governor Ron DeSantis issued
Executive Order Number 20-52 declaring a state of emergency for
the State of Florida due to the COVID-19 pandemic, and

WHEREAS, in light of the ongoing nature of the COVID-19
pandemic, the Governor has repeatedly extended the state of
emergency, including most recently on February 26, 2021, in
Executive Order Number 21-45, and

WHEREAS, the State of Florida continues under a declared
state of emergency, and

WHEREAS, educational institutions have been required to
take actions to protect students, educators, and staff on their
campuses beginning in March 2020, and

WHEREAS, those actions included closing campuses to in-
person instruction, closing residential and student activity
facilities, and closing or modifying other on-campus facilities
and services, NOW, THEREFORE,