

116TH CONGRESS  
2D SESSION

# S. 3674

To amend title 28, United States Code, to strip foreign sovereign immunity of certain foreign states to secure justice for victims of novel coronavirus in the United States.

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## IN THE SENATE OF THE UNITED STATES

MAY 11, 2020

Mr. HAWLEY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 28, United States Code, to strip foreign sovereign immunity of certain foreign states to secure justice for victims of novel coronavirus in the United States.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Civil Justice for Vic-  
5 tims of Coronavirus Act”.

1 **SEC. 2. RESPONSIBILITY OF FOREIGN STATES FOR RECK-**  
2 **LESS ACTIONS OR OMISSIONS CAUSING THE**  
3 **COVID-19 GLOBAL PANDEMIC IN THE UNITED**  
4 **STATES.**

5 (a) RESPONSIBILITY.—Chapter 97 of title 28, United  
6 States Code, is amended by inserting after section 1605B  
7 the following:

8 **“§ 1605C. Responsibility of foreign states for reckless**  
9 **actions or omissions causing the COVID-**  
10 **19 global pandemic in the United States**

11 “(a) RESPONSIBILITY OF FOREIGN STATES.—A for-  
12 eign state shall not be immune from the jurisdiction of  
13 the courts of the United States in any case in which money  
14 damages are sought against a foreign state for physical  
15 or economic injury to person, property, or business occur-  
16 ring in the United States following any reckless action or  
17 omission (including a conscious disregard of the need to  
18 report information promptly or deliberately hiding rel-  
19 evant information) of a foreign state, or of any official,  
20 employee, or agent of that foreign state while acting with-  
21 in the scope of his or her office, employment, or agency,  
22 that caused or substantially aggravated the COVID-19  
23 global pandemic in the United States, regardless of where  
24 the action or omission occurred.

25 “(b) RULE OF CONSTRUCTION.—A foreign state shall  
26 not be subject to the jurisdiction of the courts of the

1 United States under subsection (a) on the basis of an  
2 omission or act that constitutes mere negligence.

3 “(c) JURISDICTION.—

4 “(1) EXCLUSIVE JURISDICTION.—The courts of  
5 the United States shall have exclusive jurisdiction in  
6 any action in which a foreign state is subject to the  
7 jurisdiction of a court of the United States under  
8 subsection (a).

9 “(2) PERSONAL JURISDICTION.—The courts of  
10 the United States shall have personal jurisdiction, to  
11 the maximum extent permissible under the Constitu-  
12 tion of the United States, over any defendant in an  
13 action described in subsection (a).

14 “(3) ADDITIONAL AUTHORITY TO ISSUE OR-  
15 DERS.—In addition to authority already granted by  
16 other laws, the courts of the United States shall  
17 have jurisdiction to make and issue any writ or  
18 order of injunction necessary or appropriate for the  
19 enforcement of this section, including pre-judgment  
20 injunctions related to transfer or disposal of assets.

21 “(d) INTERVENTION.—The Attorney General may in-  
22 tervene in any action in which a foreign state is subject  
23 to the jurisdiction of a court of the United States under  
24 subsection (a) for the purpose of seeking a stay of the  
25 civil action, in whole or in part if the Secretary of State

1 certifies that the United States is engaged in good faith  
2 discussions with the foreign state defendant concerning  
3 the resolution of the claims against the foreign state, or  
4 any other parties as to whom a stay of claims is sought.

5 “(e) DURATION OF STAY.—

6 “(1) IN GENERAL.—A stay under this section  
7 may be granted for not more than 180 days.

8 “(2) EXTENSION.—

9 “(A) IN GENERAL.—The Attorney General  
10 may petition the court for an extension of the  
11 stay for additional periods not to exceed 180  
12 days.

13 “(B) RECERTIFICATION.—A court shall  
14 grant an extension under subparagraph (A) if  
15 the Secretary of State recertifies that the  
16 United States remains engaged in good faith  
17 discussions with the foreign state defendant  
18 concerning the resolution of the claims against  
19 the foreign state, or any other parties as to  
20 whom a stay of claims is sought.

21 “(f) DISMISSAL OF ACTIONS FOLLOWING FOREIGN  
22 STATE AGREEMENT.—

23 “(1) INTERVENTION.—The Attorney General  
24 may intervene in any action in which a foreign state  
25 is subject to the jurisdiction of a court of the United

1 States under this section for the purpose of seeking  
2 the dismissal of the case.

3 “(2) DISMISSAL WITH PREJUDICE.—Prior to  
4 the entry of judgment, a court of the United States  
5 may dismiss with prejudice a proceeding under this  
6 section against a foreign state or any official, em-  
7 ployee, or agent of the foreign state if the Secretary  
8 of State certifies that the United States and the for-  
9 eign state have entered into an agreement with re-  
10 spect to the resolution of a claim against such a de-  
11 fendant, regardless of whether the plaintiff is a  
12 party to such agreement or consents to the dis-  
13 missal.”.

14 (b) APPLICABILITY.—The amendment made by sub-  
15 section (a) shall apply to any action or omission described  
16 in section 1605C of title 28, United States Code, as added  
17 by that subsection, that occurred before, on, or after the  
18 date of enactment of this Act.

19 (c) REMOVAL OF IMMUNITY FROM ATTACHMENT OR  
20 EXECUTION.—Section 1610 of title 28, United States  
21 Code, is amended—

22 (1) in subsection (a)(7), by striking “section  
23 1605A or section 1605(a)(7) (as such section was in  
24 effect on January 27, 2008)” and inserting “section

1       1605A, section 1605(a)(7) (as such section was in  
2       effect on January 27, 2008), or section 1605C”;

3           (2) in subsection (b)(2), by striking “or  
4       1605(b)” and inserting “, 1605(b), or 1605C”;

5           (3) by striking subsection (d) and inserting the  
6       following:

7       “(d) The property of a foreign state, as defined in  
8       section 1603(a) of this chapter, used for a commercial ac-  
9       tivity in the United States, shall not be immune from at-  
10      tachment prior to the entry of judgment in any action  
11      brought in a court of the United States or of a State,  
12      or prior to the elapse of the period of time provided in  
13      subsection (e) of this section, if—

14           “(1) the foreign state has explicitly waived its  
15      immunity from attachment prior to judgment, not-  
16      withstanding any withdrawal of the waiver the for-  
17      eign state may purport to effect except in accord-  
18      ance with the terms of the waiver;

19           “(2) the purpose of the attachment is to secure  
20      satisfaction of a judgment that has been or may ulti-  
21      mately be entered against the foreign state, and not  
22      to obtain jurisdiction; or

23           “(3) the attachment relates to a claim for which  
24      the foreign state is not immune under section  
25      1605C.”; and

1           (4) in subsection (g)(1), in the matter pre-  
2           ceding subparagraph (A), by striking “1605A” and  
3           inserting “1605A or 1605C”.

4           (d) CAUSE OF ACTION.—Any citizen or resident of  
5           the United States injured in his or her person, property,  
6           or business by reason of any reckless action or omission  
7           (including a conscious disregard of the need to report in-  
8           formation promptly or deliberately hiding relevant infor-  
9           mation) of a foreign state, or of any official, employee,  
10          or agent of that foreign state while acting within the scope  
11          of his or her office, employment, or agency, that caused  
12          or substantially aggravated the COVID–19 global pan-  
13          demic in the United States, regardless of where the action  
14          or omission occurred, may sue therefor in any appropriate  
15          district court of the United States and shall recover three-  
16          fold the damages he or she sustains and the cost of the  
17          suit, including attorney’s fees.

18          (e) ENFORCEMENT BY STATE ATTORNEYS GEN-  
19          ERAL.—Any State, on its own behalf or on behalf of the  
20          citizens or residents of the State, may bring a civil action  
21          under subsection (d) in a district court of the United  
22          States. Nothing in this Act may be construed to prevent  
23          a State from exercising its powers under State law.

24          (f) TIME LIMITATION ON THE COMMENCEMENT OF  
25          CIVIL ACTION.—Notwithstanding any other provision of

1 law, a civil action arising under subsection (d) may be  
 2 commenced up to 20 years after the cause of action ac-  
 3 crues.

4 (g) TECHNICAL AND CONFORMING AMENDMENT.—  
 5 The table of sections for chapter 97 of title 28, United  
 6 States Code, is amended by inserting after the item relat-  
 7 ing to section 1605B the following:

“1605C. Responsibility of foreign states for reckless actions or omissions caus-  
 ing the COVID-19 global pandemic in the United States.”.

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