

H.B. 33

WAIVERS OF IMMUNITY - EXCEPTIONS

Representative **Gregory H. Hughes** proposes the following amendments:

1. *Page 2, Lines 52 through 55:*

52 (ii) except as provided in Subsection (4), with a conscious disregard for the rights of others, failed to disclose evidence that:

53 (A) was known to the person, official, or institution; and

54 (B) was known by the person, official, or institution to be relevant to an issue or matter

55 of inquiry in a judicial or administrative proceeding.

(4) Immunity is not lost under Subsection (3)(c)(ii), if the person, official, or institution:

(a) failed to disclose evidence described in Subsection (3)(c)(ii), because the person, official, or institution is prohibited by law from disclosing the evidence; or

(b) (i) pursuant to the provisions of 45 CFR 164.502(g)(5), refused to disclose evidence described in Subsection (3)(c)(ii) to a person who requested the evidence; and

(ii) after refusing to disclose the evidence under Subsection (4)(b)(i), complied with or responded to a valid court order or valid subpoena received by the person, official, or institution to disclose the evidence described in Subsection (3)(c)(ii).

2. *Page 4, Lines 101 through 104:*

101 (B) except as provided in Subsection (3)(d), with a conscious disregard for the rights of others, failed to disclose evidence that:

102 (I) was known to the employee; and

103 (II) was known by the employee to be relevant to an issue or matter of inquiry in a

104 judicial or administrative proceeding.

(d) The exception, described in Subsection (3)(c)(v)(B), allowing a plaintiff to bring or pursue a civil action or proceeding against an employee, does not apply if the employee:

(i) failed to disclose evidence described in Subsection (3)(c)(v)(B), because the employee is prohibited by law from disclosing the evidence; or

(ii) (A) pursuant to the provisions of 45 CFR 164.502(g)(5), refused to disclose evidence described in Subsection (3)(c)(v)(B) to a person who requested the evidence; and

(B) after refusing to disclose the evidence under Subsection (3)(d)(ii)(A), complied with or responded to a valid court order or valid subpoena received by the employee to disclose the evidence described in Subsection (3)(c)(v)(B).