

#### 116TH CONGRESS 2D SESSION

# H. R. 6519

To amend title 28, United States Code, to provide a civil action against a foreign state for deliberate concealment or distortion of information with respect to an international public health emergency, and for other purposes.

### IN THE HOUSE OF REPRESENTATIVES

April 17, 2020

Mr. Crenshaw (for himself and Mr. Steube) introduced the following bill; which was referred to the Committee on the Judiciary

## A BILL

- To amend title 28, United States Code, to provide a civil action against a foreign state for deliberate concealment or distortion of information with respect to an international public health emergency, and for other purposes.
  - 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 "Holding the Chinese
  - 5 Communist Party Accountable for Infecting Americans
  - 6 Act of 2020".
  - 7 SEC. 2. FINDINGS.
  - 8 Congress finds the following:

- 1 (1) The Chinese Communist Party covered up 2 the existence and downplayed the seriousness of 3 SARS-CoV-2, hereinafter referred to as COVID-19, 4 at least as early as December 2019.
  - (2) Chinese government officials engaged in a campaign to silence and delegitimize doctors—including Dr. Li Wenliang—who were warning their colleagues and others about COVID-19.
  - (3) Chinese government officials ordered the destruction of laboratory samples and research regarding COVID-19 in January 2020.
  - (4) Chinese government officials have detained or otherwise silenced researchers, journalists, and citizens who attempted to share information that could have proven unflattering to the Chinese government's response to the COVID-19 outbreak.
  - (5) Chinese government officials have expelled American journalists who were covering the COVID-19 outbreak in China.
  - (6) Chinese government officials have attempted to censor or destroy academic research into COVID-19 and its origins that might disagree with the official positions of the Chinese government.
  - (7) Chinese government officials have intentionally underreported or altered official numbers of

- 1 COVID-19 infections and deaths in China, leading 2 world health experts to make flawed analyses that 3 severely underestimated the nature and seriousness 4 of COVID-19.
  - (8) Academic studies have shown that, had appropriate interventions occurred to stop the spread of COVID-19 even just weeks earlier, the spread of COVID-19 would have been severely curtailed.
  - (9) The cover-up of COVID-19 by the Chinese government has caused significant economic harm in the United States and around the world.
- 12 (10) The cover-up of COVID-19 by the Chinese 13 government has caused significant death and injury 14 in the United States and around the world.
- 15 (11) The cover-up of COVID-19 by the Chinese 16 government is, at minimum, grossly negligent behav-17 ior causing significant injury.

#### 18 SEC. 3. PURPOSE.

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The purpose of this Act is to provide civil litigants with the broadest possible basis, consistent with the Constitution of the United States, to seek relief against persons, entities, and foreign countries, wherever acting and wherever they may be found, that are responsible for, or complicit in ordering, controlling, or otherwise directing acts intended to deliberately conceal or distort the exist-

1	ence or nature of COVID-19, if such acts are found to
2	have likely contributed to the global COVID-19 pandemic.
3	SEC. 4. RESPONSIBILITY OF FOREIGN STATES FOR DELIB-
4	ERATE CONCEALMENT OR DISTORTING IN-
5	FORMATION ABOUT INTERNATIONAL PUBLIC
6	HEALTH EMERGENCIES.
7	(a) In General.—Chapter 97 of title 28, United
8	States Code, is amended by inserting after section 1605B
9	the following new section:
10	"SEC. 1605C. RESPONSIBILITY OF FOREIGN STATES FOR
11	DELIBERATE CONCEALMENT OR DISTORTING
12	INFORMATION ABOUT INTERNATIONAL PUB-
12	INFORMATION ABOUT INTERMATIONAL TOB-
13	LIC HEALTH EMERGENCIES OF INTER-
13	LIC HEALTH EMERGENCIES OF INTER-
13 14	LIC HEALTH EMERGENCIES OF INTER- NATIONAL CONCERN.
13 14 15 16	LIC HEALTH EMERGENCIES OF INTER- NATIONAL CONCERN.  "(a) RESPONSIBILITY OF FOREIGN STATE.—A for-
13 14 15 16	LIC HEALTH EMERGENCIES OF INTERNATIONAL CONCERN.  "(a) RESPONSIBILITY OF FOREIGN STATE.—A foreign state shall not be immune from the jurisdiction of
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13 14 15 16 17 18	LIC HEALTH EMERGENCIES OF INTERNATIONAL CONCERN.  "(a) RESPONSIBILITY OF FOREIGN STATE.—A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which money damages are sought against a foreign state for physical injury or death, or injury to property or economic inter-
13 14 15 16 17 18 19	LIC HEALTH EMERGENCIES OF INTERNATIONAL CONCERN.  "(a) Responsibility of Foreign State.—A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which money damages are sought against a foreign state for physical injury or death, or injury to property or economic interests, occurring in the United States and caused by—
13 14 15 16 17 18 19 20	LIC HEALTH EMERGENCIES OF INTERNATIONAL CONCERN.  "(a) RESPONSIBILITY OF FOREIGN STATE.—A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which money damages are sought against a foreign state for physical injury or death, or injury to property or economic interests, occurring in the United States and caused by—  "(1) the spread of COVID-19; and
13 14 15 16 17 18 19 20 21	LIC HEALTH EMERGENCIES OF INTERNATIONAL CONCERN.  "(a) RESPONSIBILITY OF FOREIGN STATE.—A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which money damages are sought against a foreign state for physical injury or death, or injury to property or economic interests, occurring in the United States and caused by—  "(1) the spread of COVID-19; and  "(2) a tortious act or acts, including acts in-

1	while acting within the scope of his or her office,
2	employment, or agency, regardless where the
3	tortious act or acts of the foreign state occurred.
4	"(b) Exclusive Jurisdiction.—The United States
5	District Court for the Southern District of New York, the
6	United States District Court for the Northern District of
7	California, the United States District Court for the North-
8	ern District of Illinois, and the United States District
9	Court for the Southern District of Texas shall have origi-
10	nal and exclusive jurisdiction over all actions in which a
11	foreign state is subject to the jurisdiction of a court of
12	the United States under this section. Appellate jurisdic-
13	tion for such actions shall be exclusively reserved to the
14	United States District Court of Appeals for the Federal
15	Circuit.
16	"(c) Stay of Actions Pending Foreign State
17	Negotiations.—
18	"(1) Intervention.—The Attorney General
19	may intervene in any action in which a foreign state
20	is subject to the jurisdiction of a court of the United
21	States under this section for the purpose of seeking
22	a stay of the civil action, in whole or in part.
23	"(2) Stay.—
24	"(A) IN GENERAL.—A court of the United
25	States shall stay a proceeding under this sec-

1 tion against a foreign state or any official, em-2 ployee, or agent of the foreign state, if the Sec-3 retary of State certifies that the United States 4 is engaged in good faith discussions with the foreign state defendant, or any other defendant, 6 with respect to the resolution of a claim against 7 such a defendant. "(B) Duration.— 8 9 "(i) IN GENERAL.—A stay under this 10 section may be granted for not more than 11 180 days. 12 "(ii) Extension.— 13 "(I) IN GENERAL.—The Attorney 14 General may petition the court for an 15 extension of the stay for additional 16 180-day periods. 17 "(II) RECERTIFICATION.—A 18 court may grant an extension under 19 clause (I) if the Secretary of State re-20 certifies that the United States remains engaged in good faith discus-21 22 sions with the foreign state defendant

or any other defendant concerning the

resolution of a claim against the for-

eign state or any official, employee, or

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- 1 agent of the foreign state, as to whom 2 a stay of claims is sought.
- "(d) DISMISSAL OF ACTIONS FOLLOWING FOREIGN 3 4 STATE AGREEMENT.—
- "(1) Intervention.—The Attorney General 5 6 may intervene in any action in which a foreign state is subject to the jurisdiction of a court of the United 7 8 States under this section for the purpose of seeking 9 the dismissal of the case.
- 10 "(2) DISMISSAL WITH PREJUDICE.—A court of the United States may dismiss with prejudice a pro-12 ceeding under this section against a foreign state or 13 any official, employee, or agent of the foreign state 14 if the Secretary of State certifies that the United 15 States and the foreign state have entered into an 16 agreement with respect to the resolution of a claim 17 against such a defendant, regardless of whether the 18 plaintiff is a party to such agreement or consents to 19 the dismissal.
- "(e) SEVERABILITY.—If any provision of this Act or 20 21 any amendment made by this Act, or the application of a provision or amendment to any person or circumstance, 23 is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of the provisions and amendments to any other person not simi-

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- 1 larly situated or to other circumstances, shall not be af-
- 2 fected by the holding.
- 3 "(f) Rule of Construction.—A foreign state shall
- 4 not be subject to the jurisdiction of the courts of the
- 5 United States under this section on the basis of a tortious
- 6 act or acts that constitute mere negligence.
- 7 "(g) APPLICATION DATE.—The amendments made
- 8 by this Act shall apply to a civil action—
- 9 "(1) pending on, or commenced on or after, the
- date of enactment of this Act; and
- 11 "(2) arising out of an injury to a person from
- 12 COVID-19 on or after January 1, 2020, or arising
- out of an injury to property or business during the
- pendency of the National Emergency Concerning the
- Novel Coronavirus Disease (COVID-19) Outbreak
- declared by the President on March 13, 2020, under
- the National Emergencies Act (50 U.S.C. 1601 et
- 18 seq.).
- 19 "(h) Definition.—In this section, the term
- 20 'COVID-19' has the meaning given that term in section
- 21 2102 of the Coronavirus Aid, Relief, and Economic Secu-
- 22 rity Act (Public Law 116–136).".
- 23 (b) Technical and Conforming Amendments.—
- 24 (1) Table of Sections.—The table of sections
- for chapter 97 of title 28, United States Code, is

- 1 amended by inserting after the item relating to sec-
- tion 1605B the following:

"1605C. Responsibility of foreign states for deliberate concealment or distorting information about international public health emergencies of international concern.".

- 3 (2) Conforming Amendment.—Section
- 4 1605(g)(1)(A) of title 28, United States Code, is
- 5 amended by striking "or section 1605B" and insert-
- 6 ing ", section 1605B, or section 1605C".
- 7 (c) Effective Date.—The amendments made by
- 8 this Act shall take effect on the date of the enactment
- 9 of this Act.

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