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MEMORANDUM

To: House Committee on Judiciary

From: Office of Revisor of Statutes

Date: March 10, 2026

Subject: Bill Brief for SB 463 (As Amended by Senate Committee of the Whole)

Senate Bill 463, As Amended by Senate Committee of the Whole, prohibits certain persons from recovering damages in certain civil actions and creates requirements for actions involving negligent security.

Subsection (a) creates a new section of law providing that a person who engaged or participated in wrongful conduct or attempted to engage or participate in wrongful conduct shall not bring an action for negligence or collect damages for negligent conduct related to such wrongful conduct. The party against whom negligence is alleged shall have the burden of proving, by a preponderance of the evidence, that a person was engaging or participating in wrongful conduct or attempting to engage or participate in wrongful conduct.

Subsection (b) in the amended bill provides that in an action for negligent security, an owner or occupier has no duty to protect an invitee or licensee from any type of wrongful conduct of a third person unless the owner or occupier has actual knowledge of previous occurrences of substantially similar wrongful conduct on the premises within the immediately preceding year. If the owner or occupier has such knowledge, they shall have a duty to take reasonable care under the circumstances. There shall be a presumption that such duty was met if the owner or occupier (1) requested the assistance of law enforcement and followed instructions given by law enforcement, (2) followed the guidelines of a reputable party related to security and safety measures, or (3) hired a security contractor. An owner or occupier has no duty to protect an invitee or licensee from the invitee's or licensee's own wrongful conduct or the wrongful conduct of a third person if the invitee or licensee is on the premises for the purpose of or in the course of engaging in wrongful conduct. A person who is committing criminal trespass or a person on the premises outside of posted business hours or during a period of time that the premises is not open

to the public shall not maintain an action for negligent security. If an owner or occupier has engaged a security contractor, such contractor shall have the same duties as the owner or occupier under this section.

If the trier of fact finds that a party is liable in an action for negligent security, the trier of fact shall make an apportionment of fault and be instructed to apportion fault among the party bringing the claim, the owner or occupier, any governmental agency or unit of government that failed to enforce law or maintain order, any third person whose wrongful conduct or negligence contributed to the event giving rise to the cause of action, and any other person deemed necessary, regardless of whether damages may be collected from those people. No party shall offer evidence or make argument concerning any criminal penalty that has been or could be imposed against any person for the wrongful conduct, the financial resources or ability to collect a judgment from a party or nonparty or the effect an apportionment of fault has on an award of damages. If the trier of fact fails to make such apportionment, the court shall set aside the verdict and order a retrial of liability and damages. There shall be a presumption that an apportionment of fault is unreasonable if the total percentage of fault apportioned to persons who engaged in wrongful conduct is less than the total percentage of fault apportioned to all other persons. Such apportionment shall be subject to appeal de novo.

Subsection (c) provides that nothing in this section shall prevent a victim of crime from receiving restitution. Subsection (d) provides that this section applies to claims that are pending or filed on or after July 1, 2026. Subsection (e) provides the definitions of terms used throughout the section. As amended, the bill defines “wrongful conduct” as (1) any violation of federal law that constitutes a crime, regardless of whether such violation results in an arrest, citation, indictment or conviction, (2) any violation of state law or an ordinance or resolution adopted by a political subdivision of the state that constitutes a felony or a class A or B misdemeanor, regardless of whether such violation results in an arrest, citation, indictment or conviction, or (3) other conduct that constitutes an intentional or reckless tort. Finally, subsection (f) provides a severability clause.

SB 463 would take effect from and after publication in the statute book, July 1, 2026.