

116TH CONGRESS  
1ST SESSION

# H. R. 5345

To amend title 28, United States Code, to prevent fraudulent joinder.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2019

Mr. BUCK (for himself, Mr. COLLINS of Georgia, and Mr. RATCLIFFE) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 28, United States Code, to prevent fraudulent joinder.

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 “Innocent Party Protec-  
5 tion Act”.

6 **SEC. 2. PREVENTION OF FRAUDULENT JOINDER.**

7 Section 1447 of title 28, United States Code, is  
8 amended by adding at the end the following:

9 “(f) FRAUDULENT JOINDER.—

1           “(1) This subsection shall apply to any case in  
2       which—

3           “(A) a civil action is removed solely on the  
4       basis of the jurisdiction conferred by section  
5       1332(a);

6           “(B) a motion to remand is made on the  
7       ground that—

8           “(i) one or more defendants are citi-  
9       zens of the same State as one or more  
10      plaintiffs; or

11          “(ii) one or more defendants properly  
12      joined and served are citizens of the State  
13      in which the action was brought; and

14          “(C) the motion is opposed on the ground  
15      that the joinder of the defendant or defendants  
16      described in subparagraph (B) is fraudulent.

17          “(2) The joinder of a defendant described in  
18      paragraph (1)(B) is fraudulent if the court finds  
19      that—

20          “(A) there is actual fraud in the pleading  
21      of jurisdictional facts with respect to that de-  
22      fendant;

23          “(B) based on the complaint and the mate-  
24      rials submitted under paragraph (3), it is not

1           plausible to conclude that applicable State law  
2           would impose liability on that defendant;

3           “(C) State or Federal law clearly bars all  
4           claims in the complaint against that defendant;  
5           or

6           “(D) objective evidence clearly dem-  
7           onstrates that there is no good faith intention  
8           to prosecute the action against that defendant  
9           or to seek a joint judgment including that de-  
10          fendant.

11          “(3) In determining whether to grant or deny  
12          a motion under paragraph (1)(B), the court may  
13          permit the pleadings to be amended, and shall con-  
14          sider the pleadings, affidavits, and other evidence  
15          submitted by the parties.

16          “(4) If the court finds that all defendants de-  
17          scribed in paragraph (1)(B) have been fraudulently  
18          joined under paragraph (2), it shall dismiss without  
19          prejudice the claims against those defendants and  
20          shall deny the motion described in paragraph  
21          (1)(B).”.

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