

STORAGE NAME: h0885z.jud
DATE: June 19, 2000

****FAILED TO PASS THE LEGISLATURE****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
JUDICIARY
FINAL ANALYSIS**

BILL #: HB 885
RELATING TO: Social & Economic Services
SPONSOR(S): Rep. Littlefield
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) JUDICIARY
 - (2) CHILDREN & FAMILIES
 - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

HB 885 creates immunity from liability for persons who transport clients in their personal vehicles in the course of providing social and economic services for a public or private agency. The immunity extends to civil damages arising out of an accident that occurs during the car owner's provision of social and economic services and is contingent upon a showing that the person acted as a reasonably prudent person would have acted under the same or similar circumstances.

The bill defines the provision of social and economic services to be "the providing of financial assistance as well as preventive and rehabilitative social services for children, adults, and families."

The bill appears not to have any fiscal impact on state or local government expenditures or revenue.

The bill shall be effective on becoming law.

Died in House Committee on Judiciary.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

B. PRESENT SITUATION:

N/A

C. EFFECT OF PROPOSED CHANGES:

The bill provides that any person engaged in the provision of social and economic services for a public or private agency who transports clients in the person's personal vehicle when such transportation is provided in the course of providing social and economic services shall not be held liable for any civil damage as a result of an accident arising out of such transportation when the person engaged in the provision of the social or economic services and in driving his or her personal vehicle acts as a reasonably prudent person would have acted under the same or similar circumstances.

The term "social and economic services" is defined to mean "the providing of financial assistance as well as preventive and rehabilitative social services for children, adults, families."

The bill's apparent goal is to immunize certain persons from civil liability for damages arising out of an automobile accident involving the owner and presumably the client-passenger, assuming that the owner had acted as a reasonably prudent person would have acted under the same or similar circumstances.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The civil immunity granted by the bill may limit recovery by injured third parties, requiring those parties to rely on insurance or other forms of recovery for injuries and medical expenses in the event of an accident.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require any city or county to spend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any city or county.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the amount of state tax shared with any city or county.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

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B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The bill as drafted raises several questions. The bill is not clear as to whether the charitable act must be related to the primary business of the public or private agency. Some examples of situations that could occur under the bill follow:

- An individual who does not have a car asks to borrow \$50 from a co-worker. The co-worker and the individual drive together on their lunch hour to the ATM machine for the cash. They are in a care accident. The friend could claim immunity -- under the financial assistance provision.

- An individual, who has her own vehicle, wants to get a prescription filled. She is at work and since her car is parked some distance away, asks a co-worker to drive her to the pharmacy. They are involved in an accident. The co-worker could claim immunity -- under the preventive assistance provision. In this case, further complications exist because the individual has a car. If the co-worker is immune, then the individual's insurance may be implicated in a way that it would not be under current law.

- Goodwill Industries provides a driver to take a client who has fallen in their store to the emergency room. They are involved in an accident on the way. Goodwill may not be able to claim immunity -- the purpose of the trip was not "preventive" or "rehabilitative social services".

The bill as drafted raises several technical questions:

- To avoid confusion regarding the application of the grant of immunity, the definition of services that relate to the bill should be made more clear. For example, if the sponsor intends the bill to apply in situations where a person drives a battered woman to a shelter, the bill should more carefully describe the circumstances when it will apply. This will also help avoid defenses being raised in cases where the car owner gratuitously drives a friend or family member on an errand unrelated to any need for social or other need-based services.

- The bill might benefit from an amendment clarifying that the volunteer driver will have immunity within the scope of the volunteer transportation under more specific circumstances. An amendment to s. 768.1355, F.S. (Volunteer Protection Act) might be appropriate.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON JUDICIARY:

Prepared by:

Michael W. Carlson, J.D.

Staff Director:

P.K. Jameson, J.D.

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON JUDICIARY:

Prepared by:

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