

CHAMBER ACTION

1 The Committee on Judiciary recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the Good Samaritan Act; amending s.
7 768.13, F.S.; including certain persons who participate in
8 emergency response activities under the direction of or in
9 connection with the Division of Emergency Management of
10 the Department of Community Affairs or the Federal
11 Emergency Management Agency within the act for purposes of
12 immunity from civil liability under certain circumstances;
13 providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Subsection (2) of section 768.13, Florida
18 Statutes, is amended to read:

19 768.13 Good Samaritan Act; immunity from civil
20 liability.--

21 (2)(a) Any person, including those licensed to practice
22 medicine, who gratuitously and in good faith renders emergency
23 care or treatment either in direct response to emergency

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24 | situations related to and arising out of a public health
25 | emergency declared pursuant to s. 381.00315, a state of
26 | emergency which has been declared pursuant to s. 252.36 or at
27 | the scene of an emergency outside of a hospital, doctor's
28 | office, or other place having proper medical equipment, without
29 | objection of the injured victim or victims thereof, shall not be
30 | held liable for any civil damages as a result of such care or
31 | treatment or as a result of any act or failure to act in
32 | providing or arranging further medical treatment where the
33 | person acts as an ordinary reasonably prudent person would have
34 | acted under the same or similar circumstances.

35 | (b)1. Any health care provider, including a hospital
36 | licensed under chapter 395, providing emergency services
37 | pursuant to obligations imposed by 42 U.S.C. s. 1395dd, s.
38 | 395.1041, s. 395.401, or s. 401.45 shall not be held liable for
39 | any civil damages as a result of such medical care or treatment
40 | unless such damages result from providing, or failing to
41 | provide, medical care or treatment under circumstances
42 | demonstrating a reckless disregard for the consequences so as to
43 | affect the life or health of another.

44 | 2. The immunity provided by this paragraph applies to
45 | damages as a result of any act or omission of providing medical
46 | care or treatment, including diagnosis:

47 | a. Which occurs prior to the time the patient is
48 | stabilized and is capable of receiving medical treatment as a
49 | nonemergency patient, unless surgery is required as a result of
50 | the emergency within a reasonable time after the patient is
51 | stabilized, in which case the immunity provided by this

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52 paragraph applies to any act or omission of providing medical
53 care or treatment which occurs prior to the stabilization of the
54 patient following the surgery.

55 b. Which is related to the original medical emergency.

56 3. For purposes of this paragraph, "reckless disregard" as
57 it applies to a given health care provider rendering emergency
58 medical services shall be such conduct that a health care
59 provider knew or should have known, at the time such services
60 were rendered, created an unreasonable risk of injury so as to
61 affect the life or health of another, and such risk was
62 substantially greater than that which is necessary to make the
63 conduct negligent.

64 4. Every emergency care facility granted immunity under
65 this paragraph shall accept and treat all emergency care
66 patients within the operational capacity of such facility
67 without regard to ability to pay, including patients transferred
68 from another emergency care facility or other health care
69 provider pursuant to Pub. L. No. 99-272, s. 9121. The failure of
70 an emergency care facility to comply with this subparagraph
71 constitutes grounds for the department to initiate disciplinary
72 action against the facility pursuant to chapter 395.

73 (c)1. Any health care practitioner as defined in s.
74 456.001(4) who is in a hospital attending to a patient of his or
75 her practice or for business or personal reasons unrelated to
76 direct patient care, and who voluntarily responds to provide
77 care or treatment to a patient with whom at that time the
78 practitioner does not have a then-existing health care patient-
79 practitioner relationship, and when such care or treatment is

80 | necessitated by a sudden or unexpected situation or by an
 81 | occurrence that demands immediate medical attention, shall not
 82 | be held liable for any civil damages as a result of any act or
 83 | omission relative to that care or treatment, unless that care or
 84 | treatment is proven to amount to conduct that is willful and
 85 | wanton and would likely result in injury so as to affect the
 86 | life or health of another.

87 | 2. The immunity provided by this paragraph does not apply
 88 | to damages as a result of any act or omission of providing
 89 | medical care or treatment unrelated to the original situation
 90 | that demanded immediate medical attention.

91 | 3. For purposes of this paragraph, the Legislature's
 92 | intent is to encourage health care practitioners to provide
 93 | necessary emergency care to all persons without fear of
 94 | litigation as described in this paragraph.

95 | (d) Any person whose acts or omissions are not otherwise
 96 | covered by this section and who participates in emergency
 97 | response activities under the direction of or in connection with
 98 | the Division of Emergency Management of the Department of
 99 | Community Affairs or the Federal Emergency Management Agency is
 100 | not liable for any civil damages as a result of care, treatment,
 101 | or services provided gratuitously in such capacity as a result
 102 | of any act or failure to act in such capacity in providing or
 103 | arranging further care, treatment, or services, if such person
 104 | acts as a reasonably prudent person would have acted under the
 105 | same or similar circumstances.

106 | Section 2. This act shall take effect upon becoming a law.