

CHAMBER ACTION

1 The Committee on Health Care 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 a community emergency response team, a
10 local emergency management agency, the Division of
11 Emergency Management of the Department of Community
12 Affairs, or the Federal Emergency Management Agency within
13 the act for purposes of immunity from civil liability
14 under certain circumstances; providing an effective date.

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

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

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

22 (2)(a) Any person, including those licensed to practice
23 medicine, who gratuitously and in good faith renders emergency

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

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

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

48 a. Which occurs prior to the time the patient is
49 stabilized and is capable of receiving medical treatment as a
50 nonemergency patient, unless surgery is required as a result of
51 the emergency within a reasonable time after the patient is

52 | stabilized, in which case the immunity provided by this
 53 | paragraph applies to any act or omission of providing medical
 54 | care or treatment which occurs prior to the stabilization of the
 55 | patient following the surgery.

56 | b. Which is related to the original medical emergency.

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

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

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

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

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

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

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

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