

By the Committees on Comprehensive Planning; Health, Aging,
and Long-Term Care; and Senator Crist

316-2087-04

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

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13 Be It Enacted by the Legislature of the State of Florida:

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

17 768.13 Good Samaritan Act; immunity from civil
18 liability.--

19 (2)(a) Any person, including those licensed to
20 practice medicine, who gratuitously and in good faith renders
21 emergency care or treatment either in direct response to
22 emergency situations related to and arising out of a public
23 health emergency declared pursuant to s. 381.00315, a state of
24 emergency which has been declared pursuant to s. 252.36 or at
25 the scene of an emergency outside of a hospital, doctor's
26 office, or other place having proper medical equipment,
27 without objection of the injured victim or victims thereof,
28 shall not be held liable for any civil damages as a result of
29 such care or treatment or as a result of any act or failure to
30 act in providing or arranging further medical treatment where

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1 the person acts as an ordinary reasonably prudent person would
2 have acted under the same or similar circumstances.

3 (b)1. Any health care provider, including a hospital
4 licensed under chapter 395, providing emergency services
5 pursuant to obligations imposed by 42 U.S.C. s. 1395dd, s.
6 395.1041, s. 395.401, or s. 401.45 shall not be held liable
7 for any civil damages as a result of such medical care or
8 treatment unless such damages result from providing, or
9 failing to provide, medical care or treatment under
10 circumstances demonstrating a reckless disregard for the
11 consequences so as to affect the life or health of another.

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

15 a. Which occurs prior to the time the patient is
16 stabilized and is capable of receiving medical treatment as a
17 nonemergency patient, unless surgery is required as a result
18 of the emergency within a reasonable time after the patient is
19 stabilized, in which case the immunity provided by this
20 paragraph applies to any act or omission of providing medical
21 care or treatment which occurs prior to the stabilization of
22 the patient following the surgery.

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

24 3. For purposes of this paragraph, "reckless
25 disregard" as it applies to a given health care provider
26 rendering emergency medical services shall be such conduct
27 that a health care provider knew or should have known, at the
28 time such services were rendered, created an unreasonable risk
29 of injury so as to affect the life or health of another, and
30 such risk was substantially greater than that which is
31 necessary to make the conduct negligent.

1 4. Every emergency care facility granted immunity
2 under this paragraph shall accept and treat all emergency care
3 patients within the operational capacity of such facility
4 without regard to ability to pay, including patients
5 transferred from another emergency care facility or other
6 health care provider pursuant to Pub. L. No. 99-272, s. 9121.
7 The failure of an emergency care facility to comply with this
8 subparagraph constitutes grounds for the department to
9 initiate disciplinary action against the facility pursuant to
10 chapter 395.

11 (c)1. Any health care practitioner as defined in s.
12 456.001(4) who is in a hospital attending to a patient of his
13 or her practice or for business or personal reasons unrelated
14 to direct patient care, and who voluntarily responds to
15 provide care or treatment to a patient with whom at that time
16 the practitioner does not have a then-existing health care
17 patient-practitioner relationship, and when such care or
18 treatment is necessitated by a sudden or unexpected situation
19 or by an occurrence that demands immediate medical attention,
20 shall not be held liable for any civil damages as a result of
21 any act or omission relative to that care or treatment, unless
22 that care or treatment is proven to amount to conduct that is
23 willful and wanton and would likely result in injury so as to
24 affect the life or health of another.

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

29 3. For purposes of this paragraph, the Legislature's
30 intent is to encourage health care practitioners to provide
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1 necessary emergency care to all persons without fear of
2 litigation as described in this paragraph.

3 (d) Any person who participates in emergency response
4 activities under the direction of or in connection with local
5 emergency management agencies, the Division of Emergency
6 Management of the Department of Community Affairs, or the
7 Federal Emergency Management Agency is not liable for any
8 civil damages as a result of care, treatment, or services
9 provided gratuitously in such capacity and resulting from any
10 act or failure to act in such capacity in providing or
11 arranging further care, treatment, or services, if such person
12 acts as a reasonably prudent person would have acted under the
13 same or similar circumstances.

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

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17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 COMMITTEE SUBSTITUTE FOR
19 CS/SB 532

20 The CS for CS adds "local emergency management agencies" to
21 those agencies for which a person may enjoy immunity from
22 civil damages for certain emergency response activities, and
23 makes a technical change.
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