

By Senator Bullard

39-684-04

1 A bill to be entitled
2 An act relating to the Good Samaritan Act;
3 amending s. 768.13, F.S.; providing immunity
4 from civil liability for a person who
5 participates in the emergency response
6 activities of a community emergency response
7 team if that person acts prudently and within
8 the scope of his or her training; providing an
9 effective date.

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

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

15 768.13 Good Samaritan Act; immunity from civil
16 liability.--

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

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

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

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

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

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

30 4. Every emergency care facility granted immunity
31 under this paragraph shall accept and treat all emergency care

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

9 (c)1. Any health care practitioner as defined in s.
10 456.001(4) who is in a hospital attending to a patient of his
11 or her practice or for business or personal reasons unrelated
12 to direct patient care, and who voluntarily responds to
13 provide care or treatment to a patient with whom at that time
14 the practitioner does not have a then-existing health care
15 patient-practitioner relationship, and when such care or
16 treatment is necessitated by a sudden or unexpected situation
17 or by an occurrence that demands immediate medical attention,
18 shall not be held liable for any civil damages as a result of
19 any act or omission relative to that care or treatment, unless
20 that care or treatment is proven to amount to conduct that is
21 willful and wanton and would likely result in injury so as to
22 affect the life or health of another.

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

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

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1 (d) Any person who participates in the emergency
2 response activities of a community emergency response team is
3 not liable for civil damages as a result of care, treatment,
4 or services provided in such capacity or as a result of any
5 act or failure to act in such capacity in providing or
6 arranging further care, treatment, or services, if such person
7 acts within the scope of his or her training and acts as a
8 reasonably prudent person would have acted under the same or
9 similar circumstances.

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

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14 SENATE SUMMARY

15 Exempts from civil liability persons who participate in
16 the emergency response activities of a community
17 emergency response team and who act within their scope of
18 training.

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