First Extraordinary Session, 2005

HOUSE BILL NO. 28

- BY REPRESENTATIVES MARTINY, ALEXANDER, BEARD, BOWLER, BRUNEAU, BURNS, CROWE, DOVE, DOWNS, ERDEY, GEYMANN, GREENE, HUTTER, JOHNS, KATZ, KENNARD, KLECKLEY, LABRUZZO, LAMBERT, MCVEA, MORRISH, PITRE, M. POWELL, T. POWELL, SCALISE, SCHNEIDER, SMILEY, JANE SMITH, STRAIN, TOOMY, TRAHAN, TUCKER, WADDELL, WALSWORTH, WHITE, AND WINSTON AND SENATORS BARHAM, BOASSO, CAIN, DARDENNE, HOLLIS, KOSTELKA, LENTINI, MALONE, MICHOT, QUINN, ROMERO, SCHEDLER, AND THEUNISSEN
- LAW ENFORCEMENT: Limits liability of law enforcement agencies to prison detainees during emergencies and disasters (Item #69)

1	AN ACT
2	To amend and reenact R.S. 29:735(A), relative to immunity of personnel during a
3	declaration of emergency or disaster; to provide for limitation of liability for law
4	enforcement agencies and officers based on detention of persons in any parish prison
5	or local jail under certain circumstances; and to provide for related matters.
6	Be it enacted by the Legislature of Louisiana:
7	Section 1. R.S. 29:735(A) is hereby amended and reenacted to read as follows:
8	§735. Immunity of personnel
9	A. (1) Neither the state nor any political subdivision thereof, nor other
10	agencies, nor, except in case of willful misconduct, the agents' employees or
11	representatives of any of them engaged in any homeland security and emergency
12	preparedness activities, while complying with or attempting to comply with this
13	Chapter or any rule or regulation promulgated pursuant to the provisions of this
14	Chapter shall be liable for the death of or any injury to persons or damage to property
15	as a result of such activity.

1	(2) Additionally, no person detained or incarcerated in any parish prison or
2	local jail shall have a cause of action for damages against any law enforcement
3	agency or officer thereof for any injury or loss based on his detention in such prison
4	or jail during a declaration of emergency or disaster for a period of time in excess of
5	that required by the Code of Criminal Procedure or Title 15 of the Louisiana Revised
6	Statutes of 1950.
7	* * *
8	Section 2. This Act shall become effective upon signature by the governor or, if not
9	signed by the governor, upon expiration of the time for bills to become law without signature
10	by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
11	vetoed by the governor and subsequently approved by the legislature, this Act shall become
12	effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Martiny

HB No. 28

Abstract: Provides that no person shall have a cause of action against any law enforcement agency or officer based on his detention in a parish prison or local jail during a declaration of emergency or disaster for a period of time in excess of that required by the Code of Criminal Procedure or Title 15 of the Louisiana Revised Statutes of 1950.

<u>Present law</u> provides that neither the state nor any political subdivision thereof, nor other agencies, nor, except in case of willful misconduct, the agents' employees or representatives of any of them engaged in any homeland security and emergency preparedness activities, while complying with or attempting to comply with the provisions of the Louisiana Homeland Security and Emergency Assistance and Disaster Act or any rule or regulation promulgated pursuant to those provisions shall be liable for the death of or any injury to persons or damage to property as a result of such activity.

<u>Proposed law</u> retains <u>present law</u> and provides that no person detained or incarcerated in any parish prison or local jail shall have a cause of action of damages for any injury or loss against any law enforcement agency or officer thereof based on his detention in such prison or jail during a declaration of emergency or disaster for a period of time in excess of that required by the Code of Criminal Procedure or Title 15 of the Louisiana Revised Statutes of 1950.

Effective upon signature or lapse of time for gubernatorial action.

(Amends R.S. 29:735(A))