

2020 Regular Session

SENATE BILL NO. 445

BY SENATOR PEACOCK

LIABILITY. Provides relative to limitation of civil liability for medical personnel and healthcare providers during public health emergency. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 29:771(B)(2)(c) and (d) and R.S. 37:1731.1, relative to immunity
3 from civil liability; to provide relative to certain immunity from civil liability for
4 medical personnel and healthcare providers during public health disasters or
5 emergencies; to provide definitions, terms, conditions, and requirements; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 29:771(B)(2)(c) and (d) are hereby amended and reenacted to read
9 as follows:

10 §771. Miscellaneous

11 * * *

12 B. Liability.

13 * * *

14 (2) Private liability.

15 * * *

16 (c) During a state of public health emergency **declared under the provisions**
17 **of this Chapter**, any health care providers shall not be civilly liable for causing the

1 death of, or, injury to, any person or damage to any property except in the event of
2 gross negligence or willful misconduct.

3 (d) During a state of public health emergency **declared under the provisions**
4 **of this Chapter**, any private person, firm or corporation and employees and agents
5 of such person, firm or corporation, who renders assistance or advice at the request
6 of the state or its political subdivisions under the provisions of this Chapter shall not
7 be civilly liable for causing the death of, or injury to, any person or damage to any
8 property except in the event of gross negligence or willful misconduct.

9 * * *

10 Section 2. R.S. 37:1731.1 is hereby amended and reenacted to read as follows:

11 §1731.1. Medical services during declared state of emergency; limitation of liability

12 A. Medical personnel who, in good faith and regardless of compensation,
13 render or fail to render emergency care, ~~health care~~ **healthcare** services or first aid
14 during a declared state of emergency when the state of emergency affects the
15 rendering of medical care shall not be liable for any civil damages or injury as a
16 result of any act or omission related to the rendering of or failure to render services,
17 unless the damages or injury was caused by gross negligence or willful and wanton
18 misconduct.

19 B. As used in this Section:

20 (1) "During a declared state of emergency" means during the period of time
21 set forth in a declaration of the governor in accordance with R.S. 29:724 **et seq. or**
22 **R.S. 29:760 et seq.** and shall include the time period as set forth in the declaration
23 and shall also be retroactive to the precipitating event requiring the declaration.

24 (2) "Health care services" means any act or treatment performed or furnished
25 or which should have been performed or furnished, by a ~~health care~~ **healthcare**
26 provider for, to, or on behalf of a person.

27 (3) "Medical personnel" means an individual or person subject to the
28 provisions of R.S. 37:1731, regardless of compensation.

29 * * *

1 Section 3. Due to the imminent threat posed by COVID-19 as provided in
2 Proclamation Number 25 JBE 2020 and any subsequent proclamation, declaring the
3 existence of a statewide public health emergency, Sections 1 and 2 of this Act shall be
4 retroactive to March 11, 2020.

5 Section 4. This Act shall become effective upon signature by the governor or, if not
6 signed by the governor, upon expiration of the time for bills to become law without signature
7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
9 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Margaret M. Corley.

	DIGEST	
SB 445 Original	2020 Regular Session	Peacock

Present law provides for the La. Health Emergency Powers Act ("Act").

Present law provides that during a state of public health emergency any health care providers shall not be civilly liable for causing the death of, or, injury to, any person or damage to any property except in the event of gross negligence or willful misconduct.

Present law provides that during a state of public health emergency, any private person, firm or corporation and employees and agents of such person, firm or corporation, who renders assistance or advice at the request of the state or its political subdivisions under the provisions of present law shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the event of gross negligence or willful misconduct.

Proposed law revises when presents law is applicable.

Present law provides that medical personnel who, in good faith and regardless of compensation, render or fail to render emergency care, health care services or first aid during a declared state of emergency when the state of emergency affects the rendering of medical care shall not be liable for any civil damages or injury as a result of any act or omission related to the rendering of or failure to render services, unless the damages or injury was caused by gross negligence or willful and wanton misconduct.

Present law provides for definitions.

Proposed law retains present law and revises definitions of "during a declared state of emergency."

Proposed law further provides that due to the imminent threat posed by COVID-19 as provided in Proclamation Number 25 JBE 2020 and any subsequent proclamation, declaring the existence of a statewide public health emergency, proposed law shall be retroactive to March 11, 2020.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 29:771(B)(2)(c) and (d) and R.S. 37:1731.1)