## SLS 23RS-319

## ORIGINAL

2023 Regular Session

SENATE BILL NO. 139

BY SENATOR HARRIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LIABILITY. Provides relative to public health emergencies. (gov sig)

1	AN ACT
2	To amend and reenact R.S. 29:771(B)(2)(c), relative to a state of public health emergency;
3	to provide relative to healthcare providers; to provide for exceptions; to provide for
4	retroactive application; and to provide for related matters.
5	Be it enacted by the Legislature of Louisiana:
6	Section 1. R.S. 29:771(B)(2)(c) is hereby amended and reenacted to read as follows:
7	§771. Miscellaneous
8	* * *
9	B. * * *
10	(2) * * *
11	(c)(i) During a state of public health emergency, no health care healthcare
12	provider shall be civilly liable for causing the death of, or injury to, any person or
13	damage to any property patient except in the event of gross negligence or willful
14	misconduct, if the healthcare provider proves by a preponderance of the
15	evidence that the public health emergency was a substantial contributing factor
16	in causing the alleged injury, damages, or death.
17	(ii) During a state of public health emergency, which is declared to combat

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	COVID-19 or any other contagious disease or infectious disease, no inpatient health
	care facility shall be liable to a member of the clergy for any civil damages for injury
	or death resulting from or related to actual or alleged exposure during the course of,
	or through the performance of, allowing access to a member of the clergy in
	compliance with R.S. 40:2005.1 unless the inpatient health care facility failed to
	substantially comply with the applicable procedures established by the Louisiana
	Department of Health that govern the inpatient health care facility operations and the
	injury or death was caused by the inpatient health care facility's gross negligence or
	wanton or reckless misconduct.
	(iii) The provisions of Item (i) of this Subparagraph shall not apply to
	claims pending before a medical review panel pursuant to R.S. 40:1231.1 et seq.
	or R.S. 40:1237.1 et seq. and shall be raised only as an affirmative defense in a
	or R.S. 40:1237.1 et seq. and shall be raised only as an affirmative defense in a lawsuit in which a healthcare provider is named as a defendant.
	lawsuit in which a healthcare provider is named as a defendant.
Ma	lawsuit in which a healthcare provider is named as a defendant. * * *
Ma	Iawsuit in which a healthcare provider is named as a defendant.    * * *   Section 2. The provisions of this Act shall apply prospectively and retroactively to
	<b>lawsuit in which a healthcare provider is named as a defendant.</b> * * *   Section 2. The provisions of this Act shall apply prospectively and retroactively to arch 11, 2020.
sig	<b>lawsuit in which a healthcare provider is named as a defendant.</b> * * *   Section 2. The provisions of this Act shall apply prospectively and retroactively to arch 11, 2020.   Section 3. This Act shall become effective upon signature by the governor or, if not
sig by	<b>Iawsuit in which a healthcare provider is named as a defendant.</b> * * *   Section 2. The provisions of this Act shall apply prospectively and retroactively to arch 11, 2020.   Section 3. This Act shall become effective upon signature by the governor or, if not ned by the governor, upon expiration of the time for bills to become law without signature

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Angela L. De Jean.

SB 139 Original

DIGEST 2023 Regular Session

Harris

<u>Present law</u> provides immunity to a healthcare provider from being 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 during a state of public health emergency.

<u>Proposed law</u> retains <u>present law</u> except limits application to a patient and requires that the healthcare provider proves by a preponderance of the evidence that the public health emergency was a substantial contributing factor in causing the alleged injury, damages, or death of a patient to avail himself of the limited civil liability.

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<u>Proposed law</u> will not apply to claims pending before a medical review panel in accordance with <u>present law</u>, and can be raised only as an affirmative defense in a lawsuit in which a healthcare provider is named as a defendant.

<u>Proposed law</u> provides that the provisions of <u>proposed law</u> will be given both prospective and retroactive application 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))