

2022 Regular Session

SENATE BILL NO. 346

BY SENATOR HARRIS

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

1 COVID-19 or any other contagious disease or infectious disease, no inpatient health
 2 care facility shall be liable to a member of the clergy for any civil damages for injury
 3 or death resulting from or related to actual or alleged exposure during the course of,
 4 or through the performance of, allowing access to a member of the clergy in
 5 compliance with R.S. 40:2005.1 unless the inpatient health care facility failed to
 6 substantially comply with the applicable procedures established by the Louisiana
 7 Department of Health that govern the inpatient health care facility operations and the
 8 injury or death was caused by the inpatient health care facility's gross negligence or
 9 wanton or reckless misconduct.

10 **(iii) The provisions of Item (i) of this Subparagraph shall not apply to**
 11 **claims pending before a medical review panel pursuant to R.S. 40:1231.1 et seq.**
 12 **or R.S. 40:1237.1 et seq. and shall be raised only as an affirmative defense in a**
 13 **lawsuit in which a healthcare provider is named as a defendant.**

14 * * *

15 Section 2. The provisions of this Act shall apply prospectively and retroactively to
 16 March 11, 2020.

17 Section 3. This Act shall become effective upon signature by the governor or, if not
 18 signed by the governor, upon expiration of the time for bills to become law without signature
 19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 20 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 21 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 Michael Bell.

DIGEST

SB 346 Original 2022 Regular Session Harris

Present law 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.

Proposed law retains present law 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.

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

Proposed law provides that the provisions of proposed law 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))