

By: Representatives Barnett, Bondurant, Chism, Ellington, Fillingane, Hamilton (6th), Ishee, Lott, Malone, Martinson, Mims, Moore, Palazzo, Robinson (84th), Rotenberry, Staples, Stevens, Upshaw, Wells-Smith, Woods, Zuber

To: Public Health and Human Services; Judiciary A

HOUSE BILL NO. 1183

1 AN ACT TO AMEND SECTIONS 73-25-37 AND 73-25-38, MISSISSIPPI
2 CODE OF 1972, TO INCLUDE PHYSICIAN ASSISTANTS IN THE GOOD
3 SAMARITAN LAW; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** Section 73-25-37, Mississippi Code of 1972, is
6 amended as follows:

7 73-25-37. (1) No duly licensed, practicing physician,
8 physician assistant, dentist, registered nurse, licensed practical
9 nurse, certified registered emergency medical technician, or any
10 other person who, in good faith and in the exercise of reasonable
11 care, renders emergency care to any injured person at the scene of
12 an emergency, or in transporting the injured person to a point
13 where medical assistance can be reasonably expected, shall be
14 liable for any civil damages to the injured person as a result of
15 any acts committed in good faith and in the exercise of reasonable
16 care or omissions in good faith and in the exercise of reasonable
17 care by such persons in rendering the emergency care to the
18 injured person.

19 (2) (a) Any person who in good faith, with or without
20 compensation, renders emergency care or treatment by the use of an
21 automated external defibrillator (AED) in accordance with the
22 provisions of Sections 41-60-31 through 41-60-35, shall be immune
23 from civil liability for any personal injury as a result of that
24 care or treatment, or as a result of any act, or failure to act,
25 in providing or arranging further medical treatment, where the
26 person acts as an ordinary, reasonably prudent person would have
27 acted under the same or similar circumstances and the person's

28 actions or failure to act does not amount to willful or wanton
29 misconduct or gross negligence.

30 (b) The immunity from civil liability for any personal
31 injury under subsection (2)(a) of this section includes the
32 licensed physician who is involved with AED site placement, and
33 the person who provides the CPR and AED training.

34 (c) The immunity from civil liability under subsection
35 (2)(a) of this section does not apply if the personal injury
36 results from the gross negligence or willful or wanton misconduct
37 of the person rendering the emergency care.

38 **SECTION 2.** Section 73-25-38, Mississippi Code of 1972, is
39 amended as follows:

40 73-25-38. (1) Any licensed physician, physician assistant
41 or certified nurse practitioner who voluntarily provides needed
42 medical or health services to any person without the expectation
43 of payment due to the inability of such person to pay for said
44 services shall be immune from liability for any civil action
45 arising out of the provision of such medical or health services
46 provided in good faith on a charitable basis. This section shall
47 not extend immunity to acts of willful or gross negligence.
48 Except in cases of rendering emergency care wherein the provisions
49 of Section 73-25-37 apply, immunity under this section shall be
50 extended only if the physician, physician assistant or certified
51 nurse practitioner and patient execute a written waiver in advance
52 of the rendering of such medical services specifying that such
53 services are provided without the expectation of payment and that
54 the licensed physician, physician assistant or certified nurse
55 practitioner shall be immune as provided in this subsection. The
56 immunity from liability granted by this subsection also shall
57 extend to actions arising from a church-operated outpatient
58 medical clinic that exists solely for the purpose of providing
59 charitable medical services to persons who are unable to pay for
60 such services, provided that the outpatient clinic receives less

61 than Forty Thousand Dollars (\$40,000.00) annually in patient
62 payments.

63 (2) Any physician who voluntarily renders any medical
64 service under a special volunteer medical license authorized under
65 Section 73-25-18 without any payment or compensation or the
66 expectation or promise of any payment or compensation shall be
67 immune from liability for any civil action arising out of any act
68 or omission resulting from the rendering of the medical service
69 unless the act or omission was the result of the physician's gross
70 negligence or willful misconduct. In order for the immunity under
71 this subsection to apply, there must be a written or oral
72 agreement for the physician to provide a voluntary noncompensated
73 medical service before the rendering of the service by the
74 physician.

75 (3) Any physician who is retired from active practice, and
76 who has been previously issued an unrestricted license to practice
77 medicine in any state of the United States or who has been issued
78 a special volunteer medical license under Section 73-25-18, shall
79 be immune from liability for any civil action arising out of any
80 medical care or treatment provided while voluntarily serving as
81 "doctor of the day" for members of the Mississippi State
82 Legislature, legislative or other state employees, or any visitors
83 to the State Capitol on the date of such service. This subsection
84 shall not extend immunity to acts of willful or gross negligence
85 or misconduct.

86 **SECTION 3.** This act shall take effect and be in force from
87 and after July 1, 2007.