

INTERIM STUDY PROPOSAL 2019-157

State of Arkansas
92nd General Assembly
Second Extraordinary Session, 2020

A Bill

**BPG/BPG
SENATE BILL**

By: Senator Irvin

Filed with: Senate Committee on Public Health, Welfare, and Labor
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT PROVIDING IMMUNITY FROM LIABILITY FOR DEATH,
INJURY, OR PROPERTY DAMAGE SUSTAINED AS A RESULT OF
AN ACT OR OMISSION BY AN EMERGENCY RESPONDER,
HEALTHCARE PROVIDER, OR HEALTHCARE FACILITY IN THE
COURSE OF PROVIDING EMERGENCY MANAGEMENT SERVICES
DURING THE COVID-19 PUBLIC HEALTH EMERGENCY; TO
DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

PROVIDING IMMUNITY FROM LIABILITY FOR AN
EMERGENCY RESPONDER, HEALTHCARE PROVIDER,
OR HEALTHCARE FACILITY FOR CERTAIN ACTS
OR OMISSIONS DURING THE COVID-19 PUBLIC
HEALTH EMERGENCY; AND TO DECLARE AN
EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 16, Chapter 120, Subchapter 8, is
amended to add an additional section to read as follows:

16-120-804. Immunity from liability for emergency responders,
healthcare providers, and healthcare facilities.

(a) As used in this section:

(1) "COVID-19" means coronavirus disease 2019 or the virus that
causes coronavirus disease 2019 in some individuals;

1 (2) "Emergency responder" means the same as defined in § 12-75-
2 103;

3 (3) "Healthcare facility" means the same as defined under § 20-
4 6-303; and

5 (4) "Healthcare provider" means a person who is licensed,
6 certified, or otherwise authorized by the laws of this state to administer
7 health care in the ordinary course of the practice of his or her profession.

8 (b) In addition to any other immunity protections provided by state or
9 federal law, during a public health emergency related to COVID-19 as declared
10 by the Governor, emergency responders, healthcare providers, and healthcare
11 facilities are immune from liability for any death, injury, or property
12 damage alleged to have been sustained as a result of an act or omission by an
13 emergency responder, healthcare provider, or healthcare facility in the
14 course of providing emergency management services while the emergency
15 responders, healthcare providers, and healthcare facilities are acting within
16 the course and scope of their employment or business or while otherwise
17 acting as an emergency responder or healthcare provider or operating as a
18 healthcare facility.

19 (c) This section does not apply to an emergency responder , healthcare
20 provider, or healthcare facility that engages in:

- 21 (1) Willful misconduct;
- 22 (2) Reckless infliction of harm; or
- 23 (3) Intentional infliction of harm.

24 (d) This section does not extend to workers' compensation benefits
25 paid by or on behalf of an employer to an employee under the Workers'
26 Compensation Law, § 11-9-101 et seq., or a comparable workers' compensation
27 law of another jurisdiction.

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29 SECTION 2. EFFECTIVE DATE. Section 1 of this act is effective through
30 March 31, 2021.

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32 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
33 General Assembly of the State of Arkansas that emergency responders,
34 healthcare providers, and healthcare facilities have been limiting their
35 services due to the potential threat of liability during the public health
36 emergency caused by coronavirus disease 2019 (COVID-19), or by severe acute

1 respiratory syndrome coronavirus 2 (SARS-CoV-2) or any of its mutations, and
2 this potential threat of liability is creating uncertainty for emergency
3 responders, healthcare providers, and healthcare facilities in Arkansas; that
4 providing clarity for emergency responders, healthcare providers, and
5 healthcare facilities could encourage additional medical assistance to
6 Arkansans and thereby reduce the spread of coronavirus disease 2019 (COVID-
7 19) in Arkansas; and that this act is immediately necessary because Arkansans
8 need access to medical care, and emergency responders, healthcare providers,
9 and healthcare facilities need clarification concerning their potential
10 liability during the public health emergency caused by coronavirus disease
11 2019 (COVID-19), or by severe acute respiratory syndrome coronavirus 2 (SARS-
12 CoV-2) or any of its mutations, in order to provide much-needed medical
13 services and support in Arkansas. Therefore, an emergency is declared to
14 exist, and this act being immediately necessary for the preservation of the
15 public peace, health, and safety shall become effective on:

16 (1) The date of its approval by the Governor;

17 (2) If the bill is neither approved nor vetoed by the Governor,
18 the expiration of the period of time during which the Governor may veto the
19 bill; or

20 (3) If the bill is vetoed by the Governor and the veto is
21 overridden, the date the last house overrides the veto.

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24 Referred by Senator Irvin

25 Prepared by: MBM/JMT
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