

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 800

INTRODUCER: Senator Pizzo

SUBJECT: Duty to Assist

DATE: March 8, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	Favorable
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 800 amends s. 768.13, F.S., Florida’s “Good Samaritan Act,” to provide that a person who is at the scene of an emergency and who knows that another person is exposed to or has suffered serious bodily injury shall, to the extent that he or she can do so without causing danger or peril to oneself or others, provide reasonable assistance to the exposed or injured person. Reasonable assistance includes contacting, obtaining, or attempting to contact or obtain aid from law enforcement or medical personnel. A person who violates the requirement to provide reasonable assistance commits a second degree misdemeanor.

The Criminal Justice Impact Conference estimates that the bill will not have a prison bed impact. The bill may have an indeterminate impact on county jails. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2019.

II. Present Situation:

Duty to Assist

Florida law imposes some duties to assist, primarily in the form of reporting. However, Florida law does not impose upon the general public a duty to assist an endangered person in an emergency situation.

Florida law imposes upon the general public a duty to report some criminal activity or a death, and punishes failure to comply with reporting requirements:

- Any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child’s welfare, or that the child is in need of supervision and care and has no parent,

legal custodian, or responsible adult relative immediately known and available to provide supervision and care must report such knowledge or suspicion to the Department of Children and Families.¹

- Any person who knows, or who has reasonable cause to suspect, that a child is abused by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare must report such knowledge or suspicion to the Department of Children and Families.²
- Any person who knows, or has reasonable cause to suspect, that a child is the victim of childhood sexual abuse or the victim of a known or suspected juvenile sexual offender must report such knowledge or suspicion to the Department of Children and Families.³
- Any person who knows or has reasonable cause to suspect that a vulnerable adult has been or is being abused, neglected, or exploited must immediately report such knowledge or suspicion to the central abuse hotline of the Department of Children and Families.⁴
- A person has a qualified duty to report a sexual battery. A person who has reason to believe he or she observed the commission of a sexual battery, has the present ability to seek assistance for the victim or victims by immediately reporting such offense to a law enforcement officer, and fails to seek such assistance, commits a first degree misdemeanor, unless a specified exception applies.⁵
- Any person in the district where a death occurs, including all municipalities and unincorporated and federal areas, who becomes aware of the death of any person occurring under specified circumstances in s. 406.11, F.S. (circumstances in which a medical examiner must determine the cause of death), must report such death and circumstances forthwith to the district medical examiner.⁶

These laws apply to all Floridians in contrast to laws which only impose reporting requirements (or other assistance requirements) on Floridians who engage in certain activities like driving a motor vehicle.⁷

¹ Section 39.201(1)(a), F.S. A person commits a third degree felony if he or she is required to report known or suspected child abuse, abandonment, or neglect and knowingly and willfully fails to do so, or knowingly and willfully prevents another person from doing so. Section 39.205(1), F.S. Unless the court finds that the person is a victim of domestic violence or that other mitigating circumstances exist, a person who is 18 years of age or older and lives in the same house or living unit as a child who is known or suspected to be a victim of child abuse, neglect of a child, or aggravated child abuse, commits a third degree felony if he or she knowingly and willfully fails to report the child abuse. Section 39.205(2), F.S.

² Section 39.201(1)(b), F.S. *See* footnote 1, *supra*, regarding penalties.

³ Section 39.201(1)(c), F.S. *See* footnote 1, *supra*, regarding penalties.

⁴ Section 415.1034(1)(a), F.S. A person commits a second degree misdemeanor if he or she knowingly and willfully fails to report a case of known or suspected abuse, neglect, or exploitation of a vulnerable adult, or knowingly and willfully prevents another person from doing so. Section 415.111(1), F.S.

⁵ Section 794.027, F.S. The specified exceptions are that the person would be exposed to a threat of physical violence for seeking assistance; the person is the husband, wife, parent, grandparent, child, grandchild, brother, or sister of the offender or victim, by consanguinity or affinity; or the person is the victim of the sexual battery. Section 794.027(4)-(6), F.S.

⁶ Section 406.12, F.S. Any person who knowingly fails or refuses to report such death and circumstances commits a second degree misdemeanor. *Id.*

⁷ *See, e.g.*, s. 316.0662(1), F.S. (imposing duties to give information and render aid on the driver of any vehicle involved in a crash resulting in injury to or death of any person or damage to any vehicle or other property).

Florida's Good Samaritan Act and the General Public

Section 768.13, F.S., is Florida's "Good Samaritan Act."⁸ This section provides immunity from civil damages, as specified in the section, to certain health care practitioners and entities, and to persons in general, who provide emergency care or treatment in certain emergency situations. Specifically, this section applies to the following persons who are not listed practitioners:

- Any person who gratuitously and in good faith renders emergency care or treatment either in direct response to emergency situations related to and arising out of certain declared emergencies⁹ or at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical equipment, without objection of the injured victim or victims;¹⁰
- Any person whose acts or omissions are not otherwise covered by s. 768.13, F.S., and who participates in emergency response activities under the direction of or in connection with a community emergency response team, local emergency management agencies, the Division of Emergency Management, or the Federal Emergency Management Agency;¹¹ and
- A person who gratuitously and in good faith renders emergency care or treatment to an injured animal at the scene of an emergency on or adjacent to a roadway.¹²

Florida's Good Samaritan Act does not impose upon the general public a duty to assist an endangered person in an emergency situation.

Duty to Assist Laws in Other States

At least three states impose upon the general public a duty to assist an endangered person in an emergency situation.

Vermont law provides that a person who knows that another is exposed to grave physical harm shall, to the extent that the same can be rendered without danger or peril to himself or herself or without interference with important duties owed to others, give reasonable assistance to the exposed person unless that assistance or care is being provided by others. A person who willfully violates this requirement shall be fined not more than \$100.00.¹³

Minnesota law provides that a person at the scene of an emergency who knows that another person is exposed to or has suffered grave physical harm shall, to the extent that the person can

⁸ Section 768.13(1), F.S.

⁹ A public health emergency declared pursuant to s. 381.00315, F.S., or a state of emergency which has been declared pursuant to s. 252.36, F.S. Section 768.13(2)(a), F.S.

¹⁰ *Id.* The person shall not be held liable for any civil damages as a result of: such care or treatment; or any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances. *Id.*

¹¹ Section 768.13(2)(d), F.S. The person shall not be held liable for any civil damages as a result of care, treatment, or services provided gratuitously in such capacity and resulting from any act or failure to act in such capacity in providing or arranging further care, treatment, or services, if such person acts as a reasonably prudent person would have acted under the same or similar circumstances. *Id.*

¹² Section 768.13(3), F.S. The person shall not be held liable for any civil damages as a result of: such care or treatment; or any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances. *Id.*

¹³ Vt. Stat. Ann. tit. 12, s. 519(a), available at <https://legislature.vermont.gov/statutes/section/12/023/00519> (last visited on March 4, 2019).

do so without danger or peril to self or others, give reasonable assistance to the exposed person. Reasonable assistance may include obtaining or attempting to obtain aid from law enforcement or medical personnel. A person who violates this requirement is guilty of a petty misdemeanor.¹⁴

Rhode Island law provides that any person at the scene of an emergency who knows that another person is exposed to, or has suffered, grave physical harm shall, to the extent that he or she can do so without danger or peril to himself or herself or to others, give reasonable assistance to the exposed person. Any person violating this requirement shall be guilty of a petty misdemeanor and shall be subject to imprisonment for a term not exceeding six months, or by a fine of not more than \$500, or both.¹⁵

III. Effect of Proposed Changes:

As previously noted, s. 768.13(2)(a), F.S., provides immunity from civil damages, as specified in the section, to persons who provide emergency care or treatment in certain emergency situations. The bill amends s. 768.13, F.S., to provide that, notwithstanding s. 768.13(2), F.S., a person who is at the scene of an emergency and who knows that another person is exposed to or has suffered serious bodily injury¹⁶ shall, to the extent that he or she can do so without causing danger or peril to oneself or others, provide reasonable assistance to the exposed or injured person. Reasonable assistance includes contacting, obtaining, or attempting to contact or obtain aid from law enforcement or medical personnel. A person who violates the requirement to provide reasonable assistance commits a second degree misdemeanor.¹⁷

The bill is effective October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁴ Minn. Stat. s. 604A.01(1), available at <https://www.revisor.mn.gov/statutes/cite/604A.01> (last visited on March 4, 2019).

¹⁵ R.I. Gen. Laws s. 11-56-1, available at <http://webserver.rilin.state.ri.us/Statutes/TITLE11/11-56/11-56-1.HTM> (last visited on March 4, 2019).

¹⁶ The bill specifies that the term “serious bodily injury” has the same meaning as provided in s. 790.155, F.S. Section 790.155(1)(b), F.S., defines “serious bodily injury” as a physical condition which creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

¹⁷ A second degree misdemeanor is punishable by up to 60 days in county jail and fine of up to \$500. Sections 775.082 and 775.083, F.S.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of legislation, estimates that the bill will not have a prison bed impact.¹⁸ The bill may have an indeterminate impact on county jails.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 768.13 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

¹⁸ The CJIC estimate is available at <http://edr.state.fl.us/content/conferences/criminaljusticeimpact/HB147.pdf> (last visited on March 4, 2019).

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
