

# SB1663



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB1663

Introduced 2/13/2013, by Sen. Pamela J. Althoff

#### SYNOPSIS AS INTRODUCED:

745 ILCS 49/30

Amends the Good Samaritan Act to reenact certain provisions of Public Act 94-677, which was declared to be unconstitutional. Includes explanatory and validation provisions. Makes changes relating to the reenactment.

LRB098 07864 HEP 37948 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Findings; purpose; text and revisory changes;  
5 validation; additional material.

6 (a) The Illinois Supreme Court, in *Lebron v. Gottlieb*  
7 *Memorial Hospital*, 237 Ill.2d 217 (2010), found that the  
8 limitations on noneconomic damages in medical malpractice  
9 actions that were created in Public Act 94-677, contained in  
10 Section 2-1706.5 of the Code of Civil Procedure, violate the  
11 separation of powers clause of the Illinois Constitution.  
12 Because Public Act 94-677 contained an inseverability  
13 provision, the court held the Act to be void in its entirety.  
14 The court emphasized, however, that "because the other  
15 provisions contained in Public Act 94-677 are deemed invalid  
16 solely on inseverability grounds, the legislature remains free  
17 to reenact any provisions it deems appropriate".

18 (b) It is the purpose of this Act to reenact certain  
19 provisions of Public Act 94-677 that did not involve  
20 limitations on noneconomic damages in medical malpractice  
21 actions and to validate certain actions taken in reliance on  
22 those provisions.

23 (c) This Act reenacts Section 30 of the Good Samaritan Act.  
24 In this Section, certain effective date references and

1 applicability provisions have been changed to reflect the  
2 reenactment. This Act does not reenact any other provisions of  
3 Public Act 94-677.

4 In this Act, the base text of the reenacted Section is set  
5 forth as it existed at the time of the Supreme Court's  
6 decision, including any amendments that occurred after P.A.  
7 94-677. Striking and underscoring is used only to show the  
8 changes being made to that base text.

9 (d) All otherwise lawful actions taken in reasonable  
10 reliance on or pursuant to the Section reenacted by this Act,  
11 as set forth in Public Act 94-677 or subsequently amended, by  
12 any officer, employee, agency, or unit of State or local  
13 government or by any other person or entity, are hereby  
14 validated.

15 With respect to actions taken in relation to matters  
16 arising under the Section reenacted by this Act, a person is  
17 rebuttably presumed to have acted in reasonable reliance on and  
18 pursuant to the provisions of Public Act 94-677, as those  
19 provisions had been amended at the time the action was taken.

20 With respect to their administration of matters arising  
21 under the Section reenacted by this Act, officers, employees,  
22 agencies, and units of State and local government shall  
23 continue to apply the provisions of Public Act 94-677, as those  
24 provisions had been amended at the relevant time.

25 Section 5. The Good Samaritan Act is amended by reenacting

1 and changing Section 30 as follows:

2 (745 ILCS 49/30)

3 Sec. 30. Free medical clinic; exemption from civil  
4 liability for services performed without compensation.

5 (a) A person licensed under the Medical Practice Act of  
6 1987, a person licensed to practice the treatment of human  
7 ailments in any other state or territory of the United States,  
8 or a health care professional, including but not limited to an  
9 advanced practice nurse, retired physician, physician  
10 assistant, nurse, pharmacist, physical therapist, podiatrist,  
11 or social worker licensed in this State or any other state or  
12 territory of the United States, who, in good faith, provides  
13 medical treatment, diagnosis, or advice as a part of the  
14 services of an established free medical clinic providing care,  
15 including but not limited to home visits, without charge to  
16 patients which is limited to care that does not require the  
17 services of a licensed hospital or ambulatory surgical  
18 treatment center and who receives no fee or compensation from  
19 that source shall not be liable for civil damages as a result  
20 of his or her acts or omissions in providing that medical  
21 treatment, except for willful or wanton misconduct.

22 (b) For purposes of this Section, a "free medical clinic"  
23 is an organized community based program providing medical care  
24 without charge to individuals, at which the care provided does  
25 not include an overnight stay in a health-care facility.

1           (c) The provisions of subsection (a) of this Section do not  
2 apply to a particular case unless the free medical clinic has  
3 posted in a conspicuous place on its premises an explanation of  
4 the exemption from civil liability provided herein.

5           (d) The immunity from civil damages provided under  
6 subsection (a) also applies to physicians, retired physicians,  
7 hospitals, and other health care providers that provide further  
8 medical treatment, diagnosis, or advice, including but not  
9 limited to hospitalization, office visits, and home visits, to  
10 a patient upon referral from an established free medical clinic  
11 without fee or compensation.

12           (d-5) A free medical clinic may receive reimbursement from  
13 the Illinois Department of Public Aid, provided any  
14 reimbursements shall be used only to pay overhead expenses of  
15 operating the free medical clinic and may not be used, in whole  
16 or in part, to provide a fee or other compensation to any  
17 person licensed under the Medical Practice Act of 1987 or any  
18 other health care professional who is receiving an exemption  
19 under this Section. Any health care professional receiving an  
20 exemption under this Section may not receive any fee or other  
21 compensation in connection with any services provided to, or  
22 any ownership interest in, the clinic. Medical care shall not  
23 include an overnight stay in a health care facility.

24           (e) Nothing in this Section prohibits a free medical clinic  
25 from accepting voluntary contributions for medical services  
26 provided to a patient who has acknowledged his or her ability

1 and willingness to pay a portion of the value of the medical  
2 services provided.

3 (f) Any voluntary contribution collected for providing  
4 care at a free medical clinic shall be used only to pay  
5 overhead expenses of operating the clinic. No portion of any  
6 moneys collected shall be used to provide a fee or other  
7 compensation to any person licensed under Medical Practice Act  
8 of 1987.

9 (g) The changes to this Section made by Public Act 94-677  
10 and reenacted by this amendatory Act of the 98th ~~94th~~ General  
11 Assembly apply to causes of action accruing on or after August  
12 25, 2005, as those changes may be amended from time to time ~~its~~  
13 effective date.

14 (Source: P.A. 94-677, eff. 8-25-05.)