

SENATE BILL 442

By Overbey

AN ACT to amend Tennessee Code Annotated, Section 8-42-101; Section 33-6-901 and Section 33-6-407, relative to immunity from liability for health care providers and health care facilities.

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

SECTION 1. Tennessee Code Annotated, Section 33-6-407, is amended by adding the following language as a new subsection (e):

(e) A hospital, treatment resource, or health care provider shall be immune from any civil liability and shall have an affirmative defense to any criminal liability arising either from a determination relative to admission of a person to a facility or treatment resource or from the transportation of a person to and from the hospital or treatment resource.

SECTION 2. Tennessee Code Annotated, Section 33-6-901(a)(3), is amended by deleting subdivision (a)(3) and by substituting instead the following:

(3)

(A) If a physician, psychologist, or designated professional, operating under § 33-6-404(3)(B)(iii), determines to a reasonable degree of professional certainty that the person subject to transportation under this part does not require physical restraint or vehicle security and does not pose a reasonable risk of danger to the person's self or others, then the sheriff may permit one (1) or more persons designated under this section, other than the sheriff or secondary transportation agent, to transport the person; provided, that the person or persons provide proof of current automobile insurance. Before a person is transported, the sheriff or other transportation agent designated under § 33-6-901(a)(1) or (2) shall give the notice required by § 33-6-406(b), along with

the name or names of the person or persons who will actually transport the person subject to admission to a hospital or treatment resource. The person or persons designated to transport under this section must comply with the requirements of § 33-6-406(b)(2) and (3), § 33-6-407(c), and must provide the original of the certificate completed under § 33-6-404(3)(B)(ii) to the hospital or treatment resource.

(B) When making this determination, the physician, psychologist or designated professional operating under § 33-6-404(3)(B)(iii) shall be immune from any civil liability and shall have an affirmative defense to any criminal liability arising from that protected activity.

(C) When making this determination, if the physician, psychologist or designated professional operating under § 33-6-404(3)(B)(iii) is an agent of a hospital, health care facility, or community mental health center, that hospital, health care facility, or community mental health center shall be immune from any civil liability and shall have an affirmative defense to any criminal liability arising from this agent's protected activity and from the transportation of the person to and from the facility.

SECTION 3. Tennessee Code Annotated, Section 8-42-101(3)(D), is amended by adding the word "sole" in the last sentence between the words "the" and "employer".

SECTION 4. This act shall take effect July 1, 2013, the public welfare requiring it.