

## COMPARISON OF GAZETTE NOTIFICATIONS WITH DRAFT KARNATAKA GOOD SAMARITAN & MEDICAL PROFESSIONAL (PROTECTION & REGULATION DURING EMERGENCY SITUATIONS) BILL

### Introduction

In a notification published in the official Gazette (Notification no. 25035/101/2014-RS) issued on May 12, 2015, the Ministry of Road Transport and Highways had issued guidelines on protection of Good Samaritans (those who help road accident victims) following a Supreme Court order in WP (C) 235 of 2012 *SaveLIFE Foundation v. Union of India*. Furthermore, the Ministry also issued Standard Operating Procedures for examination of Good Samaritans by the Police or during trial. The guidelines lay down the rights of the Good Samaritan, protection from civil and criminal liability for helping an accident victim, duties of a hospital and methods of examination. **On March 30, 2016, the aforementioned guidelines and Standard Operating Procedures were incorporated by the apex court in its final judgment providing protection to Good Samaritans.**

While the guidelines and SOPs lay down the rights of Good Samaritans and duties of hospitals and police, ***the Karnataka Good Samaritan & Medical Professional (Protection & Regulation during Emergency Situations) Bill***, hereinafter “draft Bill”, has gone beyond the guidelines and provided a legislative framework detailing provisions of rights, procedures of examination and duties of hospitals, and extends the scope of the protection to victims of other incidents of violence and any other incident in which a Good Samaritan may be harassed. The Bill has also detailed penalties for offences that have been specified in the Bill. Further, the Bill also protects medical professionals during examination.

Detailed below is a detailed comparison of the draft Good Samaritan & Medical Professional (Protection & Regulation during Emergency Situations) Bill with the Government of India guidelines protecting Good Samaritans.

### EXTENDED SCOPE OF THE BILL VIS-À-VIS THE GUIDELINES

#### 1. Protection extended to all emergencies

**Guidelines/SOPs:** The scope of the guidelines extends to only road accident victims.

**Draft Bill:** Good Samaritans are extended protection for rendering emergency aid to victims of all emergencies including violence or any incidence of crime.

#### 2. Definition of “Hospital”

**Guidelines/SOPs:** The guidelines have limited the scope of an institution offering medical services to “hospitals”, thereby not including in its ambit other institutions such as nursing homes, single doctors, clinics, medical establishments owned by trusts, societies etc.

**Draft Bill:** In the Draft Bill, the definition of the term “Hospital” is a deviation from the guidelines insofar as it includes all establishments or institutions that offers services, facilities requiring diagnosis, treatment or care for illness, injury, deformity, abnormality, or pregnancy, including emergency care.

### 3. Protection from civil and criminal liability

**Guidelines/SOPs:** The guidelines merely state that the bystander or Good Samaritan shall not be liable for any civil and criminal liability. They **do not state conditions** such as whether such protection is granted when he renders emergency care at the scene, brings the injured to a clinical establishment, calls the ambulance, or takes assistance from passers-by.

**Draft Bill:** Protection of Good Samaritans from civil and criminal liability has been provided under Section 3. It details the **conditions in which such protection from civil and criminal liability shall apply**, including express or implied consent from the victim or his family. Furthermore, it provides that in case more than one person brings an injured to the clinical establishment, the court shall presume, jointly and severally, such persons to be Good Samaritans.

### 4. Rights of a Good Samaritan

**Guidelines/SOPs:** In the guidelines, disciplinary or departmental action can **only be carried out against a public official for only coercing or intimidating a Good Samaritan to reveal name or personal details.**

**Draft Bill:** A **grievance redressal mechanism is provided** to the Good Samaritan for any grievance against a police officer, or medical professional, or clinical establishment for harassment or intimidation, with initiation of a departmental enquiry. It further states that such departmental action will be completed and the Good Samaritan shall receive all reports of such enquiry.

### 5. Evidence of Medical Professionals

**Guidelines/SOPs:** In the guidelines, **no protection is granted to medical professionals** causing inconvenience to them as they are liable to appear before the court to give evidence.

**Draft Bill:** The Draft Bill extends the protection to medical professionals as well, with respect to their testimony before the court. It specifies that their testimony shall be, as far as possible to be done, in a single occasion. If it is absolutely necessary to summon the medical professional, reasons for the same will be given in writing.

### 6. Hospital’s duty to assist

**Guidelines/SOPs:** The guidelines do not impose any duty on “Hospitals” to assist a victim in need of emergency care.

**Draft Bill:** The Draft Bill provides expressly that every Hospital or medical professional designated by a medical establishment is **required to provide immediate medical screening services** and first-aid, within its capacity, in order to stabilise the victim.

## 7. Duties of Clinical Establishment

**Guidelines/SOPs:** In the guidelines, no duties have been specified for the Hospitals, except the publishing of a charter to be pasted at the entrance of the hospital.

**Draft Bill:** The Draft Bill specifies that **every hospital is required to inform the police** as soon as an injured person is brought by any Good Samaritan.

## 8. Good Samaritan Fund

**Guidelines/SOPs:** The guidelines do not specify any fund or any mechanism to realize the expenditure incurred by any clinical establishment for the stabilization of a victim.

**Draft Bill:** The Draft Bill specifies that a **Good Samaritan fund shall be constituted** to which grants and loans made to an appropriate authority by the State Government or any other sources prescribed by the State Government shall be credited. It also specifies that the **appropriate authority at the district level shall be responsible for implementation and administration of the fund.**

## 9. Attending the Court as a witness

**Guidelines/SOPs:** The guidelines and SOPs do not expressly provide for legal proceedings to be completed within any prescribed time.

**Draft Bill:** The Draft Bill expressly provides that the examination-in-chief and cross-examination a Good Samaritan shall be completed in **no more than three hearings, no adjournment or postponement shall be granted** if the Good Samaritan is in Court, and in case it is adjourned or postponed, exemplary costs are to be paid by prosecution or accused.

## 10. Expenses of the Good Samaritan

**Guidelines/SOPs:** In case a Good Samaritan volunteers to testify before the court, the guidelines do not provide any mechanism for payment of expenses to the Good Samaritan.

**Draft Bill:** The Draft Bill specifies that the **court can order the government to pay reasonable expenses** to a Good Samaritan who is a witness for the purposes of any enquiry, trial or other proceedings before the court, which will include cost of transportation, loss of daily wage, expenses incurred in transporting the victim up to a minimum of rupees one thousand per day, and such payment will be made on the day the Good Samaritan is in attendance in court.

## **11. Offences and Penalties**

**Guidelines/SOPs:** In the guidelines, there are no prescribed penalties as it is a government notification.

**Draft Bill: Non-compliance of any of the provisions of the Draft Bill can attract a penalty** on the Hospital, company, trust, society, or medical professionals, respectively. A detailed chapter to that effect has been incorporated in the Bill.

## **12. Power of State Government to make additional rules and schemes**

**Guidelines/SOPs:** No provisions have been given in the guidelines and SOPs in this regard.

**Draft Bill:** To assist a Good Samaritan, the State Government has been delegated powers to make additional rules on the rights and treatment as witnesses, court proceedings and protection of medical professionals. It also has provided for making schemes on payment of expenses, free legal aid to Good Samaritans, promoting rights of Good Samaritans, and training in first aid, emergency care, CPR etc. for emergency personnel including police.