

KARNATAKA GOOD SAMARITAN BILL | SALIENT FEATURES

Introduction

The Karnataka Good Samaritan & Medical Professional (Protection & Regulation during Emergency Situations) Bill 2016 aims to facilitate the fundamental right of access to emergency care and treatment for injured persons, which is a key aspect of the right to life. According to the 201st report of the Law Commission of India, 50 percent of road crash deaths can be averted if the victims are admitted to a hospital within the first hour of the accident. In the absence of an efficient Emergency Medical Services system in India, bystanders can play a crucial role in providing assistance to victims within the first one hour. In order to ensure that timely assistance is provided to road accident victims, the Bill provides protection to Good Samaritans from civil and criminal liabilities by establishing a supportive legal environment.

The Bill has a total of IX chapters having 30 sections, which elaborates upon the rights of Good Samaritans and obligations vis-à-vis hospitals, law enforcement and court proceedings. The Bill also provides certain procedural protections for medical professionals.

Below are the salient features of the Bill,

CHAPTER I: PRELIMINARY

The definition of Good Samaritan in the draft Bill encompasses various emergency situations in addition to road accidents. It states that a Good Samaritan is a person without any duty of care or special relationship. In the Draft Bill, the definition of the term “Hospital” includes all establishments or institutions that offers services, facilities requiring diagnosis, treatment or care for illness, injury, deformity, abnormality, or pregnancy, including emergency care.

CHAPTER II: PROTECTION FOR GOOD SAMARITANS

The scope of the protection is broader in the Bill to include any emergency medical condition. A Good Samaritan shall not incur any civil and criminal liability for rendering emergency care at the scene of an accident, or crash, or emergency situation, or emergency medical condition. It also elaborates upon the rights of the Good Samaritan with respect to the Police, medical establishments etc.

CHAPTER III: PROTECTION FOR MEDICAL PROFESSIONALS

Besides providing protection to Good Samaritans, the Bill also seeks to provide protection to medical professionals, who treat road accident victims, from ensuing legal hassles. This chapter provides that the examination of any medical professional shall, as far as possible, be conducted through video-conferencing or other means of audio-visual telecommunication. Additionally, evidence of any medical professional can be given by affidavit.

CHAPTER IV: DUTY OF HOSPITALS & PROCEDURAL REQUIREMENTS

The provisions provided under this chapter mandate hospitals to assist the injured and no hospital can refuse to render emergency care or first-aid. It also provides that a Good Samaritan cannot be detained in a hospital for non-payment of fees and no hospital can force him/her to reveal personal details such as name and address.

CHAPTER V: POLICE INVESTIGATION OF GOOD SAMARITANS

The provisions provided under this chapter detail the Standard Operating Procedures (SOPs) to be followed by the police officials in case of examination of a Good Samaritan, who voluntarily becomes a witness.

CHAPTER VI: ESTABLISHMENT OF GOOD SAMARITAN FUND

The provisions under this chapter give the power to the State Government to constitute a Good Samaritan fund and make rules for the reimbursement of charges or expenses incurred by the hospital towards the treatment provided.

CHAPTER VII: FACILITATION OF LEGAL PROCEEDINGS

The provisions under this chapter provide a mechanism for the examination of a Good Samaritan, in case he chooses to be a witness, before the court. If it appears to the court that examination is absolutely necessary, the examination and cross-examination will be conducted on the same day. Furthermore, no adjournment or postponement can be granted except for reasons recorded in writing, and if absolutely necessary, exemplary cost is to be paid to the Good Samaritan by the prosecution.

CHAPTER VIII: OFFENCES & PENALTIES

This chapter provides an exhaustive penalty framework for non-compliance of above mentioned provisions by a police official or a medical professional. The provision also states that lack of response by a doctor shall be considered "Professional Misconduct" under Chapter 7 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulation, 2002, and disciplinary action to be taken against the medical professional.

CHAPTER IX: MISCELLANEOUS

This chapter gives the power to the State of Karnataka to make rules, as it deems fit, and make schemes for the additional assistance of Good Samaritans.