

Bill No. 172 of 2019

THE GOOD SAMARITAN BILL, 2019

By

SHRI HIBI EDEN, M.P.

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BILL

to mandate emergency medical treatment by hospitals and medical practitioners to victims of accidents without raising any objection that the cases are medico-legal and without demanding any advance payment as a condition for providing of emergency medical treatment and to provide legal protection to good samaritan and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Good Samaritan Act, 2019.

(2) It extends to the whole of India.

5 (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "accident" means an accident including a road, rail or an air accident resulting in severe bodily pain or serious injury to human beings who are in emergency medical condition;

(b) "appropriate Government" means the case of State, the Government of that State and in all other cases, the Central Government;

(c) "emergency medical condition" means a medical condition manifesting acute symptoms or severity, a medical condition or pain and includes a medical condition where the absence of emergency medical treatment may result in—

(i) death of the person, or

(ii) serious jeopardy in the health of the person, or

(iii) serious impairment of bodily functions, or

(iv) serious dysfunction of any bodily organ or part;

(d) "emergency medical treatment" means an action which is required to be taken, after screening of a person injured in an accident or who is in an emergency medical condition, as to the stabilization of the person and the providing of such further treatment as may, in the opinion of the hospital or medical practitioner is necessary to arrest further deterioration of the medical condition of the victims of accident or prevention of this death;

(e) "good samaritan" means a person who voluntarily gives help to those in distress or need and requires emergency medical treatment;

(f) "hospital" includes a nursing home, clinic, medical centre, medical institution or hospital having emergency department or facilities for emergency medical treatment;

(g) "medical practitioner" means a medical practitioner who possesses any recognized medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956 and who is enrolled in a State Medical Register as defined in clause (k) of that section and includes a private medical practitioner; and

(h) "prescribed" means prescribed by rules made under this Act; and

(i) "stabilize" means, with respect to an emergency medical condition and the word 'stabilized' shall be understood accordingly.

3. (1) Every hospital and medical practitioner shall provide emergency medical treatment to every victim of an accident who has come his own or has been brought in an emergency medical condition to the hospital or to the medical practitioner:

Duty of doctors in hospitals and medical practitioner in emergency medical conditions.

Provided that if any hospital is not equipped to deal with the emergency medical treatment for any reason, it shall assist in transferring and directing the victim to the nearest hospital where such emergency medical treatment is available.

(2) Without prejudice to anything contained in sub-section (1), every hospital and medical practitioner shall, while providing emergency medical treatment to a victim of an accident shall not—

(i) insist that it is a medico-legal case requiring information to the police authorities;

(ii) insist for making any payment for the screening and emergency medical treatment;

(iii) inquire into facts whether victim has medical insurance or is a member of any medical scheme; and

(iv) raise any other unreasonable objection.

4. Every hospital and medical practitioner shall maintain a separate register containing the following information, namely:—

Maintenance of records.

- 5 (a) name and address of the person injured, date and place of accident as reported, nature of injuries and other relevant details and the person who brought injured person to hospital;
- (b) name and address of the person purportedly brought in emergency medical condition, nature of emergency and nature of medical condition;
- (c) details of the screening medical tests done and the determination of emergency condition;
- 10 (d) informed consent by victim, if given for emergency medical treatment including stabilization or for transfer or if he refused them;
- (e) detail of medical treatment not given for want of facilities at hospital;
- (f) detail of surgery conducted, alongwith time, date and hours of treatment;
- (g) details of transfer to another hospital or medical practitioner;
- 15 (h) details of fee paid to consultants or for laboratories tests;
- (i) details of expenditure incurred on emergency medical treatment; and
- (j) other particulars a hospital or medical practitioner requires to comply under this act.

20 5. (1) A good samaritan shall not be liable to any civil or criminal liability in respect of anything done or cause to have been done to save the life of a person in an emergency medical condition.

Exemption from civil or criminal liability to good samaritan and their rights.

(2) Without prejudice to the generality of the foregoing provision, a good samaritan, in respect of accidents in which he helps in saving life of a person in an emergency medical condition, shall have the following rights, namely:—

- 25 (a) he shall be treated respectfully and without any discrimination on the ground of gender, religion, nationality and caste;
- (b) he shall not be required or compelled to file a First Information Report unless he decides otherwise;
- (c) he shall not be detained by the hospital or any police official for any reason including, but not limited to,—
- 30 (i) finding or confirming the identity of the person in an emergency medical condition;
- (ii) any questioning unless he decides to stay and respond; and
- 35 (iii) standing as witness or providing evidence to the police or any other person; and
- (d) he shall not be forced to reveal his identity address, phone number or such other details.
- (3) where a Good Samaritan chooses to assist in the investigation of an accident,—
- (a) the police shall act with sensitivity towards him and complete the recording of his statement and all other proceedings relating to him in a timely manner with utmost care and respect;
- 40 (b) his examination shall be conducted at a time and place of his convenience and the investigation officer be dressed in plain clothes;

(c) if he is required by the investigation officer to visit the police station, in a single examination in a reasonable and time-bound manner and the reasons for the requirement shall be recorded by the officer in writing; and

(d) if declares himself to be an eyewitness, he shall be allowed to give his evidence in the form of an affidavit. 5

Educational Institution to impart training in first-aid.

6. It shall be the duty of every educational institution to impart training to its students in first-aid for such duration as may be prescribed.

Central Government to provide adequate fund.

7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds for carrying out the purposes of this act.

Act to have overriding effect.

8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this act. 10

Power to remove difficulties.

9. (1) If any difficulty arises in giving effect to the provision of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removal of the difficulty: 15

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of parliament. 20

Power to make rules.

10. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 25 30

STATEMENT OF OBJECTS AND REASONS

Albert Einstein had stated that "The world is a dangerous place, not because of those who do evil, but because of those who look on and do nothing".

In India, number of accidents and resulting deaths thereby are increasing at an alarming rate which needs to be curtailed. Most of the deaths in such road accidents took place due to lack of emergency medical treatments to the persons meeting accidents. In India more than fifteen people lose their life every hour to traffic accidents. It is required that bystanders and Police should play an active role in saving lives of the persons injured in accidents. Our criminal procedure needs to be revisited to minimise the fatalities on the road and the hospitals be put under an obligation to provide emergency medical treatment to the persons in need. The whole criminal and judicial process should be such that the name and identity of Good Samaritans be kept anonymous. In India where people believe that a pizza arrives faster than an ambulance, the need is to have a conducive legal and ethical environment for bystanders to help injured victims and a strong legal framework to encourage bystanders to step forward.

The Law Commission of India observes that fifty per cent. of those killed in road accidents could have been saved had timely assistance been rendered to them. World Health Organisation report claims that "skilled and empowered bystanders play a crucial role in saving lives" and "in order to enable bystanders to come forward and help injured persons, a supportive legal and ethical environment is needed".

The Bill aims at addressing all these crucial questions by making it a law encouraging people to help others in danger in road accidents and exempting such helping persons from criminal or civil liability for such good work.

Hence this Bill.

NEW DELHI;
June 26, 2019.

HIBI EDEN

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for imparting of training to student by every educational institution. Clause 7 of the Bill provides that the Central Government shall provide adequate funds to the State Government for carrying out the purposes of this Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees five hundred crore will be involved per annum.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

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