

ADOPTED

1 Senators Clay of the 37th and Tanksley of the 32nd offered the following amendment:

2 Amend the Senate Health and Human Services Committee substitute to HB 372 by inserting
3 on line 5 of page 1 after the word and symbol "area;" the following:

4 "to amend Title 51 of the Official Code of Georgia Annotated, relating to torts, so as to
5 limit vicarious liability of a hospital or health care provider; to provide for definitions;"

6 By inserting between lines 13 and 14 of page 2 the following:

"SECTION 2A.

7
8 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by adding
9 a new Code section following Code Section 51-2-4, relating to liability for torts of
10 independent employee, to read as follows:

11 '51-2-4.1.

12 (a) As used in this Code section, the term:

13 (1) "Health care provider" means any person licensed under Chapter 9, 11, 26, 30, 33, 34,
14 35, or 39 of Title 43 who provides care or assistance to an individual who has an
15 emergency medical condition within the scope of the health care provider's license, either
16 voluntarily or at the request of a hospital including, but not limited to, any health care
17 provider who is "on call" to a hospital.

18 (2) "Hospital" means a facility that has a valid permit or provisional permit issued by the
19 Department of Human Resources under Chapter 7 of Title 31 and that operates an
20 emergency room that provides care or assistance to individuals who have an emergency
21 medical condition. This term shall also include any employee of the hospital who
22 provides care or assistance to individuals within the scope of his or her employment,
23 whether or not the person is a health care provider.

24 (b) A hospital or health care provider shall not be vicariously liable for the actions of a
25 physician engaged as an independent contractor unless there is an independent act of
26 negligence and an actual employment relationship exists between the physician and
27 hospital or health care provider."