

Department of Planning and Budget
2020 Special Session I - Fiscal Impact Statement

1. Bill Number: SB5023

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Norment

3. Committee: Judiciary

4. Title: Health care providers; certain immunity during disaster under specific circumstances, etc.

5. Summary: Under current law, any health care provider who responds to a disaster is not liable for any injury or wrongful death of any person arising from the delivery or withholding of health care when (i) a state or local emergency has been or is subsequently declared in response to such disaster; and (ii) the emergency and subsequent conditions caused a lack of resources, attributable to the disaster, rendering the health care provider unable to provide the level or manner of care that otherwise would have been required in the absence of the emergency and which resulted in the injury or wrongful death at issue.

This bill amends this section to remove the references to lack of resources during the emergency and extends immunity to health care providers who act in good faith. The bill also provides that this section shall be in addition to, and shall not be in lieu of, any immunities provided in other state or federal law.

This bill defines the terms local emergency, resource shortage, and state of emergency as they are defined in § 44-146.16 (Emergency Services and Disaster Law. Definitions).

The bill defines the term responds to a disaster as (i) complying with an Order of Public Health Emergency, including withholding the provision of procedures, consultations, or surgeries pursuant to an Order of Public Health Emergency; (ii) adopting altered standards of care due to insufficient availability of medical resources including personal protective equipment, drugs, blood products, supplies, or equipment or insufficient availability of trained staff; (iii) allowing a licensed health care provider to deliver care that, while included in the scope of his licensure, exceeds the scope of his credentials at the hospital or other health care facility at which he delivers services or that exceeds the scope of services he normally provides; (iv) delivering care in an alternate care site; (v) implementing or executing triage protocols or scarce resource allocation policies necessitated by health care provider declaration of crisis standards of care; and (vi) using supplies or equipment in a manner that is different from the manner in which such supplies or equipment are usually used in cases other than those involving a local emergency or state of emergency.

The bill also clarifies that the definition of a communicable disease of public health threat includes a pathogen or illness declared a global pandemic by the World Health Organization.

- 6. Budget Amendment Necessary:** No
- 7. Fiscal Impact Estimates:** Preliminary. See Item 8 below.
- 8. Fiscal Implications:** This bill is not expected to have a fiscal impact on state agencies.
- 9. Specific Agency or Political Subdivisions Affected:** Virginia Department of Health,
Department of Medical Assistance Services, Virginia Department of Emergency
Management
- 10. Technical Amendment Necessary:** No
- 11. Other Comments:** None