

## Session 119 - (2011-2012)

### **S 0771 General Bill, By Peeler, Bryant and Cleary**

#### ***Similar (H 4008)***

#### **Summary:** Hospitals' liability

A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-7-390 SO AS TO PROVIDE THAT THERE IS NO MONETARY LIABILITY, AND NO CAUSE OF ACTION IS CREATED, BY A HOSPITAL UNDERTAKING OR PERFORMING CERTAIN ACTS IF NOT DONE WITH MALICE; BY ADDING SECTION 44-7-392 SO AS TO PROVIDE THAT CERTAIN HOSPITAL PROCEEDINGS AND DATA, DOCUMENTS, RECORDS, AND INFORMATION RESULTING FROM THESE PROCEEDINGS ARE CONFIDENTIAL AND NOT SUBJECT TO DISCOVERY OR SUBPOENA AND MAY NOT BE USED AS EVIDENCE IN A CIVIL ACTION UNLESS THE HOSPITAL HAS WAIVED CONFIDENTIALITY OR THE DATA, DOCUMENTS, RECORDS, OR INFORMATION ARE OTHERWISE AVAILABLE AND SUBJECT TO DISCOVERY; TO PROVIDE THAT THE OUTCOME OF A PRACTITIONER'S APPLICATION FOR HOSPITAL STAFF MEMBERSHIP OR CLINICAL PRIVILEGES IS NOT CONFIDENTIAL BUT THAT THE APPLICATION AND SUPPORTING DOCUMENTS ARE CONFIDENTIAL; TO PROVIDE THAT DISCLOSURE OF CERTAIN INFORMATION BY A HOSPITAL THROUGH REPORTS TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, THE JOINT COMMISSION, OR THE BOARD OF MEDICAL EXAMINERS IS NOT A WAIVER OF ANY PRIVILEGE OR CONFIDENTIALITY; AND TO PROVIDE THAT AN AFFECTED PERSON MAY FILE AN ACTION TO ASSERT A CLAIM OF CONFIDENTIALITY AND TO ENJOIN THE HOSPITAL, THE JOINT COMMISSION, OR THE BOARD OF MEDICAL EXAMINERS FROM RELEASING SUCH INFORMATION, AND IF THE COURT FINDS THAT THE PERSON ACTED UNREASONABLY IN ASSERTING THIS CLAIM, THE COURT SHALL ASSESS ATTORNEY'S FEES AGAINST THAT PERSON; BY ADDING SECTION 44-7-394 SO AS TO PROVIDE THAT IF IN A JUDICIAL PROCEEDING THE COURT FINDS DOCUMENTS, OVER WHICH THE HOSPITAL ASSERTED A CLAIM OF CONFIDENTIALITY, ARE NOT SUBJECT TO CONFIDENTIALITY AND THAT THE HOSPITAL ACTED UNREASONABLY IN ASSERTING THIS CLAIM, THE COURT SHALL ASSESS ATTORNEY'S FEES AGAINST THE HOSPITAL FOR COSTS INCURRED BY THE REQUESTING PARTY TO OBTAIN THE DOCUMENTS; AND TO AMEND SECTION 40-71-10, RELATING TO THE EXEMPTION FROM TORT LIABILITY FOR MEMBERS OF CERTAIN PROFESSIONAL COMMITTEES, SO AS TO DELETE FROM THE EXEMPTION AN APPOINTED MEMBER OF A COMMITTEE OF A MEDICAL STAFF OF A HOSPITAL IF THE STAFF OPERATES PURSUANT TO WRITTEN BYLAWS APPROVED BY THE GOVERNING BOARD OF THE HOSPITAL.

**04/06/11 Senate Introduced and read first time (Senate Journal-page 9)**

**04/06/11 Senate Referred to Committee on Medical Affairs (Senate Journal-page 9)**

**03/22/12 Senate Committee report: Favorable with amendment Medical Affairs (Senate Journal-page 8)**

**03/23/12 Scrivener's error corrected**