

SENATE BILL NO. 316—SENATOR NOLAN

MARCH 24, 2005

Referred to Committee on Judiciary

SUMMARY—Limits civil liability of certain persons providing gratuitous services under certain circumstances. (BDR 3-739)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted-material~~ is material to be omitted.

AN ACT relating to civil liability; limiting the liability of certain volunteers of a charitable organization under certain circumstances; limiting the liability of an attorney who provides pro bono legal services under certain circumstances; limiting the liability of certain medical providers who render gratuitous care or assistance for certain entities under certain circumstances; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. NRS 41.485 is hereby amended to read as follows:
2 41.485 1. Except as otherwise provided in subsection ~~2,~~ 3, a
3 volunteer of a charitable organization is immune from liability for
4 civil damages as a result of an act or omission:
5 (a) Of an agent of the charitable organization; or
6 (b) Concerning services he performs for the charitable
7 organization ~~[that are not supervisory in nature and are not part of~~
8 ~~any duties or responsibilities he may have as an officer, director or~~
9 ~~trustee of the charitable organization,]~~ unless his act ~~[is intentional,~~
10 ~~willful, wanton or malicious.]~~ or omission was the result of willful
11 or criminal misconduct, gross negligence, reckless misconduct, or
12 a conscious, flagrant indifference to the rights or safety of the
13 person harmed.



1 2. *An attorney who provides pro bono legal services to a*
2 *client is immune from liability for civil damages as a result of an*
3 *act or omission concerning the pro bono legal services he*
4 *performs for the client unless his act or omission was the result of*
5 *willful or criminal misconduct, gross negligence, reckless*
6 *misconduct, or a conscious, flagrant indifference to the rights or*
7 *safety of the client harmed.*

8 3. This section does not restrict the liability of a charitable
9 organization for the acts or omissions of a volunteer performing
10 services on its behalf.

11 ~~3.~~ 4. As used in this section:

12 (a) "Agent" means an officer, director, trustee or employee,
13 whether or not compensated, or a volunteer;

14 (b) "Charitable organization" means a nonprofit corporation,
15 association or organization, or a licensed medical facility or facility
16 for the dependent, but does not include a fire department, law
17 enforcement agency or auxiliary thereof; and

18 (c) "Volunteer" means an officer, director, trustee or other
19 person who performs services without compensation, other than
20 reimbursement for actual and necessary expenses on behalf of or to
21 benefit a charitable organization.

22 **Sec. 2.** NRS 41.500 is hereby amended to read as follows:

23 41.500 1. Except as otherwise provided in NRS 41.505, any
24 person in this State who renders emergency care or assistance in an
25 emergency, gratuitously and in good faith, is not liable for any civil
26 damages as a result of any act or omission, not amounting to gross
27 negligence, by him in rendering the emergency care or assistance or
28 as a result of any act or failure to act, not amounting to gross
29 negligence, to provide or arrange for further medical treatment for
30 the injured person.

31 2. Any person in this State who acts as a driver of an
32 ambulance or attendant on an ambulance operated by a volunteer
33 service or as a volunteer driver or attendant on an ambulance
34 operated by a political subdivision of this State, or owned by the
35 Federal Government and operated by a contractor of the Federal
36 Government, and who in good faith renders emergency care or
37 assistance to any injured or ill person, whether at the scene of an
38 emergency or while transporting an injured or ill person to or from
39 any clinic, doctor's office or other medical facility, is not liable for
40 any civil damages as a result of any act or omission, not amounting
41 to gross negligence, by him in rendering the emergency care or
42 assistance, or as a result of any act or failure to act, not amounting to
43 gross negligence, to provide or arrange for further medical treatment
44 for the injured or ill person.



1 3. Any appointed member of a volunteer service operating an
2 ambulance or an appointed volunteer serving on an ambulance
3 operated by a political subdivision of this State, other than a driver
4 or attendant, of an ambulance, is not liable for any civil damages as
5 a result of any act or omission, not amounting to gross negligence,
6 by him whenever he is performing his duties in good faith.

7 4. Any person who is a member of a search and rescue
8 organization in this State under the direct supervision of any county
9 sheriff who in good faith renders care or assistance in an emergency
10 to any injured or ill person, whether at the scene of an emergency or
11 while transporting an injured or ill person to or from any clinic,
12 doctor's office or other medical facility, is not liable for any civil
13 damages as a result of any act or omission, not amounting to gross
14 negligence, by him in rendering the emergency care or assistance, or
15 as a result of any act or failure to act, not amounting to gross
16 negligence, to provide or arrange for further medical treatment for
17 the injured or ill person.

18 5. Any person who is employed by or serves as a volunteer for
19 a public fire-fighting agency and who is authorized pursuant to
20 chapter 450B of NRS to render emergency medical care at the scene
21 of an emergency is not liable for any civil damages as a result of any
22 act or omission, not amounting to gross negligence, by that person
23 in rendering that care or as a result of any act or failure to act, not
24 amounting to gross negligence, to provide or arrange for further
25 medical treatment for the injured or ill person.

26 6. Any person who:

27 (a) Has successfully completed a course in cardiopulmonary
28 resuscitation according to the guidelines of the American National
29 Red Cross or American Heart Association;

30 (b) Has successfully completed the training requirements of a
31 course in basic emergency care of a person in cardiac arrest
32 conducted in accordance with the standards of the American Heart
33 Association; or

34 (c) Is directed by the instructions of a dispatcher for an
35 ambulance, air ambulance or other agency that provides emergency
36 medical services before its arrival at the scene of the emergency,

37 and who in good faith renders cardiopulmonary resuscitation in
38 accordance with his training or the direction, other than in the
39 course of his regular employment or profession, is not liable for any
40 civil damages as a result of any act or omission, not amounting to
41 gross negligence, by that person in rendering that care.

42 7. For the purposes of subsection 6, a person who:

43 (a) Is required to be certified in the administration of
44 cardiopulmonary resuscitation pursuant to NRS 391.092; and



1 (b) In good faith renders cardiopulmonary resuscitation on the
2 property of a public school or in connection with a transportation of
3 pupils to or from a public school or while on activities that are part
4 of the program of a public school,

5 ➔ shall be presumed to have acted other than in the course of his
6 regular employment or profession.

7 8. Any person who:

8 (a) Has successfully completed a course in cardiopulmonary
9 resuscitation and training in the operation and use of an automated
10 external defibrillator that were conducted in accordance with the
11 standards of the American Heart Association or the American
12 National Red Cross; and

13 (b) Gratuitously and in good faith renders emergency medical
14 care involving the use of an automated external defibrillator in
15 accordance with his training,

16 ➔ is not liable for any civil damages as a result of any act or
17 omission, not amounting to gross negligence, by that person in
18 rendering that care.

19 9. A person or governmental entity that provided the requisite
20 training set forth in subsection 8 to a person who renders emergency
21 care in accordance with subsection 8 is not liable for any civil
22 damages as a result of any act or omission, not amounting to gross
23 negligence, by the person rendering such care.

24 10. A business or organization that has placed an automated
25 external defibrillator for use on its premises is not liable for any
26 civil damages as a result of any act or omission, not amounting to
27 gross negligence, by the person rendering such care or for providing
28 the automated external defibrillator to the person for the purpose of
29 rendering such care if the business or organization:

30 (a) Complies with all current federal and state regulations
31 governing the use and placement of an automated external
32 defibrillator;

33 (b) Ensures that only a person who has at least the qualifications
34 set forth in subsection 8 uses the automated external defibrillator to
35 provide care;

36 (c) Ensures that the automated external defibrillator is
37 maintained and tested according to the operational guidelines
38 established by the manufacturer; and

39 (d) Establishes and maintains a program to ensure compliance
40 with current regulations, requirements for training, requirements for
41 notification of emergency medical assistance and guidelines for the
42 maintenance of the equipment.

43 11. As used in this section, “gratuitously” means that the
44 person receiving care or assistance is not required or expected to pay



1 any compensation or other remuneration ~~[for receiving]~~ *to the*
2 *person rendering* the care or assistance.

3 **Sec. 3.** NRS 41.505 is hereby amended to read as follows:

4 41.505 1. Any physician or registered nurse who in good
5 faith gives instruction or provides supervision to an emergency
6 medical attendant or registered nurse, at the scene of an emergency
7 or while transporting an ill or injured person from the scene of an
8 emergency, is not liable for any civil damages as a result of any act
9 or omission, not amounting to gross negligence, in giving that
10 instruction or providing that supervision. An emergency medical
11 attendant, registered nurse or licensed practical nurse who obeys an
12 instruction given by a physician, registered nurse or licensed
13 practical nurse and thereby renders emergency care, at the scene of
14 an emergency or while transporting an ill or injured person from the
15 scene of an emergency, is not liable for any civil damages as a result
16 of any act or omission, not amounting to gross negligence, in
17 rendering that emergency care.

18 2. Except as otherwise provided in subsection 3, any person
19 licensed under the provisions of chapter 630, 632 or 633 of NRS and
20 any person who holds an equivalent license issued by another state,
21 who renders emergency care or assistance in an emergency,
22 gratuitously and in good faith, is not liable for any civil damages as
23 a result of any act or omission, not amounting to gross negligence,
24 by him in rendering the emergency care or assistance or as a result
25 of any failure to act, not amounting to gross negligence, to provide
26 or arrange for further medical treatment for the injured or ill person.
27 This section does not excuse a physician or nurse from liability for
28 damages resulting from his acts or omissions which occur in a
29 licensed medical facility relative to any person with whom there is a
30 preexisting relationship as a patient.

31 3. Any person licensed under the provisions of chapter 630,
32 632 or 633 of NRS and any person who holds an equivalent license
33 issued by another state who renders emergency obstetrical care or
34 assistance to a pregnant woman during labor or the delivery of the
35 child is not liable for any civil damages as a result of any act or
36 omission by him in rendering that care or assistance if:

37 (a) The care or assistance is rendered in good faith and in a
38 manner not amounting to gross negligence or reckless, willful or
39 wanton conduct;

40 (b) The person has not previously provided prenatal or
41 obstetrical care to the woman; and

42 (c) The damages are reasonably related to or primarily caused
43 by a lack of prenatal care received by the woman.

44 ➤ A licensed medical facility in which such care or assistance is
45 rendered is not liable for any civil damages as a result of any act or



1 omission by the person in rendering that care or assistance if that
2 person is not liable for any civil damages pursuant to this subsection
3 and the actions of the medical facility relating to the rendering of
4 that care or assistance do not amount to gross negligence or
5 reckless, willful or wanton conduct.

6 4. Any person licensed under the provisions of chapter 630,
7 632 or 633 of NRS and any person who holds an equivalent license
8 issued by another state who:

9 (a) Is retired or otherwise does not practice on a full-time basis;
10 and

11 (b) Gratuitously and in good faith, renders medical care within
12 the scope of his license to an indigent person,

13 → is not liable for any civil damages as a result of any act or
14 omission by him, not amounting to gross negligence or reckless,
15 willful or wanton conduct, in rendering that care.

16 5. Any person licensed to practice medicine under the
17 provisions of chapter 630 or 633 of NRS or licensed to practice
18 dentistry under the provisions of chapter 631 of NRS who renders
19 care or assistance to a patient ~~[at a health care facility of]~~ for a
20 governmental entity or a nonprofit organization is not liable for any
21 civil damages as a result of any act or omission by him in rendering
22 that care or assistance if the care or assistance is rendered
23 gratuitously, in good faith and in a manner not amounting to gross
24 negligence or reckless, willful or wanton conduct.

25 6. As used in this section:

26 (a) "Emergency medical attendant" means a person licensed as
27 an attendant or certified as an emergency medical technician,
28 intermediate emergency medical technician or advanced emergency
29 medical technician pursuant to chapter 450B of NRS.

30 (b) "Gratuitously" has the meaning ascribed to it in NRS 41.500.

31 ~~[(c) "Health care facility" has the meaning ascribed to it in~~
32 ~~NRS 449.800.]~~

33 **Sec. 4.** The amendatory provisions of this act apply only to a
34 cause of action that accrues on or after October 1, 2005.



