

SENATE BILL NO. 316—SENATOR NOLAN

MARCH 24, 2005

Referred to Committee on Judiciary

SUMMARY—Revises provisions limiting civil liability of certain persons providing gratuitous services. (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; revising the provisions limiting the liability of a volunteer of a charitable organization; revising the provisions relating to limiting the liability of a person who renders gratuitous medical care involving the use of an automated external defibrillator; revising the provisions limiting the liability of certain medical providers who render gratuitous care or assistance for certain entities; 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. This section does not restrict the liability of a charitable
2 organization for the acts or omissions of a volunteer performing
3 services on its behalf.

4 3. As used in this section:

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

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

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

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

16 41.500 1. Except as otherwise provided in NRS 41.505, any
17 person in this State who renders emergency care or assistance in an
18 emergency, gratuitously and in good faith, is not liable for any civil
19 damages as a result of any act or omission, not amounting to gross
20 negligence, by him in rendering the emergency care or assistance or
21 as a result of any act or failure to act, not amounting to gross
22 negligence, to provide or arrange for further medical treatment for
23 the injured person.

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

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

44 4. Any person who is a member of a search and rescue
45 organization in this State under the direct supervision of any county



1 sheriff who in good faith renders care or assistance in an emergency
2 to any injured or ill person, whether at the scene of an emergency or
3 while transporting an injured or ill person to or from any clinic,
4 doctor's office or other medical facility, is not liable for any civil
5 damages as a result of any act or omission, not amounting to gross
6 negligence, by him in rendering the emergency care or assistance, or
7 as a result of any act or failure to act, not amounting to gross
8 negligence, to provide or arrange for further medical treatment for
9 the injured or ill person.

10 5. Any person who is employed by or serves as a volunteer for
11 a public fire-fighting agency and who is authorized pursuant to
12 chapter 450B of NRS to render emergency medical care at the scene
13 of an emergency is not liable for any civil damages as a result of any
14 act or omission, not amounting to gross negligence, by that person
15 in rendering that care or as a result of any act or failure to act, not
16 amounting to gross negligence, to provide or arrange for further
17 medical treatment for the injured or ill person.

18 6. Any person who:

19 (a) Has successfully completed a course in cardiopulmonary
20 resuscitation according to the guidelines of the American National
21 Red Cross or American Heart Association;

22 (b) Has successfully completed the training requirements of a
23 course in basic emergency care of a person in cardiac arrest
24 conducted in accordance with the standards of the American Heart
25 Association; or

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

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

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

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

37 (b) In good faith renders cardiopulmonary resuscitation on the
38 property of a public school or in connection with a transportation of
39 pupils to or from a public school or while on activities that are part
40 of the program of a public school,

41 ➤ shall be presumed to have acted other than in the course of his
42 regular employment or profession.

43 8. Any person who ~~f:~~

44 ~~—(a) Has successfully completed a course in cardiopulmonary~~
45 ~~resuscitation and training in the operation and use of an automated~~



1 ~~external defibrillator that were conducted in accordance with the~~
2 ~~standards of the American Heart Association or the American~~
3 ~~National Red Cross; and~~

4 ~~—(b) Gratuitously}] *gratuitously* and in good faith renders~~
5 emergency medical care involving the use of an automated external
6 defibrillator ~~[in accordance with his training,~~
7 ~~—}] is not liable for any civil damages as a result of any act or~~
8 omission, not amounting to gross negligence, by that person in
9 rendering that care.

10 9. ~~[A person or governmental entity that provided the requisite~~
11 ~~training set forth in subsection 8 to a person who renders emergency~~
12 ~~care in accordance with subsection 8 is not liable for any civil~~
13 ~~damages as a result of any act or omission, not amounting to gross~~
14 ~~negligence, by the person rendering such care.~~

15 ~~—10.] A business or organization that has placed an automated~~
16 external defibrillator for use on its premises is not liable for any
17 civil damages as a result of any act or omission, not amounting to
18 gross negligence, by the person rendering such care or for providing
19 the automated external defibrillator to the person for the purpose of
20 rendering such care if the business or organization:

21 (a) Complies with all current federal and state regulations
22 governing the use and placement of an automated external
23 defibrillator;

24 (b) ~~[Ensures that only a person who has at least the~~
25 ~~qualifications set forth in subsection 8 uses the automated external~~
26 ~~defibrillator to provide care;~~

27 ~~—(c)] Ensures that the automated external defibrillator is~~
28 maintained and tested according to the operational guidelines
29 established by the manufacturer; and

30 ~~[(d) Establishes and maintains a program to ensure compliance~~
31 ~~with current regulations, requirements for training.]~~

32 (c) *Establishes* requirements for *the* notification of emergency
33 medical assistance and guidelines for the maintenance of the
34 equipment.

35 **10.** As used in this section, “gratuitously” means that the
36 person receiving care or assistance is not required or expected to pay
37 any compensation or other remuneration for receiving the care or
38 assistance.

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

40 41.505 1. Any physician or registered nurse who in good
41 faith gives instruction or provides supervision to an emergency
42 medical attendant or registered nurse, at the scene of an emergency
43 or while transporting an ill or injured person from the scene of an
44 emergency, is not liable for any civil damages as a result of any act
45 or omission, not amounting to gross negligence, in giving that



1 instruction or providing that supervision. An emergency medical
2 attendant, registered nurse or licensed practical nurse who obeys an
3 instruction given by a physician, registered nurse or licensed
4 practical nurse and thereby renders emergency care, at the scene of
5 an emergency or while transporting an ill or injured person from the
6 scene of an emergency, is not liable for any civil damages as a result
7 of any act or omission, not amounting to gross negligence, in
8 rendering that emergency care.

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

22 3. Any person licensed under the provisions of chapter 630,
23 632 or 633 of NRS and any person who holds an equivalent license
24 issued by another state who renders emergency obstetrical care or
25 assistance to a pregnant woman during labor or the delivery of the
26 child is not liable for any civil damages as a result of any act or
27 omission by him in rendering that care or assistance if:

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

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

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

35 ↪ A licensed medical facility in which such care or assistance is
36 rendered is not liable for any civil damages as a result of any act or
37 omission by the person in rendering that care or assistance if that
38 person is not liable for any civil damages pursuant to this subsection
39 and the actions of the medical facility relating to the rendering of
40 that care or assistance do not amount to gross negligence or
41 reckless, willful or wanton conduct.

42 4. Any person licensed under the provisions of chapter 630,
43 632 or 633 of NRS and any person who holds an equivalent license
44 issued by another state who:



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

3 (b) Gratuitously and in good faith, renders medical care within
4 the scope of his license to an indigent person,
5 ➤ is not liable for any civil damages as a result of any act or
6 omission by him, not amounting to gross negligence or reckless,
7 willful or wanton conduct, in rendering that care.

8 5. Any person licensed to practice medicine under the
9 provisions of chapter 630 or 633 of NRS or licensed to practice
10 dentistry under the provisions of chapter 631 of NRS who renders
11 care or assistance to a patient ~~[at a health care facility of]~~ *for*
12 governmental entity or a nonprofit organization is not liable for any
13 civil damages as a result of any act or omission by him in rendering
14 that care or assistance if the care or assistance is rendered
15 gratuitously, in good faith and in a manner not amounting to gross
16 negligence or reckless, willful or wanton conduct.

17 6. As used in this section:

18 (a) "Emergency medical attendant" means a person licensed as
19 an attendant or certified as an emergency medical technician,
20 intermediate emergency medical technician or advanced emergency
21 medical technician pursuant to chapter 450B of NRS.

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

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

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



