

SENATE BILL REPORT

SHB 1209

As Passed Senate, April 5, 2021

Title: An act relating to immunity protection for nonmedical assistance.

Brief Description: Concerning immunity protection for nonmedical assistance.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Bronoske, Cody, Sells, Walen, Lekanoff, Peterson, Fey, Fitzgibbon, Ryu, Taylor, Shewmake, Santos, Thai, Ortiz-Self, Dolan, Gregerson, Hackney, Callan, Valdez, Riccelli, Macri and Goodman).

Brief History: Passed House: 3/3/21, 97-0.

Committee Activity: Law & Justice: 3/22/21, 3/25/21 [DP].

Floor Activity: Passed Senate: 4/5/21, 48-0.

Brief Summary of Bill

- Establishes immunity to civil liability for volunteer providers of certain nonmedical care who are acting in emergencies.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; McCune, Assistant Ranking Member; Darneille, Holy, Kuderer, Salomon and Wagoner.

Staff: Alicia Kinne-Clawson (786-7407)

Background: Statutory Immunity Provisions. A variety of immunity provisions exist in statute, including immunity for:

- uncompensated emergency care at the scene of an emergency;
- uncompensated health care services provided at a community health care setting;

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- gratuitous, good faith assistance provided at the scene of a boat collision;
- use of a defibrillator at the scene of an emergency;
- performance of duties by a poison center medical director or information specialist; and
- acts or omissions of paramedics and emergency medical technicians rendering emergency medical services under appropriate supervision.

The immunity afforded by these statutes does not extend to acts or omissions constituting gross negligence or willful or wanton misconduct.

Gross negligence is the failure to exercise slight care. It is negligence that is substantially greater than ordinary negligence. Failure to exercise slight care does not mean the total absence of care, but care substantially less than ordinary care.

Willful or wanton misconduct, rather than being a form or gradation of negligence, is a different mental state that includes premeditation or formed intention. It operates in the nature of a defense, such that with proof of willful or wanton misconduct an immunity provision is inapplicable.

Summary of Bill: Immunity from Civil Liability. A person is not liable for any act or omission while providing nonmedical care or assistance at the scene of an emergency or disaster, unless the act or omission rises to the level of gross negligence, or willful or wanton misconduct. The immunity does not apply to persons providing nonmedical care or assistance at the scene of an emergency or disaster who are:

- acting during the course of regular employment; and
- receiving compensation or expecting to receive compensation.

Compensation does not include nominal payments, reimbursement for expenses, pension benefits, and other categories identified in the bill.

Emergency or disaster is defined as:

- an event or set of circumstances that demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrence; or
- reaches such a dimension or degree of destructiveness to warrant the governor declaring a state of emergency.

Nonmedical care or assistance includes response and rescue operations as well as provision of necessities and amenities such as food or shelter.

The immunity granted under this bill is in addition to any common law or statutory immunity. It does not apply to emergency workers or the related volunteer organizations they may belong to.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill will provide protections for volunteers that render nonmedical assistance. In my community, there is a group, the community emergency response team, who goes out and helps their neighbors and friends in the event such as an emergency or natural disaster. They act as a force multiplier, checking on neighbors, entering homes, making sure everyone is okay. If they do need to provide nonmedical assistance, under this bill they would have protection if they are acting in good faith. It will allow more people to go out and volunteer when they are needed most. Our volunteers are prepared in the event of a major disaster to gather in designated places to help our neighbors. In the event of a disaster city responders may be days or weeks away from being able to get to people. We need to make whole the expectation that Washington residents can be part of any good response in line with the current Good Samaritan law. Today volunteers provide support without the protections that this bill would provide.

Persons Testifying: PRO: Representative Dan Bronoske, Prime Sponsor; Cindi Barker, Seattle Emergency Communications Hubs.

Persons Signed In To Testify But Not Testifying: No one.