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## Civil Rights & Judiciary Committee

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### HB 2088

**Brief Description:** Extending liability protections for responders dispatched from mobile rapid response crisis teams and community-based crisis teams.

**Sponsors:** Representatives Orwall, Reed, Ormsby, Ramel, Macri, Cheney, Lekanoff, Riccelli, Wylie and Reeves; by request of Health Care Authority.

#### Brief Summary of Bill

- Provides covered entities and personnel with immunity from civil liability for negligent acts and omissions while providing: (1) specified crisis care services under clinical supervision to persons experiencing a behavioral health crisis; or (2) transportation of patients to specified services.

**Hearing Date:** 1/23/24

**Staff:** John Burzynski (786-7133).

#### Background:

##### Civil Liability for Harming Another.

When one individual causes harm to another, whether inadvertently or intentionally, the victim can typically bring a civil action in court against the responsible party to recover money damages. Harmful acts or omissions that can provide a basis for a civil action can be categorized based on the culpability and mental state of the responsible party.

*Negligence.* Negligence is the failure to exercise ordinary care. It is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do some act that a reasonably careful person would have done under the same or similar

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

circumstances.

*Gross Negligence.* 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.

*Wanton Misconduct.* Wanton misconduct is the intentional doing of an act which one has a duty to refrain from doing, or the intentional failure to do an act which one has a duty to do, in reckless disregard of the consequences and under such surrounding circumstances and conditions that a reasonable person would know, or should know, that such conduct would, in a high degree of probability, result in substantial harm to another.

*Willful Misconduct.* Willful misconduct is the intentional doing of an act which one has a duty to refrain from doing, or the intentional failure to do an act which one has the duty to do, when he or she has actual knowledge of the peril that will be created and intentionally fails to avert injury, or actually intends to cause harm.

#### Immunity from Civil Liability in General.

Washington provides limited immunity from civil liability to certain individuals engaged in specified activities. Generally, such immunity only extends to negligence and does not cover more culpable acts or omissions like gross negligence, or wanton or willful misconduct. For example, such limited grants of immunity exist for, among others: (1) volunteers of nonprofit or government entities acting within the scope of their responsibilities; (2) persons who, without compensation or expectation of compensation, provide emergency care or nonmedical care at the scene of an emergency; and (3) persons acting at the request of an incident command agency who, in good faith, render emergency care, assistance, or advice with respect to a hazardous materials incident.

#### Crisis Call Center and 988 Contact Hub Immunity.

Washington grants limited immunity to certain persons and entities in connection with crisis call centers and designated 988 contact hubs. Covered persons and entities include:

- the clinical staff of the crisis call center or designated 988 contact hub or their clinical supervisors;
- the crisis call center or designated 988 contact hub or its officers, staff, or employees;
- any member of a mobile rapid response crisis team or community-based crisis team endorsed under state law;
- the certified public safety telecommunicator and their supervisor; and
- the public safety answering point or its officers, staff, or employees.

Covered persons and entities are immune from civil liability for all negligent acts and omissions that are:

- related to the dispatching decisions of any crisis call center staff or designated 988 contact hub staff with qualifying crisis team dispatching responsibilities;
- done or omitted in good faith within the scope of the individual's employment

- responsibilities; and
- done in accordance with adopted and approved dispatching procedures.

Immunity to civil liability for covered persons and entities does not apply to any act or omission that constitutes gross negligence or willful or wanton misconduct.

### **Summary of Bill:**

The section of Washington law governing immunity for crisis call centers and designated 988 contact hubs is amended to provide immunity in additional crisis care contexts.

### Covered Persons and Entities.

The following covered persons and entities are immune from liability for negligent acts and omissions when providing specified services or transportation:

- staff of an endorsed or non endorsed mobile rapid response crisis team or community-based crisis team, crisis stabilization unit, or a 23-hour crisis relief center, including teams and facilities operated by tribes;
- officers of any public, private, or tribal agency, and the superintendent, professional persons in charge of their professional designee, and attending staff of such agencies; and
- federal, tribal, state, county, city, and other local governmental units; contracted behavioral health agencies; and employees of such units or agencies.

### Service Immunity.

Covered persons and entities are immune from liability for negligent acts and omissions when providing crisis stabilization services, professional on-site community-based intervention, outreach, de-escalation, stabilization, resource connection, or follow-up support; that is: (1) delivered under the clinical supervision of a mental health professional or an approved medical program director or their delegate; and (2) provided to a person who is experiencing a behavioral health crisis.

### Transport Immunity.

Additionally, covered persons and entities are immune from liability for negligent acts and omissions when involved in the transport of patients to behavioral health services, facilities providing crisis stabilization services, or other needed crisis services.

**Appropriation:** None.

**Fiscal Note:** Requested on January 18, 2024.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.