

HOUSE BILL REPORT

SHB 1209

As Passed House:

March 3, 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:

Committee Activity:

Civil Rights & Judiciary: 1/26/21, 2/5/21 [DPS].

Floor Activity:

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

Brief Summary of Substitute Bill

- Establishes immunity from civil liability for persons providing nonmedical care or assistance at the scene of an emergency or disaster.
- Provides exception to immunity for persons who are compensated to provide nonmedical care or assistance.
- Provides exception to immunity for gross negligence, or willful or wanton misconduct.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Hansen, Chair; Simmons, Vice Chair; Walsh, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Graham,

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.

Assistant Ranking Minority Member; Abbarno, Davis, Entenman, Goodman, Kirby, Klippert, Orwall, Peterson, Thai, Valdez, Walen and Ybarra.

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 sue the responsible party to recover money damages. Harmful acts or omissions can be categorized based on the culpability 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 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 an intentional act or omission taken 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 an intentional act or omission taken with actual knowledge of the peril that will be created and intentional failure to avert injury, or with intention to cause harm.

Immunity from Civil Liability.

Washington provides immunity from civil liability for 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.

Examples of covered activities include:

- volunteers of nonprofit or government entities are generally immune from personal liability for harmful acts or omissions taken on behalf of the entity within the scope of the volunteer's responsibilities, unless the harm is caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed;
- 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 are generally immune from personal liability for harmful acts or omissions in providing such care, assistance, or advice, other than acts or omissions constituting

- gross negligence or willful or wanton misconduct; and
- persons who, without compensation or expectation of compensation, provide emergency care at the scene of an emergency, or transportation of an injured person from the scene of an emergency, are generally immune from personal liability for harmful acts or omissions in rendering emergency care or transportation, unless the act or omission constitutes gross negligence or willful or wanton misconduct; any person rendering emergency care during the course of regular employment and receiving compensation or expecting to receive compensation for rendering such care is excluded from immunity; emergency care is defined as care, first aid, treatment, or assistance rendered to the injured person in need of immediate medical attention and includes providing or arranging for further medical treatment or care for the injured person.

Summary of Substitute 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: (a) acting during the course of regular employment; and (b) receiving compensation or expecting to receive compensation.

Defined Terms.

"Compensation" is defined to exclude:

- nominal payments, reimbursement for expenses, or pension benefits;
- payments made to volunteer part-time and volunteer on-call personnel of fire departments, fire districts, ambulance districts, police departments, or any emergency response organization; and
- any payment to a person employed as a transit operator who is paid for his or her regular work, which work does not routinely include providing emergency transportation.

"Nonmedical care or assistance" is defined to include response and rescue operations as well as the provision of such necessities and amenities as food, supplies, shelter, transportation, and child care.

"Emergency or disaster" is defined as an event or set of circumstances that: (1) 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 (2) reaches such a dimension or degree of destructiveness as to warrant the Governor declaring a state of emergency pursuant to RCW 43.06.010.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) This bill will give community volunteers confidence they can provide nonmedical assistance during an emergency without fear of liability and will enhance retention of volunteers. Good Samaritan immunity should be extended to cover nonmedical care. The law should support the natural reaction of people to help each other during disasters. Fire and police departments may be overwhelmed during disasters and people must be prepared to be on their own for weeks, creating a critical role for volunteer efforts.

(Opposed) None.

Persons Testifying: Representative Bronoske, prime sponsor; Cindi Barker, Seattle Emergency Communications Hubs; Catherine Weatbrook; and Rachel Adler, West Pierce Fire and Rescue.

Persons Signed In To Testify But Not Testifying: None.