

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL DRS35195-NB-132

Short Title: NC Accountability/Safety Net.

(Public)

Sponsors: Senator Burgin (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO LIMIT LIABILITY FOR NONGOVERNMENTAL ORGANIZATIONS AND
3 NONGOVERNMENTAL INDEPENDENT CONTRACTORS WORKING WITH AND
4 FOR CERTAIN PUBLIC AGENCIES.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article 31 of Chapter 143 of the General Statutes is amended by adding
7 a new section to read:

8 "**§ 143-300.1B. Limited liability for nongovernmental organizations with agencies.**

9 (a) The following definitions apply in this section:

- 10 (1) Health care services. – As defined in G.S. 90-21.50, including the provision
11 of services by the Department of Health and Human Services and its various
12 divisions, in conjunction with or through nongovernmental organizations.
13 (2) Nongovernmental organization. – Any not-for-profit corporation,
14 organization, or association, incorporated or otherwise, that is organized or
15 operating in the State.
16 (3) Public agency. – The Department of Health and Human Services and any
17 county or local agency affiliated with the Department.

18 (b) Notwithstanding any provision of law to the contrary, any nongovernmental
19 organization that contracts with the public agency for the provision of health care services may
20 be held liable for injury or damage caused by the negligence of the nongovernmental
21 organization, but shall not be held liable for the injury or damage caused by the public agency,
22 including any officer, employee, involuntary servant, volunteer, or agent of the public agency
23 acting within the scope of their employment or contract.

24 (c) The nongovernmental organization and the public agency shall each bear the costs of
25 defending itself against their respective acts and omissions and claims arising from those acts
26 and omissions.

27 (d) Notwithstanding any provision of law to the contrary, this section shall not be waived
28 or suspended by any court of competent jurisdiction. Any contract provision between parties
29 which purports to impose on a nongovernmental organization any liability in tort for injury or
30 damage, including bodily injury, mental anguish, property, economic, or noneconomic damages
31 or loss caused by or resulting from a public agency's negligence, in whole or in part, shall be void
32 and unenforceable. This section does not limit or affect the immunity provided by other State or
33 federal law that would otherwise be an available defense to either party."

34 **SECTION 2.** Article 31 of Chapter 143 of the General Statutes is amended by adding
35 a new section to read:

36 "**§ 143-300.1C. Limited liability for contractors with agencies.**



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1 (a) The following definitions apply in this section:

2 (1) Health care services. – As defined in G.S. 90-21.50, including the provision
3 of services by the Department of Health and Human Services and its various
4 divisions, in conjunction with or through nongovernmental independent
5 contractors.

6 (2) Nongovernmental independent contractor. – An organization or individual
7 that exercises independent employment and contracting to do certain work
8 according to its own judgment and method, without being subject to its
9 employer, except as to the result of the work.

10 (3) Public agency. – The Department of Health and Human Services and any
11 county or local agency affiliated with the Department.

12 (b) Notwithstanding any provision of law to the contrary, liability in tort shall be limited
13 and shall be only under this Article for any nongovernmental independent contractor that
14 contracts with the public agency for the provision of health care services, while the
15 nongovernmental independent contractor is performing or providing health care services within
16 the scope of the contract or agreement.

17 (c) In performance of health care services, the nongovernmental independent contractor
18 is deemed to be the functional equivalent of the public agency, and to the extent that the
19 nongovernmental independent contractor is performing or providing those services in the stead
20 of the public agency, the nongovernmental independent contractor is fulfilling a public purpose
21 authorized to be performed by the public agency.

22 (d) In performance of health care services, the nongovernmental independent contractor
23 shall be subject to the monetary limits provided in G.S. 143-299.2, equivalent to those limits for
24 the public agency. Any claim against the nongovernmental independent contractor arising from
25 the nongovernmental independent contractor's provision of health care services shall be filed with
26 a court of competent jurisdiction and not before the Industrial Commission.

27 (e) If any civil action is commenced against a nongovernmental independent contractor
28 alleging death, bodily injury, or other injury to the claimant arising out of any action or omission
29 within the scope of the nongovernmental independent contractor's performance or provision of
30 health care services, the State shall indemnify the nongovernmental independent contractor for
31 any damages incurred in excess of the monetary limits in G.S. 143-299.2 as applied in subsection
32 (d) of this section.

33 (f) Damages, court costs, litigation expenses, and other costs of indemnification,
34 including attorney's fees, whether by settlement or by judgment, shall be presented by the
35 claimant to the Industrial Commission.

36 (g) Upon entry of a final judgment in excess of the monetary limits in G.S. 143-299.2 as
37 applied in subsection (d) of this section against the nongovernmental independent contractor, or
38 upon the settlement of a claim in excess of those limits, the claimant or his or her representative
39 shall file a copy of that judgment or settlement within 60 days after the effective date of that
40 settlement or judgment with the Industrial Commission."

41 **SECTION 3.** This act becomes effective October 1, 2023, and applies to claims
42 arising from acts or omissions occurring on or after that date.