

JUDICIAL REMEDIES

CHAPTER 241

SENATE BILL NO. 2348

(Senators Heckaman, Erbele)
(Representatives Mock, Nathe, Oversen)

AN ACT to amend and reenact section 32-03.1-02.3 of the North Dakota Century Code, relating to training in the use of automated external defibrillators.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-03.1-02.3 of the North Dakota Century Code is amended and reenacted as follows:

32-03.1-02.3. Automated external defibrillators - Requirements.

1. Except for a medical services facility or prehospital emergency medical services provider, every person who acquires an automated external defibrillator shall:
 - a. Require every individual expected to use the automated external defibrillator to receive American heart association or American red cross training in the most recent nationally recognized course in cardiopulmonary resuscitation and automated external defibrillator use or an equivalent nationally recognized course in cardiopulmonary resuscitation and automated external defibrillator use;
 - b. Maintain and test the automated external defibrillator according to the manufacturer's operational guidelines;
 - c. Establish an automated external defibrillator use protocol that provides any person who provides emergency care or treatment to an individual in cardiac arrest by using the automated external defibrillator shall contact, as soon as possible, an appropriate health care provider or emergency medical services provider; and
 - d. Consider recommendations of a licensed physician in establishing the training, notification, and maintenance requirements of this subsection.
2. Any person who in good faith and without compensation provides emergency care or emergency treatment by using an automated external defibrillator is immune from civil liability for any personal injury resulting from the emergency care or emergency treatment and for any act or failure to act in providing or arranging further medical treatment if the person providing the emergency care or emergency treatment acted as an ordinary, reasonable, prudent person would act under the same or similar circumstances. This subsection does not apply if a personal injury results from the gross negligence or from

the willful or wanton misconduct of the person providing the emergency care or emergency treatment.

3. The immunity provision of subsection 2 applies to a licensed physician under subdivision d of subsection 1, the person who provides the training under subdivision a of subsection 1, and the person responsible for the site on which the automated external defibrillator is located.
4. This section does not limit civil liability protection provided by any other law.

Approved April 13, 2015
Filed April 13, 2015

CHAPTER 242

SENATE BILL NO. 2315

(Senators Campbell, Anderson, Luick)
(Representatives Monson, Paur, Trottier)

AN ACT to amend and reenact section 32-12.1-03 of the North Dakota Century Code, relating to liability of political subdivisions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-12.1-03 of the North Dakota Century Code is amended and reenacted as follows:

32-12.1-03. Liability of political subdivisions - Limitations.

1. Each political subdivision is liable for money damages for injuries when the injuries are proximately caused by the negligence or wrongful act or omission of any employee acting within the scope of the employee's employment or office under circumstances in which the employee would be personally liable to a claimant in accordance with the laws of this state, or injury caused from some condition or use of tangible property, real or personal, under circumstances in which the political subdivision, if a private person, would be liable to the claimant. The enactment of a law, rule, regulation, or ordinance to protect any person's health, safety, property, or welfare does not create a duty of care on the part of the political subdivision, its employees, or its agents, if that duty would not otherwise exist.
2. The liability of political subdivisions under this chapter is limited to a total of two hundred fifty thousand dollars per person and ~~five hundred thousand~~ one million dollars for ~~injury to three or more persons during any number of claims arising from~~ any single occurrence regardless of the number of political subdivisions, or employees of such political subdivisions, which are involved in that occurrence. A political subdivision may not be held liable, or be ordered to indemnify an employee held liable, for punitive or exemplary damages.
3. A political subdivision or a political subdivision employee may not be held liable under this chapter for any of the following claims:
 - a. A claim based upon an act or omission of a political subdivision employee exercising due care in the execution of a valid or invalid statute or regulation.
 - b. The decision to undertake or the refusal to undertake any legislative or quasi-legislative act, including the decision to adopt or the refusal to adopt any statute, charter, ordinance, order, regulation, resolution, or resolve.
 - c. The decision to undertake or the refusal to undertake any judicial or quasi-judicial act, including the decision to grant, to grant with conditions, to refuse to grant, or to revoke any license, permit, order, or other administrative approval or denial.

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- d. The decision to perform or the refusal to exercise or perform a discretionary function or duty, whether or not such discretion is abused and whether or not the statute, charter, ordinance, order, resolution, regulation, or resolve under which the discretionary function or duty is performed is valid or invalid.
 - e. Injury directly or indirectly caused by a person who is not employed by the political subdivision.
 - f. A claim relating to injury directly or indirectly caused by the performance or nonperformance of a public duty, including:
 - (1) Inspecting, licensing, approving, mitigating, warning, abating, or failing to so act regarding compliance with or the violation of any law, rule, regulation, or any condition affecting health or safety.
 - (2) Enforcing, monitoring, or failing to enforce or monitor conditions of sentencing, parole, probation, or juvenile supervision.
 - (3) Providing or failing to provide law enforcement services in the ordinary course of a political subdivision's law enforcement operations.
 - (4) Providing or failing to provide fire protection services in the ordinary course of a political subdivision's fire protection operations.
 - g. "Public duty" does not include action of the political subdivision or a political subdivision employee under circumstances in which a special relationship can be established between the political subdivision and the injured party. A special relationship is demonstrated if all of the following elements exist:
 - (1) Direct contact between the political subdivision and the injured party.
 - (2) An assumption by the political subdivision, by means of promises or actions, of an affirmative duty to act on behalf of the party who allegedly was injured.
 - (3) Knowledge on the part of the political subdivision that inaction of the political subdivision could lead to harm.
 - (4) The injured party's justifiable reliance on the political subdivision's affirmative undertaking, occurrence of the injury while the injured party was under the direct control of the political subdivision, or the political subdivision action increases the risk of harm.
4. This chapter does not obligate political subdivisions for an amount that is more than the limitations upon liability imposed by this chapter. Subject to this chapter, any payments to persons constitute payment in full of any compromised claim or judgment or any final judgment under this chapter.
 5. Notwithstanding this chapter, a political subdivision or its insurance carrier is not liable for any claim arising out of the conduct of a ridesharing arrangement, as defined in section 8-02-07.

6. A political subdivision is not liable for any claim based on an act or omission in the designation, repair, operation, or maintenance of a minimum maintenance road if that designation has been made in accordance with sections 24-07-35 through 24-07-37 and if the road has been maintained at a level to serve occasional and intermittent traffic.

Approved March 25, 2015

Filed March 25, 2015

CHAPTER 243

HOUSE BILL NO. 1305

(Representatives K. Koppelman, Brabandt, Klemin, Louser, Olson, Paur, Schreiber
Beck)
(Senator Armstrong)

AN ACT to amend and reenact section 32-28-02 of the North Dakota Century Code, relating to requirements for a change of name.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-28-02 of the North Dakota Century Code is amended and reenacted as follows:

32-28-02. Change of name of person - Petition - Criminal history record checks - Exceptions.

1. Any person desiring to change that person's name may file a petition in the district court of the county in which the person is a resident, setting forth:
 - a. That the petitioner is a citizen or permanent resident alien of the United States.
 - b. That the petitioner has been a bona fide resident of the county for at least six months before the filing of the petition.
 - b-c. The reason for which the change of the petitioner's name is sought.
 - e-d. The name requested.
2. When an individual files a petition for a name change, the court shall determine whether the petitioner has a criminal history in this state or any other state. The court may require the petitioner to submit to a statewide and nationwide criminal history record check. The criminal history record check must be conducted in the manner provided for in section 12-60-24. All costs associated with the criminal history record check are the responsibility of the petitioner. This subsection does not apply to a request for a name change as part of an application for a marriage license under section 14-03-20, to a request for a name change in conjunction with the annulment of a marriage under chapter 14-04 or the dissolution or separation of a marriage under chapter 14-05, or to the change of a minor's name unless the court has reason to believe the request is being made to defraud or mislead, is not being made in good faith, will cause injury to an individual, or will compromise public safety. If the individual petitioning for a name change has a felony conviction under a law of this state or a law of another state or the federal government, the request is presumed to be made in bad faith, to defraud or mislead, to cause injury to an individual, or to compromise public safety. The name change may not be granted unless the individual requesting the name change proves by clear and convincing evidence that the request is not based upon an intent to defraud or mislead, is made in good faith, will not cause injury to an individual, and will not compromise public safety.

3. The judge of the district court, upon being duly satisfied by affidavit or proof in open court of the truth of the allegations set forth in the petition, that there exists proper and reasonable cause for changing the name of the petitioner, and that thirty days' previous notice of the intended application has been given in the official newspaper of the county in which the petitioner resides, shall order a change of the name of the petitioner. Proper and reasonable cause does not exist if the court determines that the request for a name change is made to defraud or mislead, is not made in good faith, will cause injury to an individual, or will compromise public safety. The court may waive publication of the notice when the proposed change relates only to a first or given name as distinguished from a surname or upon evidence satisfactory to the court that the petitioner has been the victim of domestic violence as defined in section 14-07.1-01.
4. If the person whose name is to be changed is a minor, the court shall consider the appointment of a guardian ad litem, and notice of the intended application must be published in the official newspaper of the county in which the minor resides and, if different, the official newspaper of the county in which each of the minor's parents reside. If the minor has a noncustodial parent, a copy of the notice must be deposited in a post office in this state, postage prepaid, not later than ten days after the publication of the notice, and directed to the noncustodial parent's last reasonably ascertained post-office address. An affidavit of mailing of the notice prepared in accordance with the North Dakota Rules of Civil Procedure must be filed with the court.
5. If the court issues a name change order for a petitioner who has a criminal history in this or any other state, the court, within ten days after the issuance of the change of name order, shall report the name change to the bureau of criminal investigation.
6. The provisions of this section may not delay the granting of a marriage license under section 14-03-20, which may be granted without the change of name.

Approved April 15, 2015
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