

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 798
Committee Substitute Favorable 5/2/23

Short Title: NC Accountability/Safety Net.

(Public)

Sponsors:

Referred to:

April 19, 2023

A BILL TO BE ENTITLED

AN ACT TO LIMIT LIABILITY FOR NONGOVERNMENTAL ORGANIZATIONS AND
NONGOVERNMENTAL INDEPENDENT CONTRACTORS WORKING WITH AND
FOR CERTAIN PUBLIC AGENCIES.

The General Assembly of North Carolina enacts:

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

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

(a) The following definitions apply in this section:

(1) Health, human, and welfare services. – All services provided by the Department of Health and Human Services and its various divisions, in conjunction with or through nongovernmental organizations.

(2) Nongovernmental organization. – Any corporation, organization, or association, incorporated or otherwise, that is organized or operating in the State.

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

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

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

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

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

"§ 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, human, and welfare services. – All services provided by the
3 Department of Health and Human Services and its various divisions, in
4 conjunction with or through nongovernmental independent contractors.

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

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

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

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

21 (d) In performance of health, human, and welfare services, the nongovernmental
22 independent contractor shall be subject to the monetary limits provided in G.S. 143-299.2,
23 equivalent to those limits for the public agency. Any claim against the nongovernmental
24 independent contractor arising from the nongovernmental independent contractor's provision of
25 health, human, and welfare services shall be filed with a court of competent jurisdiction, and not
26 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, human, and welfare services, the State shall indemnify the nongovernmental independent
31 contractor for any damages incurred in excess of the monetary limits in G.S. 143-299.2 as applied
32 in subsection (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.