

ACT 134

S.B. NO. 930

A Bill for an Act Relating to Volunteer Medical Assistance Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§321- Volunteer medical assistance personnel. (a) This section shall apply to all volunteer medical assistance personnel, including:

- (1) Physicians;
- (2) Psychologists;
- (3) Nurses;
- (4) Emergency medical technicians;
- (5) Social workers;
- (6) Mobile intensive care technicians; and
- (7) Physician assistants,

licensed or certified in this state, or employed by a health care facility, while providing volunteer medical assistance services.

(b) Any volunteer medical assistance personnel who is injured in the performance of volunteer medical assistance services, shall be entitled to the benefits in section 386-171.

(c) Except in cases of wilful or criminal misconduct, gross negligence, or reckless misconduct, any volunteer medical assistance personnel providing volunteer medical assistance services shall not be liable for the death of or injury to persons, or for damage to property, as a result of any act or omission in the course of rendering volunteer medical assistance services. No act or omission shall be imputed to the owner of any vehicle by reason of ownership thereof; provided that nothing in this section shall preclude recovery by any person for injury or damage sustained from the operation of any vehicle that may be insured under section 41D-8 to the extent of the insurance.

(d) Nothing in this section shall be construed to affect any civil action brought by the State or a county against any volunteer medical assistance personnel of the State or a county.

(e) In any suit against the State or a county for civil damages based upon the negligent act or omission of volunteer medical assistance personnel, proof of the negligent act or omission shall be sufficient to establish the responsibility of the State or a county therefor under the doctrine of respondeat superior, notwithstanding the immunity granted to the volunteer medical assistance personnel with respect to any act or omission included under subsection (c).

(f) For the purposes of this section:

“Volunteer medical assistance services” means the rendering of professional medical services that are provided on behalf of and authorized by the State or a county, including participation during periods of volunteer medical assistance services and volunteer medical assistance services training; provided that services provided pursuant to section 321-23.3 shall not be considered to be volunteer medical assistance services. Volunteer medical assistance services shall include providing professional medical services in support of vaccination campaigns or outreach clinics.”

SECTION 2. Section 662D-3, Hawaii Revised Statutes, is amended to read as follows:

“~~§662D-3~~ **Exception.** Notwithstanding section 662D-2, if otherwise permitted by law, a person may sue and recover civil damages from a volunteer based upon:

- (1) Any conduct engaged in by the volunteer that would constitute gross negligence, wilful and wanton misconduct, or intentional misconduct;
- (2) Any act or omission in connection with the operation of a motor vehicle;
- (3) Any conduct engaged in by the volunteer while the volunteer is unreasonably interfering with the lawful activities of another;
- (4) Any conduct engaged in by the volunteer that takes place on private property when the volunteer’s presence on the property was not consented to by the owner;
- (5) Any act or omission within a volunteer’s scope of practice for which the volunteer is licensed, certified, permitted, or registered under state law to perform; provided that this paragraph shall not apply to volunteer medical assistance services pursuant to section 321- : and
- (6) Any criminal offense committed by the volunteer.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon approval.

(Approved May 24, 2010.)

Note

1. Edited pursuant to HRS §23G-16.5.