

N.D.A.G. Letter to Nething (Aug. 1, 1988)

August 1, 1988

Hon. David E. Nething
State Senator
P.O. Box 1059
Jamestown, ND 58402-1059

Dear Senator Nething:

Thank you for your letter of July 15, 1988, inquiring of the availability of the Good Samaritan Act to those persons who may render first aid during an upcoming softball tournament in Jamestown.

North Dakota law, as found at N.D.C.C. § 32-03.1-02, states that persons who render aid or assistance to other persons who have been injured or who are ill as a result of an accident or illness may not be named as a defendant and held liable in any personal injury civil lawsuit as a result of the acts or omissions arising out of a situation in which emergency aid or assistance is rendered. This statute states that the immunity provided does not exist where it is shown that the person acting with intentional misconduct or with gross negligence. Another section of law states that persons rendering aid or assistance with the expectation of remuneration are not subject to this grant of immunity from liability. N.D.C.C. § 32-03.1-04.

Your letter indicates that the persons who may be called upon to provide emergency aid or assistance are volunteers and expect no form of pay for their services. With these facts in mind, it would appear that the protection and immunity provided by the Good Samaritan Act as found at N.D.C.C. ch. 32-03.1 would be available. Naturally, the applicability of these laws to an individual case or circumstance depends upon the facts involved. This conclusion is especially important in light of the exceptions to the grant of immunity where there is intentional misconduct or gross negligence.

I hope this information is helpful to you.

Sincerely,

Nicholas J. Spaeth

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